

Report to: Licensing Sub-Committee

Date of Meeting: 26th May 2015

Report Title: Application for a personal licence with a police objection. Mr Riza Dogan.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application for a Personal Licence as a result of a Police Objection Notice.

Recommendation(s)

- 1. Members consider the content of the report, the options available and reach a decision.**

Reasons for Recommendations

The Licensing Act 2003 requires a licensing sub committee to consider such applications when an appropriate objection notice have been made. The decision reached at the sub committee can be subject to appeal by any party to the hearing who is aggrieved by the decision.

Introduction

Introduction

1.0 Background History

1. On 7th February 2005 the Licensing Act 2003 came into force for all local authorities, marking the practical commencement of the Government's new liquor licensing regime.
2. On the 31st March 2015 Hastings Borough Council received an application for a personal licence for Mr Riza Dogan, 43 The Slides, St Leonards on Sea, TN38 9LE from CPL Training, Birkenhead, made under Section 117 the Licensing Act 2003. (Attached Appendix A).
3. Mr Dogan has not previously held any form of licence to sell Alcohol.

2.0 Application

4. The application must include a disclosure of convictions form with a signed declaration together with a copy of the relevant licensing qualification and a copy of a basic disclosure for criminal convictions. This was done in this case and forms part of Appendix A.
5. Question 3 on the disclosure of convictions form asks " Have you been convicted of any relevant offence or foreign offence?" and then asks " If you have been convicted of any relevant offences you must provide details for each conviction of the date of conviction, the name and location of the convicting court, offence of which you were convicted and the sentence imposed".
6. In this case the applicant has answered, "Yes" to the first question and gave details of seven (7) Court dates with offences but did not include any conviction or sentence details.
7. The applicant has signed a declaration at part 5 of the disclosure, the form stating "The information contained in this form is correct to the best of my knowledge and belief" Contained in appendix A.
8. The basic disclosure submitted showed the seven convictions on the dates declared in the disclosure of convictions form. Six of which are not matters considered relevant to the application for a personal licence. One offence for Wounding with intent to do Grievous Bodily Harm for which he received a 5yr prison sentence in 2005 is a relevant offence under the Act.

3.0 Consultation

9. The Licensing Act 2003 requires the licensing Authority to notify the Police, if it appears to them that the applicant for a personal licence has relevant convictions, this has been done.
10. As a result of this process the police served an "Objection Notice" on the Authority within the 14 days of the notification being served on them by the local Authority. The notice being on the grounds of undermining the crime prevention objective. (Attached Appendix B).
11. This objection is considered to be valid, under the statutory guidance issued by central government.

4.0 Legal Considerations

12. The Licensing Act 2003 is now the only process to issue persons with a personal licence to sell Alcohol.
13. The application process is laid down in Statute and only allows for an "Objection notice" to be served by the police on the crime prevention objective.
14. If a relevant objection notice is served on the local authority in the laid down timescale, a hearing must be held.
15. The Department for Culture, Media and Sport has issued guidance under Section 182 of the Licensing Act 2003. This guidance is provided to Licensing Authorities to assist them in carrying out their functions.
16. All members of the Licensing Committee have been supplied with copies of the DCMS Government guidance and the Hastings Borough Council Statement of Licensing Policy.
17. Human rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol and article 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a personal licence would be considered a possession. Article 8 relates to the right to respect for private and family life, home and correspondence. These are however qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done:-
 18. Has its basis in law;
 19. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
 20. Is proportionate to the aims being pursued; and,
 21. Is related to the prevention of crime; or, the protection of public order or health.
22. If members chose to refuse the licence application, the applicant has a right of appeal to the Magistrates' Court.

5.0 Options

- 23. Grant the application for a personal licence.
- 24. Refuse the application for a personal licence.
- 25. Members are reminded they must give written reasons for their decision.

Wards Affected

None

Policy Implications

Please identify if this report contains any implications for the following:

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|---------------------------------------|-----|
| Equalities and Community Cohesiveness | No |
| Crime and Fear of Crime (Section 17) | Yes |
| Risk Management | No |
| Environmental Issues | No |
| Economic/Financial Implications | No |
| Human Rights Act | Yes |
| Organisational Consequences | No |
| Local People's Views | No |
| Anti-Poverty | No |

Additional Information

Appendix A. Application for personal licence with supporting papers.
Appendix B. Police Objection Notice.

Officer to Contact

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