
GENERAL LICENSING SUB-COMMITTEE 08-10-24

Present:

Councillors: Councillor Elfed Williams (Chair), Huw Rowlands and Gareth Williams

Officers: Nia Grisdale (Legal Services Manager), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

Others invited:

Item 5:

Applicant - Mr A

The applicant's representative

CIlr Hefin Underwood - observing

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
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager presented the written report on the application received from Mr A for a hackney/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.

In accordance with the hearing procedure, the applicant and / or his representative was given an opportunity to ask questions of the Council's representative.

It was asked why a hearing had to be held and why the Environment Department did not have delegated powers to approve the application - the applicant's representative suggested that this meant unnecessary costs to the taxpayer.

In response, the Licensing Manager noted that the Gwynedd Delegated Rights Scheme had arrangements in place whereby an application with any offence appearing on the applicants' DBS would be presented to a Sub-committee for a decision. It was added, in accordance with the Council's Constitution, that neither she nor the Head of the Environment Department had the power to make a decision be that due to a historical conviction or otherwise.

It was noted that the procedure and process were being reviewed with discussions taking place with the Legal Department to consider cases where a decision could be delegated. Any amendment to the Constitution would be presented to the Licensing Committee and to the Full Council.

In response to a question regarding whether the Licensing Manager had the right to suspend or revoke a licence, the Licensing Manager confirmed that she had the right to do this.

The applicant was invited to elaborate on the application giving information about the background to the conviction and his personal circumstances, however, the applicant was eager for his representative to discuss the application with the Members. His representative highlighted that the conviction had occurred when the applicant was 18 years old, 42 years ago, and he had not offended since. He added that the applicant had been a school bus driver and that post entailed responsibility and trust.

Attention was drawn to paragraph 6.5 of the Licensing Policy which stated that an application will be refused if the applicant has a conviction that is less than 3 years prior to the date of the application - he emphasised once more that 39 years had elapsed. He added that the applicant had been unemployed while waiting for a hearing and that the process was unsuitable and inappropriate. He asked the Panel to consider his request to change the process.

RESOLVED that the applicant was a fit and proper person to be issued with a 12 month 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 report of the Licensing Department
- DBS Statement

- The report of the Driver and Vehicle Licensing Agency
- The applicant's application form
- Verbal observations by the applicant's representative

Specific consideration was given to the following matters:

Background

In June 1982, the applicant was found guilty of Assault causing Actual Bodily Harm (ABH) contrary to the Offences Against the Person Act 1861 (S.47) that led to a bail order for two years.

There were no other convictions to consider.

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 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 that 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.

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

Paragraph 6.5 of the Policy stated that an application for a licence would normally be refused if the applicant had 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 Policy's provisions, the applicant's explanation of his circumstances and the Licensing officer's recommendation were considered to approve the application. The members were of the opinion that the conviction satisfied the policy's criteria.

The Sub-committee considered the fact that 42 years had elapsed since the offence and that there was no evidence of any conviction or other relevant matter since then. The applicant's explanation of the incident in 1982 was considered (when he was 18 years old) and the fact that he took the blame and pleaded guilty. It was also noted that he had been employed over the years, and for the last 10 years he had been driving a school bus which was in essence a post of trust.

In response to a question regarding the bus licence arrangements, it was noted that an arrangement to check the suitability of a driver would also be relevant to the post of a bus driver under a different process to the taxi driver licence process.

The Sub-committee determined in favour of granting the application and 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 and the comments of the Applicant's Representative regarding the hearings procedure would be considered.

The meeting commenced at 3:00pm and concluded at 3:30pm.