
GENERAL LICENSING SUB-COMMITTEE 14-11-2022

Present:

Councillors: Councillor Annwen Hughes (Chair)
Councillors Huw Rowlands and Elfed Williams

Officers: Siôn 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 have confidence 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 according to the DBS record, the guidelines on criminal offences

and relevant convictions. 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 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 their decision, the Sub-committee had 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 along with the DBS statement
- The applicant's verbal representations

Specific consideration was given to the following matters:

Background

In November 2011, the applicant had received 3 convictions:

- using a car without insurance contrary to the Road Traffic Act 1988 S.143 (2)). He received a fine of £120 and an endorsement on his licence.
- driving a car with excess alcohol contrary to the Road Traffic Act 1988 S.5 (1) (A) He received a fine of £120, costs of £85 and was disqualified from driving for 18 months
- driving a car otherwise than in accordance with the licence - that cannot be certified contrary to the Road Traffic Act 1988 S.87(1). He received a fine of £40, an endorsement on his licence and additional costs of £15.

In October 2013 the applicant received a conviction for shoplifting contrary to the Theft Act 1968 S. 1 and failure to surrender to custody on the time noted, contrary to the Bail Act 1976 S.6 (1). He was fined £50 with costs of £100 and additional costs of £20.

In June 2014, he received 3 convictions for;

- resisting or obstructing a Constable, contrary to the Police Act 1996 S.89 (2). He received a fine of £90
- using a vehicle without insurance, contrary to the Road Traffic Act 1988 S.143 (2). He was fined £110, costs of £85, and disqualified from driving for 12 months and additional costs of £20.
- driving otherwise than in accordance with the licence, contrary to the Road Traffic Act 1988 S.87(1). He received a fine of £50 and an endorsement on his licence.

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 8.0 of the Policy, which deals with dishonesty offences, was considered together with paragraph 8.1 which states that a serious view shall be taken of any conviction involving dishonesty. Paragraph 8.2 states that an application would normally be refused where the applicant has 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 11.0 which addressed drink-driving offences, was considered. In paragraph 11.1, it was noted that a serious view would be taken of convictions for driving or being responsible for a vehicle under the influence of alcohol / drugs. Anyone who had been found guilty of offences relating to drink-driving was unlikely to receive a licence until they had been free from a conviction(s) for at least three years. A conviction for 'refusing or failing to provide a sample' is dealt with in the same manner.

Clause 12 of the policy deals with driving convictions and paragraph 12.4 states that an applicant with more than one major traffic offence within the last 5 years will normally be refused and no further application should be considered until a period of at least 3 years free from such convictions has elapsed or other matters for consideration.

Paragraph 16.1 of the Policy deals with repeat offences. Firstly, it must be ensured that the convictions satisfy the policy guidelines individually, but that they together create a history of repeat offending that indicates a lack of respect for the welfare and property of others. The Policy states that ten years must have elapsed since the most recent conviction.

CONCLUSIONS

The Sub-committee concluded that as the applicant had several convictions that satisfied the criteria as individual convictions to grant a licence, however, consideration needed to be given to policy provisions dealing with repeat offending and the expectation that 10 years must elapse since the most recent conviction.

It was considered that the offences appeared to be very serious, especially as they concerned speeding, dishonesty and a lack of respect towards the police. Therefore, careful consideration was required whether there was a reason to justify approving a licence although ten years had not elapsed.

Consideration was given to the applicant's explanation for the incident and some weight was given to the fact that eight and a half years had elapsed since the last convictions were received in 2014. It was accepted that the applicant was young at the time, that the incidents had occurred within a period of three years to each other and following the incidents, there was a period of stability with no further offending. This, together with the fact that his personal circumstances had changed significantly and that he now had responsibility for two children. As a result, the sub-committee was of the opinion that these factors justified diverting from the expectation for 10 years to have elapsed.

Having carefully weighed up the information a majority decision was reached that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence. Nonetheless, the Sub-committee emphasised that the responsibility of driving a

taxi was a serious matter and he was expected to display the highest standard of conduct by doing so.

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

6. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE - Mr B

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 have confidence 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 requested to consider the application in accordance with the DBS record, the guidelines on criminal offences and relevant convictions together with a taxi driver's safety certificate. It was highlighted that the applicant had not declared any previous convictions on his application form. 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 sentence, why he had not stated that he had previous convictions on his application form and his personal circumstances. He explained that he had served 1 month in prison and he then had to wear a tag as his friend had threatened a witness by using his phone. He also highlighted that he had only one conviction /incident and not convictions / incidents as noted in the report. He apologised for not disclosing the offence on his application form and explained that he was not good at completing forms.

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 and the DBS statement
- the applicant's verbal representations

Specific consideration was given to the following matters:

Background

In August 2008 the applicant was found guilty of intimidating a witness or juror with the intention of preventing, perverting or intervening with the course of justice contrary to the Criminal Justice and Public Order Act 1994 S.51 (1) and he received a sentence of imprisonment for 6 months.

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.

Clause 2.3 of the Policy notes that any criminal convictions may be considered, or other matters that deal with the suitability and propriety of the applicant. Consequently, the offence whereby the applicant was found guilty was a very serious offence, one that justified a sentence of 6 months imprisonment.

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 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.

CONCLUSIONS:

The Sub-committee came to the conclusion, as 14 years had elapsed since the applicant was convicted, that the three-year threshold under the Policy had obviously elapsed. There were no previous convictions or subsequent convictions. Despite the explanation for the incident in 2008, the sub-committee was not totally clear what the circumstances were and the applicant had to accept responsibility for loaning his phone to his friend to threaten a witness. However, as a sufficient period of time had elapsed since the offence, there were no compelling reasons for not following policy guidelines in this case.

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

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

7. APPLICATION FOR A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr C

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 have confidence in using licensed vehicles.

The Licensing Officer presented a written report on the 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 DBS record, and the guidelines on relevant criminal offences and convictions, and the report of the DVLA.

The applicant was invited to expand on the application and provide information about the background of the environmental offence and his personal circumstances. In response to a question as to why the details of the environmental offence had not been included on the application form, the applicant's representative noted that the environmental offence had not been considered relevant to a taxi driver's application.

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 their decision, the Sub-committee had 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 and his representative/prospective employer's verbal representations

Specific consideration was given to the following matters:

Background

In July 2019, the applicant was found guilty of an offence of operating a regulated facility without an environmental permit; Environmental Permitting (England and Wales) Regulations 2007 Regulation 38(1) (a).

In September 2020, the applicant received 3 penalty points for breaking the statutory speed limit on a public road (SP30)

RELEVANT CLAUSES OF THE POLICY

Although the Policy does not refer specifically to offences related to Environmental Offences, such offences are relevant for consideration. Every offence carried out by a Person who wishes to be a Taxi Driver, is relevant for consideration if the applicant is 'a fit and proper person'. Officers were of the opinion that operating a Regulated Facility without an environmental permit was a serious matter.

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.

CONCLUSIONS

The Sub-committee concluded that the SP30 offence was not a problem in considering the provisions of the policy - the SP30 offence did not take the applicant's total over the 7 point limit noted in the Cyngor Gwynedd Speeding Policy before it affected the application or an application to renew the Taxi Driver's Badge.

Although the environmental offence was not noted in the policy, the Sub-committee considered that over 3 years had elapsed since the offence as well as the fact that the offence had no connection to driving a taxi.

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

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

The meeting commenced at 2:00pm and concluded at 4:30pm.