

# DRAFT

Note: These Minutes will remain DRAFT until approved by the Sub-Committee

## LICENSING SUB-COMMITTEE

### MINUTES OF THE MEETING HELD ON TUESDAY, 18 FEBRUARY 2014

**Councillors Present:** Peter Argyle, Paul Bryant and Mollie Lock (Chairman)

**Substitute:** Geoff Mayes

**Also Present:** Alexander Kirk (Solicitor - Environment), Emilia Matheou (Technical Officer) and Stephen Chard (Policy Officer)

#### PART I

##### 1. **Declarations of Interest**

There were no declarations of interest received.

##### 2. **Application No.14/00017/LIA - (Mr Karol Mitrik)**

The Sub-Committee considered the report (Agenda Item 2(1)) concerning Personal Licensing Application 14/00017/LIA for Mr Karol Mitrik.

In accordance with the Council's Constitution, Ms Emilia Matheou (Licensing Officer, West Berkshire Council), Mr Steve Deane (Objector, Thames Valley Police) and Mr Karol Mitrik (Applicant) addressed the Sub-Committee on this application.

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

- Mr Mitrik submitted an application on 7 January 2014 to West Berkshire Council Licensing under Section 117 of the Licensing Act 2003.
- He provided a basic disclosure of convictions dated 17 December 2013 and completed a self declaration, both disclosing an unspent conviction for driving a motor vehicle with excess alcohol – contrary to S5 (1) (b) of the Road Traffic Act 1988.
- The matter was heard on 13 June 2011 at Reading and Sonning Magistrates Court and was disposed of by way of a disqualification from driving, fine and costs.
- Under Section 120(4) of the Licensing Act, the Licensing Authority was required to give notice to the chief officer of police for the area. Notice was given on 7 January 2014.
- Objection notice was submitted on 8 January 2014 by Steve Deane, Thames Valley Police Licensing Officer, in relation to the Prevention of Crime and Disorder.
- There was no record of mediation having taken place and no representations were received from other interested parties.

Mr Deane, in addressing the Sub-Committee, raised the following points:

- He confirmed that on 13 June 2011 the Applicant appeared before Reading and Sonning Magistrates Court and was convicted of an offence of Driving a Motor Vehicle with Excess Alcohol, fined £500 (corrected from £400 in the agenda papers), costs of £85 and disqualified from driving for 18 months (this was in line with an

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individual being 1.5 to 2 times over the prescribed limit). He therefore failed to meet the condition in section 120(2)(d) of the Licensing Act 2003.

- Having formally received a notice from the licensing authority under section 120(4), Thames Valley Police submitted an objection notice under section 120(5).
- Having regard to the Applicant's convictions, Thames Valley Police were satisfied that granting this application would undermine the crime prevention objective under the Licensing Act 2003. In summary, the reasons for being so satisfied were as follows:
  - (i) The offence for which the Applicant was convicted was an offence of driving or being in charge of a motor vehicle with alcohol concentration above the prescribed limit (35 microgrammes of alcohol per 100 millilitres of breath). This was a relevant offence for the purposes of Section 120 of the Licensing Act 2003 (see paragraph 14(c) of Schedule 4).
  - (ii) That offence involved the misuse of alcohol.
  - (iii) Driving with excess alcohol was probably one of the most serious motoring offences which could cause danger to other road users and this was Mr Deane's view as a Police Officer.
  - (iv) As a personal licence holder, if granted, the Applicant would be expected to play an important role in controlling the supply of alcohol to others.
  - (v) Insufficient time had passed, in the opinion of Thames Valley Police, since the Applicant's conviction in June 2011 to show that he could now be expected to fulfil the important duties of a personal licence holder. The Rehabilitation of Offenders Act stated that this offence should become spent five years after the date of conviction i.e. 13/06/2016.
  - (vi) For all those reasons, granting a personal licence to this Applicant would undermine the objective of preventing crime and disorder.

Mr Mitrik, in addressing the Sub-Committee, raised the following points:

- He wished to appeal against the Police objection that his application be refused and explained his reasons for doing so.
- He held responsibility in his employment for the sale of alcohol. This included refusing to serve individuals who appeared to be inebriated and those under age. This was a role he took seriously. His employment was as General Manager and this demonstrated that his employer felt he was responsible and trustworthy.
- He regretted the incident which led to his fine and disqualification from driving, but gave his assurance that this was a one off incident which would not be repeated. He acknowledged that he deserved his punishment, but stated that he had served his driving ban, paid the fine and attended rehabilitation training.
- He hoped that his application would be granted as this would enable him to progress his career.
- He did not feel that his prior conviction, which he repeated was a one off offence, was sufficient reason to warrant refusal of his application.
- Mr Mitrik stated that he had now started a family and was a hard working citizen.

Councillor Paul Bryant questioned Mr Mitrik as to why he was not already required to hold a personal licence in his employment. Mr Mitrik explained that this had not been necessary as a personal licence was held by other employees. He confirmed that he had worked in this role for a period of six years, but now wanted to further his career in hospitality.

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Councillor Bryant then asked Mr Mitrik whether there were any mitigating circumstances to consider at the time of his offence. Mr Mitrik acknowledged that his actions were foolish and followed an evening viewing a football match.

The Sub-Committee retired at 10.25am to make its decision.

Having taken the representations into account, the Licensing Sub-Committee **RESOLVED** that Application 14/00017/LIA be granted.

*(The meeting commenced at 10.00am and closed at 10.25am)*

**Name** .....

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

**Name** .....

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

**Name** .....

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