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**GENERAL LICENSING SUB-COMMITTEE 07-05-24**

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**Attendance:**

**Councillors:** Elfed Williams (Chair), Gareth Jones and Angela Russell

**Officers:** Siôn Huws (Senior Solicitor – Corporate), Gwenan Mai Roberts (Licensing Manager) and Lowri Haf Evans (Democracy Services Officer)

**Others invited:**

**Item 5:**

**Applicant – Mr A and his partner**

**Item 6:**

**Applicant – Mr B**

**Item 7:**

**Applicant – Mr C**

**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.

The applicant was invited to expand on the application and provide information about the background of the points on his licence, the conviction for a serious driving offence and his personal circumstances. He highlighted that the serious driving conviction had occurred in January 2016 and not in June 2015 as noted in the report.

In response to a question regarding the date of signing the application (27-02-2005) the applicant noted that this was a mistake and that he had confused the date with the birthday of a family member.

**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 had considered the following:

- The requirements of 'Cyngor Gwynedd'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

Specific consideration was given to the following matters:

### **Background**

In April 2023, the applicant received six penalty points on his driving licence for not disclosing information relating to the driver of the car, etc.

In May 2023, the applicant received three additional penalty points on his driving licence for Breaching the Speed Limit on a Public Road.

In January 2016 the applicant was convicted for the offence of Causing a Dangerous Incident on/over a Road, contrary to the Road Traffic Act 1988. He was fined £155, ordered to pay costs of £85 and additional costs of £20.

### **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 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/she is a fit and proper person to hold a licence. The onus is on the applicant to show that he/she is a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other

matter(s) to be considered in connection with that, the Council cannot review the merits of that 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.

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.

Paragraph 12.4 notes that an application will be refused if the applicant has more than one major traffic offence within the last five years, and no further application should be considered until a period of at least three years free from such convictions has elapsed.

Section 13 relates to minor traffic offences and refers mainly to offences that are not listed in paragraph 12.2 of the Policy with paragraph 13.1 defining 'minor traffic offences' as offences that incurred between 1 and 3 penalty points.

## **CONCLUSIONS**

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

In this case, the Sub-committee had no reason to diverge from the policy's provisions and it was determined that the applicant was a fit and proper person to hold a hackney and private hire vehicle driver's licence. However, they were concerned that the applicant had a tendency of attempting to avoid responsibility and of trying to excuse behaviour that was a criminal offence. In explaining the reasons for breaching the speed limit, it must be recognised that speeding is a criminal offence whatever the circumstances – in other words, speeding is speeding. The Sub-committee emphasised that drivers are expected to ensure a high standard of behaviour when driving a taxi and to report to the Licensing Unit on any relevant incident or update, in accordance with the licence conditions.

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.

## **6. APPLICATION TO RENEW A HACKNEY/PRIVATE HIRE DRIVER'S LICENCE – Mr B**

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 submitted the written report on the application received from Mr B for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions. It was noted that the applicant had acknowledged the conviction on his application form for a licence.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on his application and provide information about the background of the offence. He noted that the incident had happened when he was around twenty years old. He had pleaded guilty to the charge and had not offended since.

## **RESOLVED**

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 report of the Licensing Department
- DBS Statement
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

### **Background**

In April 1987, the applicant received a conviction in Bangor Magistrates' Court for causing Grievous Bodily Harm contrary to S47 of the Offences Against the Person Act 1861. He was fined £50 with costs of £80 and additional costs of £20.

### **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 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/she is a fit and proper person to hold a licence. The onus is on the applicant to show that he/she is a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other matter(s) to be considered in connection with that, the Council cannot review the merits of that 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 6.2 notes that anyone found guilty of an offence relating to violence is unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration must be given to the nature of the offence.

## **CONCLUSIONS**

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

The Sub-committee decided in favour of approving the application as the only conviction had happened over 37 years ago therefore far beyond the three-year period and there was no evidence of any misconduct since then. The applicant was thanked for being open and honest when discussing the background to his conviction.

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

### **7. APPLICATION TO RENEW 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
- Vulnerable persons are protected
- The public have confidence in using licensed vehicles.

The Licensing Manager submitted the written report on the application received from Mr C for a hackney/private hire driver's licence. The Sub-committee was requested to consider the application in accordance with the relevant convictions. It was noted that the applicant had acknowledged the conviction on his application form for a licence.

The Licensing Authority recommended that the Sub-committee should approve the application.

The applicant was invited to expand on his application and provide information about the background of the offence. He noted that the incident had happened during a difficult divorce. He emphasised that the conviction was non-violent (A2) and related to a lack of communication. He added that he always explained the situation to employers and was embarrassed by his behaviour.

## **RESOLVED**

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 report of the Licensing Department
- DBS Statement
- The applicant's application form
- Verbal observations by the applicant

Specific consideration was given to the following matters:

### **Background**

In March 2017, the applicant received a conviction at Gwynedd Magistrates' Court for conduct amounting to harassment, contrary to the Protection from Harassment Act 1997 S.2(1) + S.2(2). The applicant received a 20-week sentence suspended for 18 months plus a £425 fine, a requirement to undertake unpaid work and rehabilitation activity. A restraining order was also imposed on the applicant.

## **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 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/she is a fit and proper person to hold a licence. The onus is on the applicant to show that he/she is a fit and proper person. Paragraph 2.4 states that when an applicant has a conviction(s) or there are other matter(s) to be considered in connection with that, the Council cannot review the merits of that 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 6.2 notes that anyone found guilty of an offence relating to violence is unlikely to be granted a licence until they have been free from such a conviction for a minimum of three years. However, when considering the range of offences involving violence, consideration must be given to the nature of the offence.

## **CONCLUSIONS**

The Policy's provisions, the applicant's explanation of the circumstances, and the Licensing Manager's recommendation were considered.

The Sub-committee decided in favour of approving the application as the only conviction had happened seven years ago therefore far beyond the three-year period and there was no evidence of any misconduct since then. It was accepted that the offence had taken place during a period of difficult personal circumstances, and the applicant was thanked for being open and honest when discussing the background to his conviction, acknowledging and accepting responsibility for his behaviour in full. There was no evidence of further convictions and therefore the Sub-committee was satisfied that the applicant was a fit and proper person to be issued with a licence.

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

The meeting commenced at 14:15 and concluded at 15:50.