

BATH AND NORTH EAST SOMERSET

LICENSING SUB-COMMITTEE

Thursday, 24th August, 2023

Present:- Councillors Steve Hedges (Chair), Toby Simon and Ann Morgan

Also in attendance: Carrie-Ann Evans (Team Leader (Barrister), Legal Services) and Geoff Cannon (Public Protection Officer (Licensing))

25 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the Emergency Evacuation Procedure.

26 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

27 DECLARATIONS OF INTEREST

There were none.

28 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

29 MINUTES OF PREVIOUS MEETING: 10TH AUGUST 2023

The Sub-Committee **RESOLVED** to approve the minutes for the meeting held on 10th August 2023 and they were duly signed by the Chair.

30 LICENSING PROCEDURE

The applicant and other parties that were present confirmed that they had received and understood the licensing procedure.

The Chair referenced the procedure and stated that the applicant and the other parties would be given a fair amount of time to make a statement and give their evidence to the Sub-Committee.

31 EXCLUSION OF THE PUBLIC

The members of the Sub-Committee agreed that they were satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the provisions of Section 100(A)(4) of the Local Government Act 1972.

It was **RESOLVED** that the public be excluded from the meeting for the following items of business and the reporting of the meeting be prevented under Section

100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

32 CONSIDERATION OF IMPACT OF MEDICAL DIAGNOSIS - 22/00365/TAX

Since the publication of the agenda this report has been withdrawn and will no longer be considered by the Sub-Committee.

33 APPLICATION FOR A PERSONAL LICENCE

The Team Leader, Legal Services addressed the Sub-Committee and explained that prior to the meeting commencing the applicant had been shown some footage of her arrest that the Police had requested to submit to the Sub-Committee.

She added that as this was the first time the applicant had become aware of the request it would be at the applicant's discretion as to whether the footage could be submitted.

The applicant viewed the footage and did not give her consent for the footage to be shown to the Sub-Committee.

The Public Protection Officer (Licensing) introduced the report to the Sub-Committee. He stated that they were being asked to determine an application that had been made under s.117 of the Licensing Act 2003 for the grant of a Personal Licence.

He said that an Objection Notice had been received within the statutory period from the Police which expressed concerns the granting of the application might undermine the Prevention of Crime and Disorder and Public Safety licensing objectives.

He stated that three letters of support for the applicant had also been circulated to the members of the Sub-Committee.

The Police Licensing Officer addressed the Sub-Committee and said that background checks had been carried out on the applicant in response to the submission of the Personal Licence application. He stated that the applicant was not well known to them and only had the one conviction, of three offences.

He added that the behaviour of the applicant did seem unusual, but that the nature of the offences were serious enough to be given suspended imprisonment sentences.

One of the Police Constables involved in the arrest addressed the Sub-Committee. He explained that as the incident was some time ago he would be referring to his statement made at the time of the arrest. He said that the applicant had been detained on the floor at the venue and had then proceeded to attack him and his colleague whilst being arrested.

He stated that the applicant had bitten his colleague on the hand which required him to attend hospital following the completion of the arrest.

He added that on the journey to the custody unit the applicant had used very offensive language towards both of them.

A colleague of the applicant asked when the convictions would be classed as spent.

The Police Licensing Officer replied that this would be 24 months after the last date of the imposed sentence – August 2024.

The applicant, assisted at times by her colleague, addressed the Sub-Committee. They explained that she had a history of issues relating to her mental health and that she had been self-medicating through alcohol.

They said that having briefly exited the venue the applicant was not allowed to re-enter by door staff and that this had upset her as she wanted to return to her friends.

She said that during the arrest she had become afraid and had not intended to hurt anyone. She also apologised for the language that she had used.

She stated that she was not a violent or angry person and had taken steps to become better at dealing with difficult scenarios.

She explained that she had worked with Developing Health & Independence for the past two years in relation to alcohol abuse and had now learnt how to control her need for it.

She added that she was also dedicated to improving her mental health and had spoken with her GP about previous incidents in her life.

She stated that there was no risk of her not abiding by the Licensing Objectives and that she now trains staff members on their importance.

She said that she was deeply ashamed of the incidents that took place resulting in her arrest and that she would be devastated if this were to not allow her to pursue her now chosen career.

Councillor Toby Simon asked her if the compensation had been paid.

The applicant replied that she had done so the next day, following the conviction.

Councillor Simon asked if she had begun treatment for her alcohol abuse prior to her conviction.

The applicant replied that she had begun voluntary treatment after the incident and had continued under a different supervisor following the conviction.

Councillor Simon asked what her relationship with alcohol was like now.

The applicant replied that she does still drink alcohol, but no longer drinks to get drunk and that she makes sure that she does not use it as a form of medication. She added that she does not drink while on duty at work.

Councillor Steve Hedges asked what she was doing currently to aid her mental health and what support network does she have in place around her.

The applicant replied that she has a number of preventative strategies in place and that currently her mental health was in a good place. She added that she has support in place from family members and colleagues at work who she thanked for their help during this process.

The applicant's colleague addressed the Sub-Committee. He said that he understood why the objections have been raised, but preferred to judge people at their best, not by their worst actions.

He said that the applicant works so well in the night-time economy, was very capable and had looked after many events in her current role. He added that the applicant was reliable, honest and hard working.

The Police Licensing Officer made a closing statement. He thanked the applicant for her honesty. He stated that the convictions remain unspent and that the offences were serious and recent and that to have a personal licence was a big responsibility.

The applicant made a closing statement. She said that when she applied for the licence she declared her convictions, but was not aware of the unspent nature of them. She stated that she was ready for this new role and fully aware of the rules and objectives to be followed.

Decision and Reasons

Members have determined an application for a Personal Licence in respect of HNT. In doing so they have taken into consideration the Licensing Act 2003, Statutory Guidance, the Council's Policy, Human Rights Act 1998, case law and the agenda report pack.

As a preliminary issue the police sought to introduce bodycam footage of the incident which resulted in the applicant's conviction. This footage had not been viewed by the applicant prior to the hearing. As this was additional material on the day of the hearing, regulation 18 of the Licensing Act 2003 (Hearing Regulations) 2005 provides it can only be introduced with the consent of all the parties. The applicant was given the opportunity to view it directly before the hearing and did not consent to its introduction, as such, it was not put before Members.

Members are aware that in determining an application for a Personal Licence where an Objection Notice has been received from the police, they must reject the application if they consider it appropriate for the Prevention of Crime and Disorder licensing objective. If they do not reject the application on that basis, they must grant it. Members reminded themselves that each application must be considered on its own merits.

Members had read the Objection Notice submitted by the police and they heard in oral representations from the Police Licensing Officer and a Police Constable who was a complainant in relation to one of the offences from the applicant's conviction. In their representations, the police opposed the application because it was felt the

applicant had shown total disregard for law and order and has a conviction for three offences which are unspent, one offence of assault by beating for assaulting a member of door staff and two offences of assault by beating of emergency workers those being police officers.

The offences included biting and resulted in a suspended sentence with requirements and compensation. As alcohol played a major factor in these offences, the police's concern is that the applicant would show the same disregard for the licensing objectives and when dealing with the police and the licensing authority if a personal licence was issued. It was the opinion of the police that this could clearly have a negative impact on the licensing objectives, especially the prevention of crime and disorder and public safety. The Police Licensing Officer highlighted to Members that the offence is not spent for a further 12 months, was so serious and recent that it is not the appropriate time to grant a Personal Licence, which is a big responsibility for the applicant.

The applicant was accompanied at the hearing by her mother and a colleague from her workplace. Initially her colleague assisted in reading out the applicant's submissions as the applicant was upset and finding it difficult to speak. Members noted from the oral representations for the applicant that there were incidents in her past and at the time of the offences, perpetrated against her, which had been a factor in why she reacted the way she did towards the door staff and police. Prior to that she had no previous convictions and was not a person prone to violence or aggression, she was also a model employee. She candidly spoke about her struggles with mental health, depression, anxiety and PTSD and use of alcohol to self-medicate.

She explained to Members that the incident was completely out of character and isolated, and no-one was more shocked by it than herself, she said more than once that she never intended to harm anyone. Immediately following the incident, the applicant got in touch with Developing Health & Independence and worked with them until a month ago. She had done this of her own volition and had undertaken this work for a year and a half in excess of the time mandated by the court as part of her sentence. The applicant described to Members how she had dedicated herself to self-improvement with regard to her mental health and alcohol use. The applicant also indicated to Members how much she loves her job and conscientiously applies the licensing objectives, ensures that those she supervises do too, and trains staff on them as well.

On questioning the applicant described her relationship with alcohol as completely different now, she explained her self-awareness and how she constantly checks herself and has developed healthy coping strategies which include prescribed medication. On further questioning, the applicant referred to her family and colleagues as her support network.

The applicant's colleague spoke favourably of her, described her drive, passion, reliability, honesty and hard-working nature. He explained to Members how he had encouraged her to progress to this new role which requires a personal licence and how he completely trusts her to run events and follow the rules.

Members noted that the applicant had submitted three lots of additional information prior to the hearing comprising 3 letters in support of her application. 1 was from her support worker at Developing Health & Independence, 1 was from the Director and Venue Manager of her current employer and the other from the Deputy Venue Manager.

Members took into account what the support worker had said about the applicant being hard working, goal focused and diligent in completing her homework; her openness and honesty about her alcohol use and the deep level of self-awareness that she developed whilst they worked together.

In relation to the written representations from her work colleagues, Members had regard to the seriousness with which they viewed the incident concerning the door staff and police and her resulting conviction. They noted this had called into question her future role in the company but, on discussing with the applicant, her employers were persuaded she could continue to work there by what they saw as true remorse, deep regret, and shame at her actions. They reported that she did not try to excuse her actions, accepted her conduct had been indefensible, and her punishment justified. The applicant was described as having an impeccable working record prior to the offences and had been a model employee since, one that applies the licensing objectives assiduously and who educates other less experienced staff.

Members were careful to take account of the relevant written and oral representations both for the applicant and from the police and balanced their competing interests.

The representations of the police carry great weight when considering the Prevention of Crime and Disorder licensing objective, since this falls within their area of expertise. As far as criminal conduct is concerned, the factual background to this application is that the applicant was convicted in 2022 of three offences involving violence against door staff and the police. These convictions are unspent, the offences were alcohol fuelled, the applicant had to be forcibly removed from licensed premises and the offences were perpetrated against people who were trying to uphold the licensing objectives.

That said, the evidence from the applicant and in support of the applicant was compelling and persuasive. Members find that whilst these offences were serious, they were isolated, they do not find the applicant to be a person who is prone to violence, aggression, crime and disorder. They note the considerable work she has done both voluntarily and as part of her court order to achieve a healthy relationship with alcohol and develop strategies to effectively manage her mental health and they commend her on the work she has done.

They find, based upon the letters and oral representations in support from her colleagues and what the applicant has said before them today, that she is a person who understands the importance of the licensing objectives and assiduously applies them in her professional capacity. Members find that she will uphold the licensing objective of prevention and crime and disorder. For these reasons, authority is delegated to the licensing officer to grant the licence as applied for.

The meeting ended at 12.39 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services