
GENERAL LICENSING SUB-COMMITTEE 14-12-2022

Present:

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

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. He 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.

In response to the report, the applicant was asked why he had stated 'no' on his application form in response to a question regarding whether he had any previous convictions, cautions or ongoing charges. The applicant noted that he had not considered that an incident in 2007 would be classed as a 'criminal record' and he apologised for misunderstanding the question.

In response to the lack of reference to the motoring convictions in the report that had led to receiving 6 penalty points, the Licensing Officer stated that 6 points were considered a marginal matter although accepting that paragraph 13.3 of the policy noted 6 points as the expected total for policy purposes. She added that these convictions would have to be considered in reaching a decision.

The applicant was invited to expand on the application and provide information about the background of the penalty points, the background of the 2007 conviction and his personal circumstances. He noted that the incident in 2007 was a mistake, a historical, family incident. He added that he worked as a supervisor and that he had many responsibilities in the local community where he was required to behave professionally.

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 'Gwynedd Council'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 December 2007 the applicant was found guilty on two counts of assault causing actual bodily harm (ABH) contrary to the Offences Against the Person Act 1861.

In September 2020 he received a motoring conviction of 3 penalty points (SP30) for breaking the speed limit on a public road.

In March 2022 he received a motoring conviction of 3 penalty points (SP30) for breaking the speed limit on a public road.

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 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 normally be refused if the applicant has a matter to be considered for common assault and/or criminal damage and/or an offence under the Public Order Act 1986 which happened less than three years before the date of application.

Section 13 relates to minor traffic offences and mainly refers to offences that are not listed in paragraph 12.2 of the Policy. Paragraph 13.2 was considered which highlights that one conviction for a minor driving offence could lead to an application being refused. It is noted in paragraph 13.3 that more than one conviction for a minor driving offence or other matter to be considered could lead to refusal of an application, especially if there are several convictions or other matters to be considered for the same offence, e.g. speeding.

CONCLUSIONS

The Sub-committee concluded that the incident in 2007 related to a violent offence and accepted the applicant's explanation of the circumstances that had led to the conviction, namely a family argument under difficult circumstances. They accepted that he was very remorseful for what had happened and acknowledged the seriousness of the offence, and that he had been open and honest when discussing the application.

The officers' recommendation which was to approve the application was also considered. A much longer period than three years had passed since the conviction and no offence had been recorded since. The Sub-committee saw no reason not to follow the provisions of the policy in this case.

In the context of the motoring convictions, the applicant was reminded that he had 6 points on his licence and for him to be cautious. Another motoring conviction would necessitate another hearing.

The Sub-committee determined in favour of approving the application and that the applicant was therefore 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.

The meeting commenced at 2:00pm and concluded at 2:45pm