

## SOUTHERN AREA LICENSING SUB COMMITTEE

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### MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 17 JANUARY 2017 AT ALAMEIN SUITE - CITY HALL, MALHOUSE LANE, SALISBURY, SP2 7TU IN RESPECT OF AN APPLICATION FOR A PERSONAL LICENCE

#### **Present:**

Cllr Trevor Carbin, Cllr Mike Hewitt and Cllr Simon Jacobs

#### **Also Present:**

The Applicant

Ian Garrod (Wiltshire Council Licensing Officer), Susan Thurman-Newall (Police Licensing Officer), Lisa Moore (Democratic Services Officer), Paul Taylor (Solicitor).

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#### 1 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

#### **Resolved:**

**To elect Councillor Simon Jacobs as Chairman for this meeting only.**

#### 2 **Apologies for Absence/Substitutions**

There were none.

#### 3 **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

#### 4 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

## 5 **Declarations of Interest**

There were no interests declared.

## 6 **Exclusion of the Public**

**Resolved:**

**That, in accordance with Regulation 14 of the Licensing Act (Hearings) regulations 2005 the public be excluded from the hearing as the public interest in so doing outweighed the public interest in the hearing taking place in public.**

## 7 **Licensing Application**

### **Application for a Personal Licence.**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities were given the opportunity to address the Sub Committee.

Key points raised by the Applicant, were:

- He had taken on the tenancy of a business in Blackpool in 2012 after purchasing the leasehold, to include goodwill and future bookings, which did not later materialise.
- He had paid his landlord for the renewal of the licence for the forthcoming year. He had enquired in October 2012 to the local council, as to the licence situation, where he was advised that he should have it transferred from the landlord to himself and his wife.
- In December 2013, he received a request from the previous owner for a fee to renew the licence. He then decided to scale down the business and continued to pay the fee in 2014 and 2015.
- A visit from a licensing officer was carried out to his surprise due to non-payment of the licence fee. After this he withdrew the bar facilities.
- He was fined by the local authority for the sale of alcohol, which was in breach of his licence.
- He and his wife had then decided to seek pastures new because they had outgrown the premises.

- He had sat and passed the MPH exam.
- He and his wife had spent time and money in the new venture at licensed premises in Wiltshire which had been closed for some time. They had worked to get the premises up and running, with the aim of making it a community venture, which he hoped would involve the whole village.
- The previous landlord at the premises lived next door and continued to hold the premises license.

Key points raised by the Responsible Authority, Wiltshire Police, were:

- Part of application process involved Wiltshire Public Protection department informing the Police Licensing team when an offence might have been committed, to enable them to investigate.
- The applicant had received four fines, relating to licensable activities
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    - As there had been four offences, attention was drawn to legislation in the Rehabilitation of Offenders act. Where it states that if an adult has a fine of a period of over 1 year that this must be declared for a period of one year.
    - 3 of the offences related to a single date in 2016 – Following a licensing inspection which had been carried out. The Applicant had then been present and confirmed he was the owner.
    - The Applicant agreed that he had been selling alcohol during that period.
    - He had been advised by the head of Licensing that as he had been unable to contact the previous owner he should obtain his own license. He then confirmed he had been booked on a course for a personal licence. However, he did not attend such a course until later in 2016.
    - Letters of suspension were sent to the occupier and to the licence holder (former owner).
    - The Applicant confirmed he had been the premises owner between 2012 – 2016.
    - He had demonstrated a disregard for the licensing act.
    - He had by his own admission been running the bar from the first visit by the Licensing Officer.

- It was felt that further licensing act breaches may occur.
- It was felt that there was a risk of public safety and protecting children from harm.
- The Applicant was already in the premises in Wiltshire and had displayed notices that the premises would be opening soon.
- The new premises were in a fairly isolated location and the area would not be subject to regular police patrols. The police had concerns about the Applicant's lack of experience in the late night trade and other concerns around overselling, over inebriation, drink driving and the potential for underage sales.
- The Applicant had only disclosed 3 of the 4 offences he had committed on his application form.
- The Applicant had only been granted the BIIAB personal licence award in November 2016, which was the same day he completed the application for his personal licence.
- On 13 December Wiltshire Police were notified that relevant offences may have been committed.
- It was felt that the Applicant either believed that the law did not apply for him or that he had a disregard for it.
- The Police view was not that the applicant should never hold a licence but that he should not until his convictions were spent, which would be in November 2017.

The following questions were asked of the Responsible Authority:

- Would you always object in a case when there was an unspent offence?  
Answer: It would depend on the offence, as each was looked at individually, for the circumstances. The problem with this case was that the application had been made 10 days before the court hearing had taken place. Given the location of the rural pub the applicant was proposing to run, there were concerns.

questions from the applicant to the police

- The sign outside to say we would be opening shortly, was for the 3 letting rooms. Was that an offence? – Answer: No

The parties were then invited to make any points in summation.

The Responsible Authority made no summation.

The Applicant made the following points:

- Whilst he agreed with a lot of the evidence presented, he felt that the convictions were a result of stupidity on his behalf.
- There would be due diligence through the old landlord as he lived next door.
- He first looked at the premises in Wiltshire in February 2016, when he and his wife intended to move back down south.
- Several trip adviser comments for the previous premises stated that the bar was not open so this showed that he did not promote the bar.
- He wanted a 10 year tenancy at the new premises, part of that included him becoming the DPS, the landlord lived next door so he would be able to keep an eye on the running of the premises.
- It was close to his heart to keep children from harm, as he had 7 grandchildren.
- He intended to market the premises as a community pub.
- He stated that he was more than determined to uphold the objectives of the licensing law.

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee then retired to consider the application at 11.03am

The Hearing reconvened at 11.30am

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council.

**Resolved:**

**The Southern Area Licensing Sub Committee resolved to uphold the notice of objection issued by Wiltshire Police and reject the application for a personal licence.**

**Reasons:**

After taking into account the written representations from the parties and the oral arguments received at the hearing from the Applicant and the Police, the Sub Committee carefully considered the concerns raised by the Police that the

grant of a personal licence to the Applicant would undermine the licensing objective for the prevention of crime and disorder.

Given the nature and circumstances of the relevant offences, including the fact that the applicant had only been convicted of those offences in 2016, the Sub Committee accepted the Police's concerns that there was a risk of re-offending in this instance and that it was appropriate to reject the application for the promotion of the crime prevention objective.

#### Evidence

The Sub-Committee were informed that the Applicant had been convicted of four relevant offences in 2016. These offences, which were detailed in the agenda papers, had been committed whilst the Applicant and his wife were running a hotel/guest house in Blackpool.

The Sub-Committee heard evidence from the Applicant regarding the circumstances which led to these offences being committed. The Applicant stated that they had been inexperienced in running such premises and that he had relied on assurances given by the owner of the property regarding the premises licence. He admitted that he had been naïve and stupid not to comply with the relevant legislation, particularly following visits from officers of the Licensing Authority.

The Sub-Committee also heard representations from the Police Licensing Officer as to why they had objected to this application. In their view, the actions of the Applicant in continuing to display alcohol for sale following contact from the local authority's Licensing Officers, and in failing to follow the advice of those officers, demonstrated a disregard for the licensing legislation. They also noted that not all of the convictions and sentences had been included on the licence application form. The Police were concerned that there would be further licensing breaches by the Applicant, if he were granted a personal licence at this time and that, therefore, the grant of such a licence now would undermine the licensing objective of preventing crime and disorder objective.

In reaching this decision the Sub Committee took into account the written representations from all parties and the oral arguments received at the hearing. The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 120); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

#### Right to Appeal

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision.

(Duration of meeting: 10.30am – 11.30am)

The Officer who has produced these minutes is DSO Lisa Moore 01722 434560, of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

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