

Coventry City Council
Minutes of the Meeting of Licensing and Regulatory Sub-Committee (Hearing)
held at 10.00 am on Thursday, 16 August 2018

Present:

Members:

Councillor J Birdi
Councillor J Clifford
Councillor P Hetherton (Chair)

Employees (by Directorate):

Place: D Cahalin-Heath, J Glover, F Samuda, C Sinclair

Public Business

6. Appointment of Chair

Councillor Hetherton was appointed as Chair for the meeting.

7. Declarations of Interest

There were no declarations of interest.

8. Exclusion of Press and Public

RESOLVED that, under Section 1004(A) of the Local Government Act 1972, the public be excluded from the meeting for the item of business below (Licensing Act 2003 – Application for a personal licence) on the grounds that the item involved the likely disclosure of exempt information, as defined in Schedule 12A of that Act, in particular those paragraphs of Part 1 of the Schedule.

9. Licensing Act 2003 - Application for a Personal Licence

The Licensing and Regulatory Sub-Committee considered an application for a new personal licence.

The Applicant had submitted an application for a personal licence on 28 March 2018 under Section 117 of the Licensing Act 2003. Under section 120(2)(d) the application could not be determined by Licensing Officers as the Applicant had been convicted of a relevant offence on 19 February 2018 for driving a motor vehicle with excess alcohol on 27 October 2017. The Police had provided the Authority with an objection notice (which had not been withdrawn) stating that the granting of the personal licence to the Applicant would undermine the crime prevention objective as the conviction of 19 February 2018 was not spent in terms of conviction and the disqualification from driving.

The Authority was thereafter required to hold a hearing to consider the objection received.

The Licensing Officer presented the report in relation to the application for the grant of a personal licence. The Licensing Officer confirmed that the rehabilitation period for the drink driving disqualification period was 5 years once the ban was lifted. The rehabilitation period for the community order is 12 months from the date of conviction. It was noted that the Applicant could reduce the driving disqualification period by undertaking a relevant driving course which in effect could reduce his disqualification by 22 weeks (ie. 1 week for each month of disqualification).

The Applicant confirmed when making representations that he had made a silly mistake and had to pay the price for it now. He acknowledged that the Sub-Committee could give him a personal licence or refuse the application and he would have to accept this. He advised in terms of his conviction that he was at a family wedding for the day on 27 October 2017 and that he had been drinking all day. The Applicant confirmed when questioned that he had started drinking at about 1pm on 27 October 2017 and that he had got anxious and although it was silly decided to leave the wedding and picked up his car keys and drove. The Applicant was unable to confirm how much drink he had consumed at the time nor could he remember what the alcohol readings were at the time of the incident. It was confirmed by the Applicant that he was a gin drinker and further that he had been drinking gin and wine (provided at the table) throughout the day before he left the wedding. It was noted that the driving disqualification given of 22 months inferred that the alcohol in the applicant's system was extremely high when considering the sentencing guidelines for Magistrates. The Applicant confirmed that he was breathalysed on 2 occasions once at the time of the incident and also later at the police station. He confirmed that both breathalysers were not working and as a consequence a urine specimen was taken from him. He did not recall the exact reading however now believed that it was about twice the amount allowed.

The Applicant confirmed that he had pleaded guilty to the offence on the first occasion and that he had been lucky as he was given credit for his timely guilty plea. He further recognised that the Court had been lenient with him as they had determined not to fine him or give him points on his licence but instead gave him a community order. When asked about the circumstances of the police stopping him, the Applicant advised that he did not recall the incident as he had been drunk, he had crashed the vehicle and advised that the police had found him in a ditch. He had no recollection as to what had happened, the speed he was driving, how he got there or how the police had found him. It was further noted by the Sub-Committee that it was only upon being questioned that the Applicant disclosed the fact that he been involved in a crash and it was to his knowledge that no one else was involved or hurt.

The Applicant confirmed that he had not undertaken the driving course to date to reduce the disqualification period however he intended to book this course in January 2019 rather than do it now.

The Applicant was referred to his application form and it was queried why the Applicant had declared that he had a relevant conviction and thereafter denied it by signed declaration. The Applicant confirmed that the form had been completed by his trainers CPL training in Birkenhead. He confirmed that he had only partly read the form before signing it and therefore was not completely aware of the

contents or what he had signed. The Applicant was asked if he was aware that he had a relevant conviction and the rehabilitation period(s) that applied to the offence. The Applicant was unclear on this point. He did however confirm that he had a job offer with "Stonegate" who wanted to 'give him a pub' and if he was refused his personal licence today he would probably lose his job.

The Applicant on a final note confirmed that he had passed his driving test in February 2015 hence had held his licence for around 2 years and 8 months at the time of the incident.

Mr Ian Tipton confirmed that the Police's concern was that to grant the personal licence would undermine the crime prevention objective. The personal licence should not be granted until the conviction for drink driving was spent i.e. until after from the disqualification from driving period had ended.

The Licensing and Regulatory Sub-Committee, having considered the Licensing Act 2003, the Home Office Section 182 Guidance, the Council's Statement of Licensing Policy, the Magistrates Court Sentencing Guidelines and the Rehabilitation of Offenders Act 1974 coupled with the representations of the Applicant and that of the Police; and having reviewed all the papers provided; resolved to refuse to grant the Personal Licence as to do so would undermine the crime prevention objective.

RESOLVED that the Licensing Sub-Committee, having heard all of the evidence from the parties, and having reviewed all of the papers provided in advance of the hearing, including those from objector decided to refuse to Grant the Personal Licence in accordance with the Licensing Act 2003 for the following reasons:

- 1. The Sub Committee was satisfied upon hearing the representations of the Police and the Applicant that the Personal Licence should not be granted.**
- 2. The Applicant held a relevant conviction and the offence itself was a serious one which the Applicant did not appear to appreciate.**
- 3. The Rehabilitation periods had not expired.**
- 4. The Applicant confirmed that he had relied on his training providers to complete his application form without properly reading it which resulted in him making a false declaration on the form submitted.**
- 5. From the sentencing guidelines and the urine specimen taken from the Applicant (and the obligatory disqualification period of 22 months given); this indicated that the Applicant had a high alcohol reading.**
- 6. The Applicant was selective in the evidence given especially when disclosing details of the incident of 27 October 2017 and had to be prompted most of the time before the Sub-Committee could ascertain the position.**
- 7. The Applicant was aware of the Police's objection and had made no effort to address the Sub-Committee's concerns that the crime prevention objective would not be undermined if he was granted a personal licence.**
- 8. Given the above, the Sub Committee was of the view that the Crime Prevention Objective would be undermined if the licence was granted.**

10. **Any Other Business**

There were no other items of business.

(Meeting closed at 10.45 am)