

COMMITTEE REPORT

LICENSING COMMITTEE

22 MAY 2012

REPORT OF THE ASSISTANT DIRECTOR OF COMMUNITY PROTECTION

APPLICATION FOR PERSONAL LICENCE

Applicant: Mark Antony McNulty

Address: 37 Norcliffe Street, Middlesbrough, TS3 6PN

Application received: 23 April 2012

Full details of the application have been reproduced at Appendix 1.

1. Introduction

This application is in respect of a Personal Licence that would permit the applicant to sell or authorise the sale of alcohol in any premises that has been granted a Premises Licence. If granted a Personal Licence lasts for a period of 10 years unless surrendered, suspended or declared forfeit by the Courts. At the end of the 10 year period a Personal Licence may then be renewed for a further period of 10 years.

2. Legislation

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State.

The Licensing Act 2003 states that an applicant must be granted a Personal Licence if they meet the following criteria:

- They are 18 years of age or above

- They possess an accredited licensing qualification
- They have not forfeited a Personal Licence in the preceding 5 year period
- They do not have any unspent convictions for any relevant offences detailed in the Act

However, if an applicant has an unspent conviction for a relevant offence, The Licensing Act 2003 allows the Police to object to the granting of a Personal Licence if they consider that the granting of the licence would undermine the crime prevention objective. If an objection is received the Licensing Authority must hold a hearing to determine the application.

3. The Application

On 23 April 2012 the applicant submitted this application for a Personal Licence having gained an accredited licensing qualification. However, the Criminal Records Disclosure submitted with the application reveals the following offence:-

Date of Conviction	Offence	Sentence
30/09/2003 at York Crown Court	Burglary with intent to steal – dwelling	Imprisonment 9 months
	Failing to surrender to custody at appointed time	Imprisonment 6 months concurrent

The above offence is a relevant offence under the Licensing Act 2003 and as a result of the sentence imposed would be spent after a period of 10 years from the date of conviction i.e. 30 September 2013, for the purposes of the Rehabilitation of Offenders Act 1974.

On 30 April 2012 a representation was received from Cleveland Police who object to the application. They state that they believe that the granting of the licence would undermine the crime and disorder objective (Appendix 2).

4. The Council's Licensing Policy

Middlesbrough Council's Licensing Policy states:-

‘At that hearing the Licensing Authority will consider carefully whether the grant of the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Licensing Authority will only grant the application if it is satisfied that doing so will promote this objective.’

Members are referred to the following relevant sections of the Council's Licensing Policy.

Prevention of crime and disorder	Pages 32 to 42
Personal Licences	Page 18

And any other sections of the Policy which Members consider to be relevant.

5. Government Guidance

Members are referred to the following relevant sections of the Guidance.

Personal Licences	Starting at page 23
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And any other sections of the Guidance which Members consider to be relevant.

6. Members' Options

Members may consider the following options:

1. Grant the application for a period of 10 years.
2. Reject the application.

Members are reminded that any aggrieved party (i.e. Applicant or Police) may appeal any decision of the Licensing Committee to the Magistrates Courts.

Contact Officer: Sarah Morris
Senior Licensing Officer
Tel. 728716

Ed Chicken
Head of Community Protection
Date 22 May 2012

For admin use only:

Decision:

Reasons: