
GENERAL LICENSING SUB COMMITTEE 10/02/23

Present:

Councillors: Councillor Annwen Hughes (Chair)
Councillors Linda Ann Jones and Elfed Williams

Officers: Siôn Huws (Senior Solicitor), Gwenan Mai Roberts (Licensing Manager),
Delyth Jones (Public Protection Trainee) 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 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 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 was invited to expand on the application and provide information about the background of the conviction and the points on his licence and his personal circumstances.

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 January 1988, the applicant was found guilty of Assault causing Actual Bodily Harm (ABH) contrary to the Offences Against the Person Act 1861 S.47.

In February 2022, the applicant received six penalty points on his driving licence for Breach of Requirements in relation to vehicle control, mobile phone etc.

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.

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

Section 12 of the Policy relates to motoring convictions, and paragraph 12.3 states that an application will be refused if there is a conviction against the applicant and he/she has not been free of the conviction for at least six months.

CONCLUSIONS

The Sub-committee considered the applicant's explanation of the circumstances that had led to the 1988 and 2022 convictions, and the officer's recommendation to approve the application.

The Sub-committee came to the conclusion that the 1988 offence was a violence-related offence for the purpose of the Policy, and that sufficient time had elapsed since the applicant was found guilty. The applicant's explanations and the reasons for his behaviour in 1988 were considered, and it was accepted that his circumstances were now very different. The Sub-committee was also pleased to note that the applicant had included information about his conviction on the application form.

In considering the circumstances of the motoring offence, and that the applicant had admitted using his telephone (in an industrial estate) to the Police in response to a call he considered urgent, it was highlighted that using / holding a telephone while driving was a serious matter, and was now illegal. However, the applicant's explanation of the specific circumstances of the incident were accepted and the Sub-committee was pleased to note that the applicant had accepted responsibility for the action and had honestly and openly admitted that he had used his telephone.

Given the circumstances of the offence, the Sub-committee was satisfied that there was nothing to suggest that the applicant would endanger customers when driving. Having carefully weighed-up all the factors, the Sub-committee was 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.

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 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 Manager submitted a written report on the application received from Mr B for a hackney/private hire vehicle 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 had recommended that the Sub-committee should refuse the application.

The applicant was invited to expand on the application and provide information about the background of the convictions on DBS record and his personal circumstances. His driving licence was a clean 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 the '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 February 2022, the applicant was found guilty on two counts: Assault causing Actual Bodily Harm (ABH) contrary to the Offences Against the Person Act 1861 S.47 and Affray contrary to the Public Order Act 1986 S.3 - the applicant received a community penalty order for three months.

In August 2012, the applicant was found guilty of Assault causing Actual Bodily Harm (ABH) contrary to the Offences Against the Person Act 1861 S.47 - the applicant received a sentence of 18 months imprisonment.

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.

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

CONCLUSIONS

The Sub-committee considered the applicant's explanation of the circumstances that had led to the 2002 and 2012 convictions together with the officer's recommendation to refuse the application. The Sub-committee came to the conclusion that the 2002 conviction was a violent offence for the purpose of the Policy, and that sufficient time had elapsed following the three-year threshold since the applicant was found guilty. The applicant's explanations and the reasons for his behaviour in 2002 were considered. The Sub-committee determined that the 2012 conviction was also a violence-related offence or similar offence and that a little over 10 years had elapsed since that offence. The applicant's explanations and the reasons for his behaviour in 2012 were considered. Although the applicant had no recent history of re-offending, the Sub-committee gave careful and very serious consideration to the fact that both were serious violent offences, and the applicant had received a sentence of 18 months imprisonment for the 2012 conviction.

The applicant's explanation was accepted that his circumstances were now very different, and he had managed to transform his life. He was now married, had children, and had a responsible and regular job; he was very active in his local community and was also a football coach.

Having carefully weighed-up all the factors, the Sub-committee by a majority decision, determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence, although they wished to emphasise that any future problem may lead to action to revoke the licence.

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

The meeting commenced at 11.45 am and concluded at 1.05 pm

CHAIRMAN