

Summary of Application No.13/00990/LIA - Personal Licence Mrs Elaine M Voke Decision(s) taken on 1 July 2013

Part I

Application No.13/00990/LIA - Personal Licence Mrs Elaine M Voke (Item 2(1))

The Sub-Committee considered a report (Agenda Item 2(1)) concerning the Personal Licence Application 13/00990/LIA in respect of the application of Mrs Elaine M Voke.

In accordance with the Council's Constitution, Emilia Matheou (Licensing Officer, West Berkshire Council), Mrs Elaine M Voke (Applicant) and Mr Mike King (Thames Valley Police Licensing Officer) addressed the Sub-Committee on this application.

Ms Matheou, in addressing the Sub-Committee, raised the following points:

In accordance with S120 of the Licensing Act 2003 and the West Berkshire Council Licensing Policy, the application 13/00990/LIA a Personal License in the name of Mrs Elaine M Voke was referred to the Licensing Sub Committee for determination following receipt of the police objection notice.

The Licensing Sub-Committee having regard to the notice must (i) reject the application if it considered it necessary for the promotion of the crime prevention objective or (ii) grant the application in any other case.

Mrs Elaine M Voke submitted an application on 06 June 2013 to West Berkshire Council licensing under section 117 of the Licensing Act. Mrs Voke provided a basic disclosure of convictions dated 29 May 2013 and completed a self declaration that disclosed an unspent conviction for being in charge of a motor vehicle with excess alcohol contrary to S5(1) b of the Road Traffic Act 1988. The matter was heard on 29 May 2009 at Sonning Magistrates Court and was disposed of by way of a disqualification from driving, fine and costs. The offence was a 'relevant' offence as specified under Section 113(1) of LA03 and was listed in Schedule 4 of the Act. Under section 120(4) of the Act; the Licensing Authority was required to give notice to the chief officer of police for the area. Notice was given on 07 June 2013.

Thames Valley Police submitted an objection notice on 14 June 2013. The nature of representation was the Crime and Disorder objective. There was no record of any mediation having taken place. No other representations had been received.

Mrs Elaine M Voke, in addressing the Sub-Committee, raised the following points:

Mrs Voke said that it was a stupid decision she made four (4) years ago for which she was very sorry. Mrs Voke said that she went to pick up her partner and had no intention of going into the pub. When she got there the car park was full so she parked her car round the corner on double yellow lines and walked back to get her partner. She then stayed drinking

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until the pub closed and upon leaving phoned for a taxi. As they walked round the corner she saw a parking space in the pub car park and made the decision to move her car so that she would not find it ticketed in the morning when she came back to retrieve it. It was the most stupid decision for which she was very remorseful and she would never make the same mistake again.

Councillor Quentin Webb asked Mrs Voke to verify that she was unable to remember anything at all about the incident until she came to in the Custody Suite at the Police Station. Mrs Voke replied that when she woke up she did not know at that point where she was or what had happened, but things gradually came back to her later. Councillor Webb asked Mrs Voke about her statement on the Application Form – “not drink driving” and could she confirm the penalty. Mrs Voke replied that she had driven the car by moving it and she believed the penalty was a four (4) month ban with a monetary fine.

Councillor Adrian Edwards asked Mrs Voke about the year she had stated on her Application Form – “2008”. Mrs Voke replied that she knew it was in May. Councillor Edwards responded to say that he was querying the year, was it in 2008 or 2009. Mrs Voke replied that it must have been 2009 as it was not spent. Councillor Edwards responded to advise Mrs Voke that she had made a false declaration and did she not realise that fact. Mrs Voke replied that she was very sorry, she did not realise, she had just put the wrong year down.

There were no further questions.

Mr Mike King (Thames Valley Police Licensing Officer), in addressing the Sub-Committee, raised the following points:

Mrs Voke, when she applied for a Personal Licence, disclosed that she had a conviction for being in charge of a vehicle whilst under the influence of alcohol. This was verified when a PNC check revealed that she had been found guilty under Section 5(1)B of the Road Traffic Act 1988 and under Schedule 2 of the Road Traffic Offenders Act 1988. She had been fined the sum of £600 with £60 costs.

In the statement of the interview completed with PC Neilson, Mrs Voke said that she could not remember anything from the time that she and her friend had been drinking until she woke up in the police cell.

The RHOA (Rehabilitation of Offender Act) was another form of justice that classified lesser offences that did not require a substantial custodial sentence; it applied a rehabilitation period to the offence. Thames Valley Police considered that justice had not been achieved with what they considered to be a dangerous conviction until the recommended rehabilitation period as had been prescribed by the Act had been satisfied. Therefore Thames Valley Police requested that this application was rejected until such time as the requirement by the primary legislation was achieved.

Thames Valley Police called for consideration to be given to Section 9.12 of the Secretary of State’s amended Section 182 Guidance in relation to the application.

Councillor Adrian Edwards asked Mr Mike King, as he had mentioned a substantial fine, why had that particular fine been awarded. Mr King replied that the fine was £600. Councillor Edwards asked for the reason that that amount had been given. Mr King replied that it was because Mrs Voke had been found guilty. Councillor Edwards asked if Mr King had seen a copy of the Magistrates report. Mr King responded to say that he had seen a copy of the

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case file. A range of fines would have been considered and as it had been a substantial conviction, the court had awarded the £600 fine. Councillor Edwards asked if the four (4) month ban was normal. Mr King replied that the length of the ban was at the courts discretion. Councillor Edwards asked why the “drunk in charge of a vehicle” charge had been dropped, had there been an element of doubt. Mr King said that the arresting officer had decided not to pursue that charge.

Councillor Quentin Webb asked Mr King to verify that the alcohol level of 91/92 was one back from the highest level. Mr King replied that it was. Councillor Webb asked Mr King if he considered that the remaining 20% of Mrs Voke’s rehabilitation period was a “substantial period”. Mr King replied that after discussions with senior officers they had decided that it was.

Mrs Voke asked if she could pose a question to Mr King. Cllr Mollie Lock (Chairman) agreed. Mrs Voke asked Mr King what she needed to do in regard to the rehabilitation period. Mr King replied that once the rehabilitation period was spent it was forgotten.

Sarah Clarke (Solicitor West Berkshire Council) asked Mr King if he was aware of the proposals to amend the period of rehabilitation that could be brought into force next year. Mr King replied that he was not.

There being no more questions Councillor Mollie Lock asked Mrs Voke if she would like to address any comments made.

Mrs Voke replied that she had learnt her lesson, she was truly remorseful, sorry and embarrassed by what she had done. She had worked her way up into a manager role at Asda and as part of that role needed to oversee the sale of alcohol. She was concerned that without a Personal Licence she could find that her job was in jeopardy.

The Sub-Committee retired at 2.25pm to make its decision.

Having taken the representations into account, the Licensing Sub-Committee **RESOLVED** that Application 13/00990/LIA for a Personal Licence in the name of Mrs Elaine M Voke be granted.

NOTICE OF DECISION

The Licensing Sub-Committee of West Berkshire Council met on **Monday 01 July 2013** and resolved to approve Application **13/00990/LIA** in respect of a **personal licence for Mrs Elaine Marie Voke** subject to a number of conditions which are set out below.

In coming to their decision, the Sub-Committee had regard to the licensing objective for the prevention of crime and disorder.

They also considered the Department of Culture, Media and Sport Guidance on the Licensing Act 2003 and West Berkshire Council’s Licensing Policy.

The Sub-Committee heard representations made by:

1. The Applicant: Elaine Marie Voke

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2. The Objector: Mike King on behalf of Thames Valley Police

Having taken those representations into account, the Licensing Sub-Committee **RESOLVED** that the Application reference 13/00990/LIA in respect of a personal licence be granted.

REASONS:

The Sub-Committee in reaching this decision considered that the offence referred to in the Police Objection had taken place a long time ago. Furthermore, the Sub-Committee did not consider that there was any evidence before them which suggested that the Applicant had a propensity to commit this type of offence. Therefore, the Sub-Committee considered that it was appropriate to grant the personal licence as to do so did not undermine the crime prevention objective.

Cllr Mollie Lock:	(Chairman)
Cllr Adrian Edwards	
Cllr Quentin Webb	
Date: 1 st July 2013	

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