

LICENSING SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 25 MARCH 2013

Councillors Present: Jeff Beck, Paul Bryant (Chairman) and Adrian Edwards

Substitute: Andrew Rowles

Also Present: Chris Ellerington (Licensing Officer), Denise Anns (Strategic Support), Ella Whitehead (WBC Solicitor).

PART I

3. Declarations of Interest

There was one declaration of interest received. Mr Chris Ellerington (Licensing Officer WBC) advised the licensing hearing attendees that he knew the applicant socially in the course of Mr Kimber's job. Mr Ellerington only realised this when Mr Kimber, in the reception area, approached him before the hearing started in the WBC Council Chamber. Mr Ellerington advised that the report he would be presenting had been written by Emilia Matheou (Licensing Officer WBC), but thought that he should bring this to the panels' attention. Cllr Paul Bryant (Chairman) asked if anyone had any objection to Mr Ellerington continuing to present the introduction to this case. No objections were put forward.

4. Application No. 13/00350/LIA - Mr James R Kimber, The Brambles, 53 Victoria Road, Mortimer, RG7 3SL

The Sub-Committee considered a report (Agenda Item 2(1)) concerning Licensing Application 13/00350/LIA in respect of the application of Mr James Robert Kimber for a Personal Licence.

In accordance with the Council's Constitution, Chris Ellerington (Licensing Officer, West Berkshire Council), Mr James Robert Kimber (Applicant) and Thames Valley Police Licensing Officer, Mr Mike King addressed the Sub-Committee on this application.

Mr Chris Ellerington, in addressing the Sub-Committee, raised the following points.

Mr James Robert Kimber of the Brambles, 53 Victoria Road, Mortimer Common, Reading, Berkshire RG7 3SL submitted an application on 19 February 2013 to West Berkshire Council Licensing for a Personal Licence to be granted under section 117 of the Licensing Act.

When the application was submitted, Mr Kimber provided a basic disclosure dated 19 February 2013 with convictions, together with a self declaration that disclosed the unspent conviction – for driving a motor vehicle with excess alcohol.

The matter was heard on 13 November 2009 at Reading and Sonning Magistrates Court and was disposed of by way of 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 was required to give notice to the Chief Officer of Police for the area. Notice was given on 19 February 2013.

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Representations were made on 20 February 2013 by Mr Mike King, Thames Valley Police Licensing Officer. Nature of representation: No grounds provided (Crime and Disorder objective). There was no evidence that any mediation had taken place.

This report had been written by Emilia Matheou (Licensing Officer WBC).

Cllr Jeff Beck asked Mr Ellerington for clarification on the dates specified in the application. The papers were stamped as being received on the 19 February 2013, but the date filled in on the declaration was the 23rd August 2012. Mr Ellerington advised that he could not comment as to the discrepancy.

Mr James Robert Kimber, in addressing the Sub-Committee, raised the following points. He totally regretted his actions on that particular night. Mr Kimber believed he was a responsible human being and in the future he intended to own his own gastro pub. He hoped that the panel would look kindly on him as he had not committed any further instances of drink driving. That was all he had to say.

Cllr Adrian Edwards commented on the different addresses stated on the application. Mr Kimber replied to say that he had completed his Personal Licence Holders training at one address and they had subsequently dealt with the paperwork on his behalf. The other address was his personal home address.

Cllr Jeff Beck asked Mr Kimber about the date discrepancy on his application form. Mr Kimber advised that he had completed the application form on the 23 August 2012, but had then put it to one side due to being busy with work. This was the only reason for the delay in signing and sending it in.

Cllr Jeff Beck asked Mr Kimber if he could explain why the police had elected to stop him, was there anything he could remember that would have alerted the police to follow him. Mr Kimber said that they had seen him leaving the Turners Arms public house which was only one mile from his home.

Cllr Paul Bryant asked Mr Kimber if he currently was employed in the licensing trade. Mr Kimber advised that he ran the George & Dragon establishment.

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

On the 19 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 conviction and declaration return that indicated Mr Kimber had a conviction for driving with excess alcohol.

Mr King used the Police National Computer (PNC) to conduct searches on every individual who presented an application that related to the Licensing Act 2003 whether they had a personal licence or not. A search was conducted on Mr Kimber and it returned positive. A copy of the summary of the arresting officer's statement had been provided.

Mr Kimber was found guilty on 13 November 2009 under Section 5(1)(a) of the Road Traffic Act 1988 and schedule 2 of the Road Traffic Offenders Act 1988 for deliberately driving with excess alcohol. A relevant offence under the Licensing Act 2003. Levels of 55 and 59 microgrammes of alcohol to 100 millilitres of breath were recorded. The lower reading being taken into account with regard to the readings being three minutes apart and demonstrated that the levels were on the rise. The level being nearly twice the legal drink drive limit with consequences' to the safety of members of the public.

The Rehabilitation of Offenders Act was introduced by Parliament as a means of establishing when a person found guilty of an offence was considered to be rehabilitated.

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The Act was quite specific on these periods and a rehabilitation period for a person, who had been found guilty of an offence, aged eighteen and over and was fined, was five years. This means Mr Kimber's rehabilitation period would not be completed until 13 November 2014.

Thames Valley Police considered that the outstanding period was still an excessively long period that remained of the recommended five year period laid down by Parliament. In accordance with the rehabilitation of Offenders Act, and having regard to Part 9.12 of the Secretary of State amended Section 182 Guidance, Thames Valley Police requested that the application should be rejected.

Cllr Jeff Beck asked Mr King which of the Licensing Act's four objectives was he citing in this case. Mr King replied 'public safety'.

Cllr Adrian Edwards asked Mr King if, after the panel had made a decision, Thames Valley Police could make a further objection should the decision be in the favour of the applicant. Mr King replied no.

Cllr Paul Bryant asked Mr Kimber if he had any questions that he wished to ask Mr King. Mr Kimber had no questions.

Cllr Paul Bryant asked Mr Kimber if he had any closing comments to make. Mr Kimber responded to say that he had been through a twelve month ban and had also elected to complete a drink driving course which he had found very beneficial. He went on to say that he believed the course had stood him in good stead.

5. Representations

(The meeting commenced at 2.00 pm and closed at 2.30 pm)

Name

Date of Signature

Name

Date of Signature

Name

Date of Signature