
GENERAL LICENSING SUB COMMITTEE 19/12/23

Present:

Councillors: Councillor Anwen Hughes (Chair)
Councillor Gwynfor Owen and Gareth Williams

Officers: Siôn Huws (Senior Solicitor), Gwenan Mai Roberts (Licensing Manager)
and Lowri Haf Evans (Democratic Services Officer)

1. APOLOGIES

None to note

2. DECLARATION OF PERSONAL INTEREST

None to note

3. URGENT ITEMS

None to note

4. EXCLUSION OF PRESS AND PUBLIC

RESOLVED to exclude the press and public from the meeting during the discussion on the following items because of the likely disclosure of exempt information as defined in paragraphs 12 and 13, Part 4, Schedule 12A of the Local Government Act 1972. These paragraphs applied because the individuals in question were entitled to privacy and there was no overriding public interest that required the disclosure of personal information relating to those individuals, nor their identities. Consequently, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

5. APPLICATION FOR A HACKNEY/PRIVATE HIRE LICENCE

The Chair welcomed everyone to the meeting. He highlighted that the decision would be made in accordance with Cyngor Gwynedd's Licensing Policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person was a fit and proper person
- The person did not pose a threat to the public
- The public was safeguarded from dishonest persons
- Children and young people were safeguarded

- Vulnerable people were safeguarded
- The public was confident in using licensed vehicles

The Licensing Officer presented a written report on an application received from Mr A for a hackney carriage/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions.

The Licensing Authority recommended that the Sub-committee should approve the application. The applicant was invited to expand on the application and provide information about the background of the offences and his personal circumstances. He noted that the convictions were historical- in a period when he was young and foolish. He highlighted that he had experience of working as a taxi driver and had been offered work with the local company. He added that he had worked for the Cross Rail company for years where detailed checks were carried out to ensure his suitability for the post.

In response to a question as to why he had not acknowledged the convictions on his application form, he noted that the last conviction had happened in 1987 (36 years ago) and he therefore thought that they would be spent. He apologised that he was not aware that historical convictions continued to be considered when applying for a hackney/private hire driver's licence.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- DBS Statement
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

In January 1970, the applicant had received a conviction for causing Indictable Common Assault contrary to S.42+S.47 of the Offences Against the Person Act, 1861 and burglary and theft from a dwelling contrary to The Theft Act, 1968.9(1)(B). He had been sentenced at Caernarfon Juvenile Court and sent to a Detention Centre for three months.

In April 1982 he had received a conviction for handling stolen goods contrary to S22 of the Theft Act 1968 and causing Actual Bodily Harm (ABH) contrary to the Offences Against the Person Act, 1861. He had been sentenced at Gwyrfa Magistrates Court and received a suspended sentence of 2 years.

In May 1983, he had received a conviction for Assault causing Actual Bodily Harm (ABH) contrary to S.47 of the Offences Against the Person Act, 1861. He was fined with costs for this offence.

In April 1984, he had been convicted and sentenced to imprisonment on 7 counts including -

- Burglary and theft from a dwelling contrary to S.9 (1) (B) of the Theft Act, 1968.
- Burglary and theft from a dwelling S.9 (1) (B) of the Theft Act, 1968

- Handling stolen goods – S.22 of the Theft Act, 1968
- Breach of Probation Order – S 23 of the Powers of Criminal Courts Act 1973
- Burglary – S1 of Theft Act, 1968
- Handling stolen goods – S.22 of the Theft Act, 1968

In March 1985 he had received a conviction for perverting the course of justice contrary to common law and received a 15-month prison sentence.

In June 1987, he had received a conviction for Assault causing Actual Bodily Harm (ABH) contrary to S47 of the Offences Against the Person Act, 1861. He had received a conditional discharge with costs.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which stated that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence but would normally be expected to remain free of any conviction for an appropriate period as stated in the Policy, and to show evidence that the individual was a fit and proper person to hold a licence. There was a responsibility on the applicant to prove that he was a fit and proper person. Paragraph 2.4 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of the conviction or the other matter.

Paragraph 4.5 was considered which stated that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to consider all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Paragraph 6.2 noted that anyone found guilty of an offence relating to violence was unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration had to be given to the nature of the offence.

Paragraph 6.6 of the Policy stated that an application would normally be refused if an applicant had more than one conviction for an offence of a violent nature within the last ten years.

Paragraph 8.0 of the Policy, which dealt with dishonesty offences, was considered together with paragraph 8.1 which stated that a serious view shall be taken of any conviction involving dishonesty. Paragraph 8.2 stated that an application would normally be refused where the applicant had a conviction for a listed offence and was convicted less than three years prior to the date of the application. It was noted that the list of offences included theft, amongst other offences. Paragraph 16.1 of the Policy dealt with repeat offences. Firstly, it must be ensured that the convictions satisfied the policy guidelines individually, but that they together created a history of repeat offending that indicated a lack of respect for the welfare and property of others. Under the policy, 10 years must have passed since the most recent conviction.

CONCLUSIONS

The Policy's provisions, the applicant's explanation of his circumstances and the Licensing officer's recommendation were considered to approve the application.

Under the authority's policy it was considered that enough time had passed since the last conviction to consider allowing the license. The Policy noted that at least 10 years had to pass when considering convictions such as violence, dishonesty, and re-offending in cases regarding lack of respect for the welfare and property of others. Whilst the applicant has an extensive history of offending, he had been free from convictions for 36 years. The Sub-committee considered the evidence that was given at the hearing, the fact that the applicant did not have any further history of offending or any evidence of other relevant problems. There was therefore no reason to refuse the application.

The Sub-committee determined in favour of granting the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

6. APPLICATION FOR A HACKNEY/PRIVATE HIRE LICENCE

The Chair welcomed everyone to the meeting. She highlighted that the decision would be made in accordance with Cyngor Gwynedd's Licensing Policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person was a fit and proper person
- The person did not pose a threat to the public
- The public were safeguarded from dishonest persons
- Children and young people were safeguarded
- Vulnerable people were safeguarded
- The public could be confident in using licensed vehicles

The Licensing Manager submitted the written report on the application received from Mr B for a hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the relevant convictions.

The Licensing Authority recommended the Sub-committee grant the application. It was added that it was an application to renew the licence of Hackney / Private Hire vehicle that was presented and that the applicant had declared the speeding points on his application.

The applicant's representative was invited to expand on the application and provide information about the background of the penalty points that he had received for speeding. He noted that the applicant was in the office, but was ill with covid. If there was a need for the members to hear from the applicant, there was a way to arrange another room for him. It was reported that he accepted that the two cases were close together and that the applicant apologised for that. It was noted that the applicant was an experienced driver and that not working over the last six weeks had felt like a punishment - had lost a wage and he was the family's main earner.

In response to a question on why the applicant had not declared his penalty points

in May and June, as that it was a condition on any hackney / private hire vehicle driver's licence, it was accepted that the information should have been shared with the Licensing Unit, but the applicant had also thought that he would receive an offer to attend a speed awareness course.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- The report of the Driver and Vehicle Licensing Agency (DVLA)
- The applicant's application form
- Verbal observations by the applicant's representative

Specific consideration was given to the following matters:

Background

In May 2021, the applicant received three penalty points (SP30) for breaching the speed limit on a public road - these points expire in May 2024.

In June 2021, the applicant received three penalty points (SP30) for breaching the speed limit on a public road - these points would expire in June 2024.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which stated that a person with a conviction for a serious offence was not to be automatically barred from obtaining a licence but would normally be expected to remain free of any conviction for an appropriate period as stated in the Policy, and to show evidence that the individual is a fit and proper person to hold a licence. There was a responsibility on the applicant to prove that he was a fit and proper person. Paragraph 2.4 stated that when an applicant had a conviction(s) or there were other matter(s) to be considered in connection with that, the Council could not review the merits of the conviction or the other matter.

Paragraph 4.5 was considered which stated that the Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002 allowed the Sub-committee to take into account all convictions recorded against an applicant, whether spent or otherwise, under the 1974 Act.

Section 13 of the Policy related to minor traffic offences and mainly referred to offences that were not listed in paragraph 12.2 of the Policy.

Paragraph 13.3 stated that "More than one minor traffic conviction or other matter to be considered may result in a refusal, particularly where there are several convictions or other matters to be considered for the same offence e.g. speeding. A licensed driver may be referred to the Licensing Sub-committee where there are more than two offences and/or a total of six points on a licence."

CONCLUSIONS

The Policy's provisions, the applicant's explanation of the circumstances and the Licensing officer's recommendation were considered to approve the application.

2.5 years had now elapsed without re-offending and the applicant had acknowledged his fault and that not notifying the Licensing Unit sooner about his penalty points was a mistake.

The Sub-committee determined in favour of granting the application and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

7. APPLICATION FOR A HACKNEY/PRIVATE HIRE LICENCE

The Chair welcomed everyone to the meeting. She highlighted that the decision would be made in accordance with Cyngor Gwynedd's licensing policy. It was noted that the purpose of the policy was to set guidelines for the criteria when considering the applicant's application, with the aim of protecting the public by ensuring that:

- The person was a fit and proper person
- The person did not pose a threat to the public
- The public were safeguarded from dishonest persons
- Children and young people were safeguarded
- Vulnerable people were safeguarded
- The public could be confident in using licensed vehicles

The Licensing Officer presented a written report on an application received from Mr C for a hackney/private hire driver's licence. The Sub-committee was asked to consider the application in accordance with the relevant information.

The Licensing Authority recommended that the Sub-committee should have regard to the Council's Policy and the IOL's Guidance on the safety and suitability of the applicant before a decision was made on whether or not to grant a licence.

The applicant was invited to expand on the application and provide information about the background of the offences. He highlighted his frustration whilst completing the application by misinterpreting the information he had received along with being unable to understand the registration process and having to pay fees and DBS costs beforehand. He added that his behaviour was out of character and he was going through a difficult time in his life at that point - without a job, he would have become homeless. He noted that he had learned from the process, and he had been offered a job, subject to being granted a licence. His wish for the future was to offer transport for the disabled.

RESOLVED that the applicant was a fit and proper person to be issued with a hackney/private hire vehicle driver's licence from Cyngor Gwynedd.

In reaching its decision, the Sub-committee considered the following:

- The requirements of 'Cyngor Gwynedd's Licensing Policy for Hackney Carriages and Private Hire Vehicles'
- The report of the Licensing Department
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

Background

- In August 2023 the applicant visited the Council offices and spoke to a member of staff inappropriately and aggressively. His conduct was such that an experienced member of the reception staff at the offices had cause to report the matter formally on a HS11 form to her line manager and Human Resources department. An anonymised version of the form was shared with Licensing service Manager as it related to this application for a taxi driver application.
- A few days after this incident, the applicant returned to the council offices, and was met by two licensing officers who had cause to advise him that as an applicant for a taxi driver licence, his conduct was a matter of relevance, and that bad behaviour towards council officers would not be tolerated. The applicant in response noted that he felt frustrated that the application process was not straight forward, and he just wanted to start earning a living. The officer responded that many checks were necessary to ascertain that an individual was a 'fit and proper person'.
- In October 2023, the applicant telephoned the licensing officer from the offices of Menter Gwynedd, who were assisting him with the application. The applicant's attitude was again unacceptable, he swore at the officer over the phone and lost his temper; and Menter Gwynedd staff had to intervene and take over the telephone conversation as the applicant had lost his temper.

RELEVANT CLAUSES OF THE POLICY

- As well as having regard to any relevant clauses within the Council's policy Suitability Criteria for Drivers and Operators, the committee was also expected to consider the Institute of Licensing's (IOL) Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades. The aim of the local authority licensing of the taxi and PHV trades was to protect the public, with this in mind, Public Protection must be at the forefront of the decision maker's mind when determining whether an individual was considered a "fit and proper person" to hold a licence or not.
- Paragraph 3.26 of the IOL'S Guidance stated that "The character of the driver in it's entirety must be of paramount consideration when considering whether they should be licensed".
- Paragraph 3.32 elaborated that "Licensees were expected to always demonstrate appropriate professional conduct, whether in the context of their work or otherwise. Licensees should be courteous, avoid confrontation, not be abusive" and "Licensees were expected to act with integrity and demonstrate conduct befitting the trust that is placed in them."
- Paragraph 4.10 of the Guidance noted that "In determining safety and suitability the licensing authority is entitled to take in to account all matters concerning the applicant or licensee. They are not simply concerned with that person's behaviour whilst working in the hackney carriage or private hire trade. This consideration was far wider than simply criminal convictions or other evidence of unacceptable behaviour, and the entire character of the individual would be considered. This could include, but is not limited to, the individual's attitude and temperament."

CONCLUSIONS

The Sub-committee believed the applicant's behaviour towards the Council officers was totally unacceptable. Whilst accepting that he felt frustrated with the process, it was not an excuse for behaving in such a way and although acknowledging his personal circumstance and the pressure on him to earn a living, this did not justify such behaviour. However, the Sub-committee welcomed the fact that the applicant acknowledged that his behaviour was not up to the expected standards.

In the absence of any convictions and any detailed specific provision in the authority's policy, the Sub-committee considered the application in the context of the primary purpose of the licensing system which is to safeguard the public. Particular consideration was given to the test, namely, would the members be willing to allow a close member of their family, for example a son or daughter or partner, to travel in a vehicle, on their own, with the applicant. After meeting the applicant in the hearings and hearing what he had to say, the Sub-committee concluded that he satisfied that test.

Having carefully weighed-up all the factors, it was concluded that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence. Nevertheless, the Sub-committee wished to remind the applicant that the Local Licensing Authority could suspend or revoke a licence if any unacceptable behaviour was brought to its attention.

The Solicitor reported that the decision would be confirmed formally by letter to the applicant.

The meeting commenced at 2.05 pm and concluded at 4.10 pm

CHAIRMAN