

LICENSING SUB-COMMITTEE
16 AUGUST 2022

Minutes of the meeting of the Licensing Sub-Committee of Flintshire County Council held in the Remote meeting on Tuesday, 16 August 2022

Present: Councillor Rosetta Dolphin (Chair)

Councillors: Rob Davies and Mared Eastwood

Officers of Flintshire County Council:

Solicitor, Licensing Officer, and Democratic Solutions Officer

Responsible Authority: North Wales Police Eastern Licensing Officer

Applicant

Interested Party – (Hospitality Training Solutions)

Apologies:

None

1. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None

2. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 - TO CONSIDER THE EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED:

That the press and public be excluded from the meeting for the following item as this was considered to contain exempt information by virtue of paragraphs 12 and 13 of Part 4 of Schedule 12A of the Local Government Act 1972 (as amended).

3. HEARING AND DETERMINATION OF THE APPLICATION

The Chair welcomed the applicant and introduced the panel members.

4. CONDUCT OF A PRIVATE HIRE/HACKNEY CARRIAGE (JOINT) DRIVER

The Licensing Officer presented the report to consider an application for a Personal Licence under the Licensing Act 2003. The requirements for a Personal Licence are prescribed by Part 6 of the Licensing Act 2003 and were listed in the report. Schedule 4 of the Licensing Act 2003 lists relevant offences appropriate to an application for a Personal licence.

The Licensing Officer advised that the applicant had disclosed a relevant offence which was not considered spent under the Rehabilitation of Offenders Act 1974 (c.53), and had provided his Disclosure and Barring Service Basic

certificate confirming this. She explained that where an applicant had a relevant offence which was not considered spent, the Licensing Authority must serve notice on the Chief Officer for North Wales Police to inform of this fact. If the Chief Officer was satisfied that granting the licence would undermine the crime prevention objective North Wales Police must give the Licensing Authority a notice stating the reasons why (an "objection notice"). North Wales Police gave notice of the objection to this application which was received on 15 July 2022. Having regard to the representation from North Wales Police the Licensing Sub Committee was asked to make the following determination:

- (a) reject the application if it considers it necessary for the promotion of the crime prevention objective to do so, or
- (b) grant the application in any other case.

The Chair invited the applicant to speak in support of his application.

Prior to the applicant addressing the Committee a representative of Hospitality Training Solutions spoke in support of the applicant. He said he was a hardworking and upstanding member of the local community and would promote the licensing objectives.

The applicant spoke of his remorse for his actions which had resulted in a conviction. He explained he had behaved out of character and that the conviction was his first and only offence. He commented on his sentence and explained that this would be reduced following completion of a relevant course. He was currently undertaking the course which he found to be informative and helpful. He thanked the Committee for allowing him the opportunity to explain his circumstances.

The Chair invited the North Wales Police Licensing Officer to explain the reasons for the 'objection notice' to the application. The Licensing Officer advised that the offence committed was a relevant offence under the Licensing Act 2003 and under the Rehabilitation of Offenders Act 1974 the applicant's conviction was not yet spent. It was considered that the grant of a Personal Licence would defeat the Crime Prevention objective and the actions of the applicant were not compatible with the responsibilities of a Designated Premises Supervisor.

The Chair permitted the Council's Solicitor to ask questions of the parties.

The Solicitor questioned the applicant about the circumstances of his offence. The applicant provided details of the circumstances, and said that it was a first offence and he was very ashamed. He said he had reflected on the offence and it had given him a greater respect as to the negative effects of alcohol. He confirmed he had paid the fine and was undertaking a course, which would mitigate his sentence when completed. The Solicitor sought further information from the applicant concerning his understanding of the responsibilities of a licence holder. The applicant understood that licence holders must uphold the licensing objectives and respected the view of the police as to his action not being compatible with the objectives, but reiterated it was one-off offence and that he was undertaking a course and reflected on his actions.

The Solicitor questioned the North Wales Police Licensing Officer about the offence and the prescribed legal limits for driving a motor vehicle with alcohol. The Licensing Officer confirmed that the conviction was currently unspent under the Rehabilitation of Offenders Act 1974 and that it applied for 20 months from the date of the offence. In response to further questions from the Solicitor the Licensing Officer explained the reasons why North Wales Police held the view that the grant of a Personal Licence to the applicant would not uphold the crime prevention and licensing objectives and his actions were not compatible with the responsibilities held by a Designated Premises Supervisor. During discussion it was confirmed that under the Rehabilitation of Offenders Act 1974 the rehabilitation period for driving disqualification ended when the period of the disqualification passed and the period that applied to driving endorsement is 5 years from the date of conviction..

The Chair invited the Panel members to raise questions. In response to a question to the applicant about why he had taken the course of action which had led to committing the offence the applicant said he had made an error of judgement at the time and regretted his decisions.

The representative of Hospitality Training Solutions spoke in support of the applicant and reiterated that he believed the applicant could promote the licensing objectives.

When the Chair was satisfied that all relevant questions had been raised, she asked the applicant, representatives in attendance, and Licensing Officer to leave the meeting to enable the Sub-Committee to reach a decision.

4.1 Determination of the Application

The Licensing Officer, third party representatives, and the applicant were invited to return so that the meeting could be reconvened.

The Licensing Sub-Committee having heard all of the evidence from the parties and read the papers and given regards to the statutory guidance and statement of licensing policy decided to refuse to Grant the Personal Licence in accordance with the Licensing Act 2003 for the following reasons :

- drink driving is a relevant conviction and the Rehabilitation period had not expired;
- whilst the Applicant showed genuine remorse and was open and honest about the circumstances of the offence the Sub-Committee considered it to be both serious and recent, having been committed in November 2021;
- the Sub-Committee took into account the submissions of North Wales Police that granting the Application would undermine the crime prevention objective and did not consider that the Applicant had sufficiently demonstrated otherwise;
- given the above, the Sub-Committee was of the view that the Crime Prevention Objective would be undermined if the licence was granted.

4.2 Decision

The Chair read out the decision of the Sub-Committee (as above) and before closing the meeting advised the applicant that he had the right of appeal against the decision if he so wished.

In response to a question from the representative of Hospitality Training Solutions the Chair provided explanation that insufficient time had passed since the date of the offence and the Sub Committee had decided that the Crime prevention objective could not be met

RESOLVED:

That the application be refused as the applicant was not considered to be a fit and proper person to hold a Personal Licence as defined within the Licensing Act 2003 for the following reasons:

- drink driving was a relevant conviction and the Rehabilitation period had not expired;
- whilst the Applicant showed genuine remorse and was open and honest about the circumstances of the offence the Sub-Committee considered it to be both serious and recent, having been committed in November 2021;
- the Sub-Committee took into account the submissions of North Wales Police that granting the Application would undermine the crime prevention objective and did not consider that the Applicant had sufficiently demonstrated otherwise;
- given the above, the Sub-Committee was of the view that the Crime Prevention Objective would be undermined if the licence was granted.

(The meeting started at 10am and ended at 11.30am)

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Chairman