

Licensing Sub-Committee – 1 December 2017

Minutes of the meeting of the **Licensing Sub-Committee** held on **1 December 2017** when there were present:-

Cllr R A Oatham
Cllr A L Williams

Cllr Mrs L Shaw

OFFICERS PRESENT

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|---------------|-------------------------------|
| R Hurst | - Senior Solicitor |
| J Fowler | - Principal Licensing Officer |
| S Greener | - Licensing Officer |
| C Irwin | - Solicitor |
| S Worthington | - Democratic Services Officer |

1 APPOINTMENT OF CHAIRMAN

Cllr Mrs L Shaw was appointed Chairman of the Sub-Committee.

2 PROCEDURE FOR LICENSING HEARING

The Sub-Committee noted the procedure to be followed during the hearing.

3 LICENSING APPLICATION – LICENSING ACT 2003

Personal Licence Application: Mr Oliver Owen

The Sub-Committee considered an application for the grant of a personal licence made under section 111 of the Licensing Act 2003 by CPL Training of 2 Tower Rod, Birkenhead, Wirral on behalf of Mr Oliver Owen. Members had before them the report of the Assistant Director, Legal Services setting out the details of the application and the representation received from Essex Police.

The Police officer advised that the Police objection was due to the fact the applicant had an unspent criminal conviction, which was a Relevant Offence under the Licensing Act 2003 Schedule 4, 14b). The offence of drink driving had taken place on 29 October 2014 at the time that the applicant was a serving Metropolitan Police officer.

She emphasised that the role of personal licence holder was a responsible one requiring post holders to be of suitable, robust character. Essex Police considered that the applicant should complete the rehabilitation period of five years before any licence be granted.

The following responses from the Police to Member questions were noted:-

- The applicant's driving licence was endorsed when he was convicted, and he also received a 16-month driving ban.

- The applicant had been attending a work do at the time of the offence. He had missed the last train home and had driven the car. He had not given a urine sample at the roadside, but had provided a sample after several hours in Police custody.
- The offence took place on 29 October 2014 and the applicant was convicted on 22 December 2014. The conviction would be spent in 2019.

The applicant, in support of his application for a personal licence, stated that he was not trying to justify himself and what had happened, but stressed that he was of good character. He outlined his long career with the Police force; working in the Police response team in Hackney for 8 years, then working as part of the Police Olympics Team, followed by working as part of a night time economy Police team.

He described how his grandmother's death in 2014 had affected him deeply, given that she was like a mother to him. He had attended a work do on 29 October 2014 and was unable to stay with a friend afterwards and his phone battery was also dead. He had decided to move his car from one street to another to avoid a parking ticket for parking in a residents' parking scheme zone.

He emphasised that during his eleven years' service in the Police force he had an impeccable work record, had received commendations and had just passed his Sergeant's exams. After the conviction his wife left him and his mother didn't speak to him for around three months. He had been jobless for the first time. He managed to find employment as a security manager for Transport for London. He was currently employed as a security manager by a large casino in Stratford, but would become unemployed if he failed to gain a personal licence. He stressed that his previous experience working for the Police force would prove useful for the role of personal licence holder. He had recently completed a licensing training course during which he had obtained the highest score.

The following responses from the applicant to Member questions were noted:-

- The applicant had not been asked for a roadside breath test, nor had he refused one at the Police station.
- The applicant was certain that he could be relied upon to be responsible for the supply of alcohol to others.
- His sole conviction had not been directly related to the supply of alcohol, nor had it been connected to his job at that time.
- His conviction would be spent in two years time and there was no greater risk associated with the grant of a personal licence to him now, compared to when his conviction would be spent.

The Sub-Committee retired from the Chamber with the Legal and Member Services officers to consider the decision, returning for its announcement.

The Sub-Committee had given careful consideration to the officer's report and all written and verbal evidence given at the hearing. It was mindful of the fact that the applicant had a conviction dated 22 December 2014, almost three years ago, and that this conviction would become spent in two years time. It also noted that it was the case that the applicant could apply for this licence in two years time and would fulfil the necessary criteria.

The Sub-Committee was also aware that the Council should reject the application if it considered it appropriate for the promotion of the licensing objective of crime prevention to do so.

The Sub-Committee was cognisant of the fact that the Police objection related to the nature of the offence and the fact that the applicant was a serving Police Officer at the time of the offence and therefore in a position of authority. Nonetheless, the Sub-Committee did not consider that there was any direct correlation between the facts of the offence and the sale or supply of alcohol. The Sub-Committee took into account that there were no further relevant convictions. The Sub-Committee was mindful of the fact that, as a result of the single conviction, the applicant's longstanding career as a Police Officer had ended.

The Sub-Committee took into account the fact that the applicant had subsequently secured positions of responsibility as a security manager for Transport for London and at a casino and took the view that in this particular case the applicant would be more aware of his responsibilities as a personal licence holder in respect of the sale and supply of alcohol. The Sub-Committee did not believe that the grant of a personal licence to the applicant would further undermine the licensing objective of prevention of crime and disorder and accordingly considered it appropriate to grant the personal licence.

Resolved

That the personal licence be granted. (ADLS)

4 PROCEDURE FOR LICENSING HEARING

The Sub-Committee noted the procedure to be followed during the hearing.

5 LICENSING APPLICATION – LICENSING ACT 2003

Temporary Event Notice: Skylark Hotel Zero 6 Suite, Aviation Way, Southend-on-Sea

The Sub-Committee considered an application for the grant of a Temporary

Event Notice with respect to Skylark Hotel Zero 6 Suite, Aviation Way, Southend-on-Sea. Members had before them the report of the Assistant Director, Legal Services setting out the details of the application, together with a supporting email from the applicant dated 29 November 2017 and the representation received from Essex Police.

In presenting the objection from Essex Police, the Police Officer emphasised that the event promoter had advertised the event on Facebook as a bare knuckle event. The Police considered that such an event, which lacked set rules, constituted a conspiracy to commit grievous bodily harm. The Police officer referred to case law in which Lord Lane stated ...'it is not in the public interest that people should try to cause or should cause each other actual bodily harm', i.e., that it should not be accepted that consent was a defence in relation to assaults.

The Police officer stressed that the Police had not been able to adequately risk assess the event and had not received a detailed risk assessment from the applicant. They did not know what door staff would be on duty during the planned event and had not been able to contact the premises manager to obtain detailed information relating to the event. Information had been received by the Police from the applicant in the last few hours, however there was insufficient detail in respect of the number of door staff, means to control crowds, medical assistance, etc.

The application stated that the event was a boxing event, however the Facebook publicity referred instead to a bare knuckle event. In addition, the Zero 6 Suite was not a licensed part of the premises.

In response to a Member question relating to the type of crime that could occur as a result of this event, the Police officer confirmed that the event could result in a conspiracy to commit grievous bodily harm and that, furthermore, this kind of event was liable to result in public disorder.

The Sub-Committee retired from the Chamber with the Legal and Member Services officers to consider the decision, returning for its announcement.

The Sub-Committee had given careful consideration to the officer's report and all written and verbal evidence given at the hearing, including the objection notice from the Police and the email of 29 November 2017 received from the applicant. The Sub-Committee had not heard from the applicant at the hearing, or from any representative, and could only base its decision on evidence presented at the hearing.

The Sub-Committee was mindful of Police evidence as to the nature of the event, which was not conventional, licensed boxing. Evidence was provided on a Facebook advertisement promoting the event on 15 December 2017 at the Skylark Hotel as a bare knuckle brawl. The accompanying wording to the advertisement referred to doghouse rules with one round of unlimited minutes. It did not appear to follow the rules of a regulated boxing match. In addition,

the Sub-Committee had heard that a full, detailed risk assessment had not been submitted and that the Police had not been able to verify the security arrangements for the event.

The Sub-Committee took into account the case law presented by the Police – Lord Lane, in the Attorney General Reference (No. 6 of 1980) 1981 which asserted that an event of this nature could amount to an offence of conspiracy to commit grievous bodily harm and accepted this evidence. In addition, the Police had made particular reference to the increased risk of public disorder at events of this nature.

The Sub-Committee considered that an event with a capacity of up to 499 people, with no full risk assessment, unregulated and with the supply of alcohol, would increase the risk of public disorder and criminal offences occurring. The Sub-Committee was also mindful of the fact that the venue was not part of the licensed premises and as such no conditions could be attached to any temporary event notice. For all these reasons the Sub-Committee considered that a counter notice should be served in order to promote the licensing objective of the prevention of crime and disorder.

Resolved

That a counter notice be served in order to promote the licensing objective of the prevention of crime and disorder. (ADLS)

The meeting commenced at 10.00 am and closed at 1.05 pm.

Chairman

Date

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