

# **LICENSING SUB-COMMITTEE**

## **MINUTES OF THE MEETING HELD ON MONDAY, 25 FEBRUARY 2013**

**Councillors Present:** Jeff Beck (Chairman), Paul Bryant and Mollie Lock

**Substitute:** Billy Drummond

**Also Present:** Emilia Matheou (Technical Officer) and Ella Whitehead (Solicitor), Denise Anns (Policy & Communication).

### **PART I**

#### **3. Declarations of Interest**

There were no declarations of interest received.

#### **4. Application No. 13/00235/LIA - Personal Licence**

In accordance with the Council's Constitution, Emilia Matheou (Licensing Officer, West Berkshire Council), Mr Harry Frampton (Applicant), Mr Nick Roffe (employer and supporter) and Mr Mike King (Licensing Officer for Thames Valley Police) addressed the Sub-Committee on this application.

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

Mr Harry Elliot Frampton of 2 Pound Lane Cottages, Bath Road, Halfway, Newbury, Berkshire RG20 8NT submitted an application on 31 January 2013 to West Berkshire Council Licensing for a personal licence to be granted under section 117 of the Licensing Act.

When submitting the application Mr Frampton provided a basic disclosure of convictions dated 29 January 2013 and completed a self declaration disclosing an unspent conviction for driving a motor vehicle with excess alcohol contrary to S(4)(5) of the Road Traffic Act 1988. The matter was heard on 05 December 2012 at Berkshire Magistrates Court and was disposed of by way of a disqualification from driving, fine and costs.

The offence is a 'relevant' offence as specified under Section 113(1) of LA03 and is listed in Schedule 4 of the Act. Under section 120(4) of the Act the Licensing Authority is required to give notice to the chief officer of police for the area. Notice was given on 01 February 2013.

Representations were made on 04 February 2013 by Mike King Thames Valley Police Licensing Officer. Nature of representations: Crime and Disorder objective.

There is no evidence that mediation had taken place.

Mr Harry Frampton (Applicant), in addressing the Sub-Committee, raised the following points. Mr Frampton was well aware that he had done a very silly thing. He had not drunk alcohol during work hours, but after work. He was a hard working individual who always tried to help the community. He was fully aware of all the rules and regulations surrounding working within a pub environment and followed them. He felt that he had been punished enough as his conviction had cost him £7.5k in total.

Councillor Paul Bryant asked Mr Frampton if he was currently working. Mr Frampton said that he was as an Assistant Manager. Cllr Bryant asked how long he had been an Assistant Manager. Mr Frampton replied, over a year. Councillor Jeff Beck asked Mr

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Frampton if he had any previous convictions. Mr Frampton said that this was his first offence. No further questions were asked.

Mr Nick Roffe (Mr Frampton's employer) spoke in support of Mr Frampton. He advised that he personally had held a licence for many years. Mr Frampton was a diligent, hard working individual who never drank alcohol when he was working. The background to the incident was that Mr Frampton had fallen out with his partner and was upset. Mr Frampton had pleaded guilty and Mr Roffe believed that Mr Frampton had been punished enough. Mr Roffe had put Mr Frampton through a number of training courses. Mr Roffe also advised the panel that in his experience most licensees who had been convicted of drink driving had not lost their personal licenses because of the conviction. If Mr Frampton received no further convictions then this offence would be spent in five years time; that was a long time for a person to wait to get a personal licence. As Mr Roffe had stated previously, Mr Frampton was a perfectly suitable person to hold a personal licence.

Councillor Jeff Beck asked Mr Roffe what licensed premises he managed. Mr Roffe replied the Furze Bush Inn.

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

On the 04 February 2013 West Berkshire Council under the requirements' of the Licensing Act 2003 contacted Thames Valley Police as they had received an application for a Personal Licence with an admission of a conviction. Enclosed with the application was a disclosure of convictions and a declaration return indicating that Mr Frampton had a conviction for Driving with excess alcohol. The Police used its National Computer (PNC) to conduct searches on every individual named on an application whether they had a personal licence or not. Such a search was conducted on Mr Frampton and it returned positive on his PNC record. The arresting officer's statement had been obtained and a copy of it was enclosed with the hearing papers.

Mr Frampton was found guilty on 05 December 2012 under Section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 of the Road Traffic Offenders Act 1988 for driving with excess alcohol; a relevant offence under the Licensing Act 2003.

Levels of 63 and 61 microgram's of alcohol to 100 millilitres of breath were recorded, the lower reading being taken into account. That level being nearly twice the legal drink drive limit with consequences to both the safety of members of the public as well as the police. The Rehabilitation of Offenders Act was introduced by Parliament as a means of gauging when a person found guilty of an offence was considered rehabilitated. The Act was quite specific on the periods and a rehabilitation period for a person who had been found guilty of an offence and was fined was five years. That meant that Mr Frampton's rehabilitation period would not be completed until 05 December 2017.

Mr Frampton applied for his personal licence only fifty eight days into the rehabilitation period; therefore part 4.10 of the amended section 182 guidance did not apply in this instance. Thames Valley Police considered that the outstanding interlude was an excessively long period left remaining in the recommended five year period laid down by Parliament. In accordance with Part 9.12 of the Secretary of States Amended Section 182 Guidance Thames Valley Police requested the rejection of the application.

Councillor Jeff Beck asked Mr King what EBM stood for on page 12 , last line of the statement. Mr King replied Electronic Breath Machine. Councillor Mollie Lock stated that the first breath test was about 5 minutes after alcohol had been drunk, how long before the second breath test had been conducted. Mr King replied that it had been done as soon as Mr Frampton arrived at Newbury Police Station and he thought that taking the travel into account that was 20 – 30 minutes after the first test.

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No further questions were asked.

Councillor Jeff Beck asked Mr Frampton if he wished to make any further comments. Mr Frampton said that he believed, in response to Mr King’s statement regarding the timing of the second test, that it had only taken 10 – 15 minutes to get to the centre of Newbury.

Councillor Paul Bryant, through the chair, asked Emilia Matheou (Licensing Officer, West Berkshire Council) if they had the discretion to give this gentleman his licence. Ms Matheou replied that Section 182 guidance gave them that authority.

The Sub-Committee retired at 2.20pm to make its decision.

Having taken the representations into account, the Licensing Sub-Committee **RESOLVED** that Application 13/00235/LIA be granted.

*(The meeting commenced at 2.00 pm and closed at 2.20 pm)*

**Name: Cllr Jeff Beck** .....

**Date of Signature** .....

**Name: Mollie Lock** .....

**Date of Signature** .....

**Name: Paul Bryant** .....

**Date of Signature** .....