

NORTHAMPTON BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

Tuesday, 13 June 2017

COUNCILLORS PRESENT: Councillors Flavell (Chair), Sargeant and Culbard

OFFICERS: Louise Faulkner (Licensing Team Leader)
Eleanor Flannery (Licensing Enforcement Officer)
Mebbs Kassam (Solicitor)
Ed Bostock (Democratic Services Officer)

FOR THE APPLICANT: John Birch (Licensing Agent)

FOR THE REPRESENTORS: PC Chris Stevens (Northamptonshire Police)

1. WELCOMES

The Chair welcomed everyone to the meeting.

2. DECLARATIONS OF INTEREST

There were none.

3. EXCLUSION OF PUBLIC AND PRESS

4. PERSONAL LICENCE APPLICATION

The Licensing Team Leader outlined the circumstances as set out in the report. Members were informed that a Personal Licence application was received on 19th May 2017. Northamptonshire Police raised an objection to the application as the applicant had an unspent criminal conviction.

Members heard representations by the applicant and by Northamptonshire Police.

RESOLVED:

Thank you for attending the Licensing Committee to consider the application for a new Personal Licence.

The Committee heard representations from the applicant and the Police in connection to the application.

The Committee considered the objection received from the Police under Section 120 (5) Licensing Act 2003 in that the grant of the Personal Licence would, in their opinion, undermine the Crime Prevention Objective because the applicant had been convicted of a foreign offence which is comparable to a relevant offence under the Misuse of Drugs Act 1971 and Section 7 of Schedule 4, Licensing Act 2003.

It was noted that the applicant was convicted on 29th September 2004 of 1 count of importing controlled drugs which resulted in a sentence of 4 years and 1 month in a Spanish Court.

Due to the length of the sentence of 4 years and 1 month the conviction is incapable of being spent under the Rehabilitation of Offenders Act 1974 as amended by Legal Aid,

Sentencing and Punishment of Offenders Act 2012.

The Committee have therefore decided unanimously and on a balance of probability having taken into account Licensing Act 2003, Section 182 Guidance and the relevant test under Section 120 (7) Licensing Act 2003 to grant the application on the grounds that it would not undermine the Crime Prevention Objective.

The Sub-Committee received legal advice in terms of:

- 1) The Licensing Objectives particularly the promotion of Crime and Prevention Objective
- 2) The legal test to be applied under Section 120 (7) Licensing Act 2003
- 3) The options available to the Committee
- 4) Section 182 Guidance

The reasons for the decision are as follows:

- 1) The conviction was 12 years ago and the Committee are of the view that on a balance of probability it is sufficiently dated so as not to impact adversely on the Crime Prevention Objective
- 2) The applicant is seeking to take over a food business with his partner and to sell specialist alcoholic drinks albeit the Personal Licence would allow sale of other types of alcohol and from other non-related premises
- 3) The length of time between the conviction and present whereby the applicant did return to working as an HGV Driver and being free of conviction

Any persons aggrieved by this decision has a right to appeal to the Magistrates Court no later than 21 days from the date of being notified of this decision.

The meeting concluded at 11:45am