

MINUTES

**ALCOHOL, ENTERTAINMENT &
LATE NIGHT REFRESHMENT
LICENSING COMMITTEE
FRIDAY, 10 JANUARY 2014**



COMMITTEE MEMBERS PRESENT

Councillor Mark Ashberry
Councillor Pam Bosworth (Chairman)
Councillor George Chivers
Councillor Breda Griffin
Councillor Reginald Howard

Councillor Graddon Rowlands
Councillor Bob Russell (Vice-Chairman)
Councillor Susan Sandall
Councillor Mrs Jean Taylor
Councillor Frank Turner

OFFICERS

Licensing Officers (Pam Robinson, Richard Etherton)
Solicitor to the Committee (Paul Rushworth)
Democratic Officer (Lucy Bonshor)

21. APOLOGIES

An apology for absence was received from Councillor Broughton.

22. DISCLOSURE OF INTERESTS

None disclosed.

23. MINUTES OF MEETING HELD ON 8TH NOVEMBER 2013

The minutes of the meeting held on 8th November were agreed as a correct record of the decisions taken.

EXCLUSION OF THE PUBLIC

In accordance with Section 100A of the Local government Act 1972, it was resolved that the public be excluded because of the likelihood in view of the nature of the business to be transacted that if members of the public were present there would be disclosure to them of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act.

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24. LICENSING ACT 2003: APPLICATION FOR A PERSONAL LICENCE

Decision:

That the Committee reject the application for a personal licence as it considers that the appropriate promotion of the Licensing objective for crime prevention would be undermined.

The Solicitor to the Committee introduced those present and confirmed who was to speak in connection with the application. The applicant represented himself and Sergeant John Mellor and PC Figgitt for Lincolnshire Police. The solicitor also explained that he had given legal advice to the committee about the relevance of previous convictions and which convictions relating to the applicant were either not relevant or “spent” for the purpose of the Rehabilitation of Offenders Act 1974.

The Licensing Officer presented her report which concerned an application for a personal licence, the applicant had one unspent conviction for assault occasioning actual bodily harm.

Under Section 120 of the Licensing Act, the authority must grant a licence unless the applicant had been convicted of any relevant offence or any relevant foreign offence in which case they must hold a hearing to consider the matter. The authority notified the Chief of Police of the relevant offence and if he was satisfied that the granting of the licence would undermine the crime prevention objective he had 14 days in which to give the authority a notice of objection. An objection notice was received by Lincolnshire Police on 16 December 2013.

Sergeant Mellor for Lincolnshire Police then made representations as to why they believed the application for a personal licence should not be granted to the applicant.

(10.15am Councillor Howard left the meeting)

They referred to the severity of the conviction and the sentencing that the applicant had received. They detailed the circumstances of the incident for Members information, although without any of the other witness statements to the incident. In their view the applicant was not a fit and proper person to hold a personal licence especially as the conviction was not yet spent under the Rehabilitation of Offenders Act 1974.

The applicant then gave his representation and admitted that he had been in the wrong and in hindsight should not have acted how he had due to the repercussions that the incident had upon, not just him but also on his family. He referred to mitigating circumstances as to why he had acted as he had but agreed that he had handled the incident badly. In mitigation he said that he had punched another man who approached him and he had done so in part because he was concerned for his safety and the safety of his 10 month old child that was travelling with him in the same car. He was entirely sorry for his previous conduct and understood the police’s concerns.

Questions were then put to the applicant from the Licensing Officer and Members to which the applicant replied. The applicant was asked if had received any counselling since the incident or whether he had any character references to present to the Committee which he hadn't.

The Licensing Officer then gave her closing statement and reminded Members to have regard to all the information that they had before them. The options available to the Committee were:

- To reject the application if the Committee considered it appropriate for the promotion of the Crime Prevention objective or
- To grant the application in any other case.

The applicant then indicated that he had nothing further to add to his representation.

The Police then gave their closing statement reiterating that the conviction was serious and not spent.

(10.42am the Licensing Officers, applicant and police left the meeting)

Members discussed the information before them and the mitigating circumstances put forward by the applicant. The Solicitor to the Committee gave them legal advice on what they should take into account when coming to a decision and also who could vote on the decision given that a member had arrived during the introductions and another member had to leave part way through the hearing. The legal advice previously given was re-summarised for the member that had missed it. Members felt that the applicant did not seem to have taken any steps to help or support his case for a personal licence. The previous conviction was serious as reflected in the sentence handed down by the Crown Court. It was recent having been sentenced in June 2012 and as a result they considered that to give the applicant a personal licence would undermine the licensing objective of the prevention of crime and disorder. It was proposed, seconded and agreed to refuse the licence.

(10.05am the Licensing Officers, applicant and police returned to the meeting)

Before the decision was read out the Solicitor to the Committee informed those present that legal advice had been given to Members of the Committee concerning whether or not they could participate in the decision making process due to them either being late for the start of the meeting or leaving the meeting for a period of time. Councillor Ashberry had only been slightly late and had only missed the introduction to the meeting so he had been advised that he could take part in the decision making process. Councillor Howard had to leave the meeting whilst people were making their presentations so in the interests of fairness, in case Councillor Howard had missed a relevant material consideration, he had been advised not to take part in the decision making process which he had not done so.

The decision was given as follows – The Committee had considered the representations of all the parties including the applicant's mitigation, but in this case the circumstances of the conviction for Assault Occasioning Actual Bodily Harm given at Derby Crown Court in June 2012 were so serious and recent that the Committee considered that the licensing objective of Crime Prevention would be undermined if the licence was approved and therefore the application was refused.

The Applicant was reminded that the decision was appealable to the Magistrates Court within 21 days of the written notification of the decision.

25. CLOSE OF MEETING

The meeting closed at 11.07am.