

MINUTES

of the

LICENSING COMMITTEE HEARING

held on 23 November 2022 at 5pm

Present:

Councillor L.A. Mascot (Chair of Hearing)

Councillors, J.A. Frascona, R.J. Lee and I.C. Roberts

1. Apologies for Absence

No apologies for absence were received.

2. Declaration of Interests

All Members were reminded to declare any Disclosable Pecuniary interests or other registerable interests where appropriate in any items of business on the meeting's agenda.

3. Minutes

The minutes of the meeting on 27th May 2022 were confirmed as a correct record.

Exclusion of the Public

Resolved that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for Item 4 on the grounds that it involved the likely disclosure of exempt information falling within paragraph 1 of Part 1 of Schedule 12A to the Act.

4. Licensing Act 2003 – Consideration of the Suspension or Revocation of a Personal Licence

Public interest statement: It is not in the public interest to disclose the content of the report because the information in it concerns the interests and circumstances of an individual who has an expectation that such information would not normally be released to the public. To do otherwise would establish a precedent for the future treatment of personal information.

The Committee considered the suspension or revocation of a personal licence held by Mr A made under Section 132A of the Licensing Act 2003 having regard to a request from Essex Police to have the licence revoked. The request related to a relevant offence for driving a motor vehicle with excess alcohol, contrary to Section 5(1) of the Road Traffic Act 1988. It was noted the conviction would remain unspent until December 2025.

The Committee were informed that the request from Essex Police had arisen from an application to vary a Designated Premises Supervisor. It was noted that during the required consultation period, Essex Police made a representation against the application and also submitted the request for the revocation of Mr A's personal licence. It was noted that the request to vary the DPS had later been withdrawn by the applicant. The Committee were also reminded of Mr A's legal obligation to notify the authority of a relevant conviction in accordance with Section 132 of the Licensing Act 2003 which he had failed to do.

The Committee were informed of the process that had been followed by the Licensing Authority as a result of the police's request ahead of the hearing. It was noted that notice of intention to suspend or revoke a personal licence had been sent by recorded delivery to the registered address, allowing 28 days in which to make representations against the decision. The Committee were informed that it was later established this was not a registered address and therefore an additional notice had been sent to the address that formed part of the variation to change the DPS application. It was noted by the Committee that in doing so, the Licensing Authority had taken all reasonable steps to ascertain the correct residential address to serve the notice. The Committee were informed that a copy of the notice was at Appendix C to the report.

The Committee heard that despite the attempts to allow Mr A to make representations, there had not been a response or a request under Section 127 of the Licensing Act 2003 for the address to be changed.

It was noted by the Committee that there were two options namely;

- Suspend the Licence not exceeding six months
- Revoke the Licence

The Committee were informed that Section 132(9) would not apply since the Committee could only allow the retention of the licence after considering any representations. It was noted however that Mr A would be attending the hearing and the Committee would allow them to explain why they had not made representations.

The following parties attended the hearing and took part in it:

Licence Holder – Mr A

The Chair advised that the written representations had been read and considered by the members of the Committee in advance of the meeting.

Cllr Lee left the meeting at this point due to technical issues.

The Committee invited Mr A to explain why they had not submitted representations during the 28-day period. The Committee were informed that Mr A had misunderstood the letter and that when asking for representations, had felt it was asking for people to represent them at the hearing. The Committee heard that Mr A had then contacted someone from their workplace for further information but they had not got back to them in time for representations to be submitted.

The Committee exercised their discretion under Section 132A(5)(c) that permitted them to hear “any other relevant information” to determine the case and accepted Mr A’s representations for the purposes of s132a(6). It was noted that this allowed Mr A to make representations out of time.

Mr A addressed the Committee and explained he had worked in the industry for a number of years and more recently in a management role. The Committee heard that the conviction had been very out of character for them and in the past, they had stopped patrons from drink driving. They told the Committee that they had not been aware they were supposed to inform Essex Police or the Licensing authority of the conviction but had notified the courts. The Committee were informed that Mr A did not feel they were a threat to the Licensing Objectives and that they always ensured a venue was being run as safely as possible. Mr A referred to various personal issues and circumstances that they felt had led to their out of character behaviour, including the effect of the lockdowns and family concerns. The Committee heard that on the night of the offence, there had been no intention of drink driving and that they understood the gravity of their mistake. The Committee were informed that Mr A had been undergoing telephone therapy courses, had no other convictions and did not feel they were a risk to the Licensing Objectives. Mr A also informed the Committee that Essex Police had let them know that once the conviction was spent, they would not have any concerns as to them being a Designated Premises Supervisor.

At this point of the meeting, the Committee retired to deliberate. It was noted that due to the remote nature of the meeting, the decision would be circulated to all parties within a few working days via email.

The Committee concluded that while they had sympathy for the personal circumstances, being a personal licence holder placed responsibility on the individual, especially when consuming alcohol. The Committee also felt that the offence had been a serious one which posed dangers for others. The Committee also felt that Mr A should have been aware of their statutory requirements to declare the offence and ignorance was no excuse.

RESOLVED that;

1. The Committee considered the representations taking into account relevant references of the Licensing Act 2003, Licensing Act 2003 (Hearings) Regulations 2005 and the Council’s Licensing Policy.
2. The Committee revoked the personal licence held by Mr A in accordance with Section 132A(3)(b)

Chair