
GENERAL LICENSING SUB-COMMITTEE 13-03.23

Present:

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

Officers: Sion Huws (Senior Solicitor), Gwenan Mai Roberts (Licensing Manager)
and Lowri Haf Evans (Democracy 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

It was **RESOLVED** to exclude the press and public from the meeting during the discussion on the following items due to 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 as 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, or 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 DRIVER'S LICENCE – Mr A

The Chair welcomed everyone to the meeting. She explained 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 is a fit and proper person
- The person does not pose a threat to the public
- The public are safeguarded from dishonest persons
- Children and young people are protected
- The safeguarding of vulnerable persons
- The public can be 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 asked to consider the application in accordance with the DBS record, the guidelines on relevant criminal offences and convictions, and the report of the DVLA.

The Licensing Authority recommended that the Sub-committee approved the application. The applicant's driving licence was a clean licence.

In response to a question regarding the applicant's failure to note his conviction on the application form with no reference to this in the report (although IOL National Guidance noted this as a serious matter), the Licensing Manager noted that applicants from time to time misunderstood what was required on the application form bearing in mind that recent driving convictions / endorsements or recent convictions need to be recorded. It was added with the increase in the number of applications submitted on the website, there was less opportunity for the applicants to make enquiries with officers, and therefore give the applicant an opportunity to elaborate on the matter in the sub-committee.

The applicant was invited to expand on the application and provide information about the background of the conviction and his personal circumstances. He stated his wish to get a job that would give him additional income and that would raise confidence in his ability to communicate with the public. He added that he had not included the conviction on the application form as a period of three years had elapsed and he was under the impression that there was no need to disclose a historic conviction.

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 applicant's application form
- the Licensing Department's report, together with the DBS statement and the DVLA's report
- the applicant's verbal representations

Specific consideration was given to the following matters:

Background

In February 2014 the applicant was found guilty of destroying or damaging property (property value of £5000 only or less under the Criminal Damages Act 1971), contrary to the Criminal Damages Act 1971, s.1(1). He received a conditional discharge together with an order to pay costs of £85, damages of £30 and victim costs of £15.

RELEVANT CLAUSES OF THE POLICY

Paragraph 2.2 of the Council's Policy was considered, which states that a person with a conviction for a serious offence need not be automatically barred from obtaining a licence, but he will be expected to have been free of any conviction for an appropriate period as stated in the Policy, and to show evidence that he is a fit and proper person to hold a licence. The onus was on the applicant to prove that he was a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other related matter(s) to be considered in connection with that, the Council cannot review the merits of the conviction or the other matter.

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

Paragraph 6.0 of the Policy addresses violent offences. Paragraph 6.1 states that, since licensed drivers come into close contact regularly with the public, the sub-committee shall adopt a firm stance towards those who have offences involving violence.

Paragraph 6.5 of the Policy states that an application for a licence will usually be refused if the applicant has a matter to be considered for assault causing actual bodily harm under the Public Order Act 1986 which happened less than three years prior to the date of the application.

CONCLUSIONS

The Sub-committee considered the applicant's explanation of the circumstances that had led to the 2014 conviction, and the officer's recommendation to approve the application.

The Sub-committee came to the conclusion that the 2014 conviction was a violent offence for the purpose of the Policy, and that sufficient time had elapsed the three-year threshold since the applicant was found guilty. The applicant's explanations and the reasons for his behaviour in 2014 were considered and it was accepted that he wanted to put the matter behind him and to move on. Having considered the nature of the offence, the sentence given and the fact that there was no further history of offending, there were no compelling reasons for not following the authority's policy and to approve the application in this case.

The Sub-committee determined in favour of approving 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.

A request was made for the Licensing Unit to review the application form and to clearly state that there was a need to disclose information about each conviction, be they historical or otherwise.

The meeting commenced at 14:00 and concluded at 14:25