

# LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 09 October 2017

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00 am

Present: Councillors: **Glenvil Greenwood-Smith**  
**Helen Howell**  
**Pam Whiting**

## 1. APPOINTMENT OF CHAIRMAN

### RESOLVED:

That Councillor Glenvil Greenwood-Smith be appointed Chairman of the Panel for this hearing.

## 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

## 3. DECLARATIONS OF INTEREST

There were no declarations of interest made.

## 4. EXCLUSION OF PRESS AND PUBLIC

### RESOLVED:

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraphs 1 and 7 of Schedule 12A of the Local Government Act 1972, may be disclosed.

## 5. CONSIDERATION OF A PERSONAL LICENCE

*(The Licence Holder was present at the Hearing).*

The Licensing Enforcement Officer presented a report which requested that the Licensing Panel considered the Personal Licence of the Licence Holder following notification by his legal representative of his conviction for a relevant offence. The Licence Holder had appeared in the Magistrates' Court in June 2017 in relation to a charge of drink driving, to which he had pleaded guilty, contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. The Licence Holder had notified the Magistrates' Court of his status as a Personal Licence Holder as he was required to do by law.

The Licensing Enforcement Officer had written to the Licence Holder regarding the offence and he was invited to comment on the following:

- The relevant offence that caused the licensing authority to issue the notice;
- Any decision of a court under section 129 or 130 in relation to the notice; and
- Any other relevant information (including information regarding the Licence Holder's personal circumstances).

The Licence Holder's legal representative had responded to the letter on behalf of his client in September 2017. Northamptonshire Police Licensing Officers were also invited to make representations.

### **Questions to the Licensing Enforcement Officer**

No questions were asked of the Licensing Enforcement Officer by either the Licence Holder or Panel.

### **Licence Holder's address to the Panel**

The Chairman invited the Licence Holder to address the Panel in support of his licence.

The Licence Holder stated that he was extremely embarrassed and ashamed of what had happened. Following his disqualification from driving he was finding it difficult to run his business and was relying on other people to help. On the day of the offence, he had helped a customer and then had drunk a number of strong beers. He had slept in his car and thought he was fine to drive but when it was clear that he was not, he attempted to drive back to the site but was stopped by the Police. He wanted to consider using an online distributor to develop his business but needed both a personal and premises licence for that to happen. He accepted that he had made a critical error of judgement and he was finding it difficult not being able to drive. He believed that he did not pose a threat to the community and just wanted to be able to continue to run his business.

### **Questions to the Licence Holder from the Licensing Enforcement Officer**

The Licensing Enforcement Officer had no questions of the Licence Holder.

### **Questions to the Licence Holder from the Panel**

In response to questions from the Panel, the Licence Holder confirmed that he had a previous conviction for drink driving around 10 years ago. He also confirmed that he would be taking the course which would reduce the length of his driving ban. On the day of the offence, he had only begun drinking when he had finished serving customers so he was fully capable of checking the age of consent of customers. He confirmed that nobody else was involved in the collision.

### **Final statement from the Licensing Enforcement Officer**

The Licensing Enforcement Officer did not wish to make a final statement.

### **Final statement from the Licence Holder**

The Licence Holder made a final statement reiterating that he had done a stupid thing which had resulted in the loss of a number of customers as the incident had been in the local press.

He only wished to have a chance to grow his business and to get into a good financial position.

*At 10.15am the Panel adjourned to make their decision.*

*The Panel reconvened at 11.00am to announce their decision.*

## **RESOLVED**

The Licensing Panel has reviewed a personal licence and has taken into account the Licensing Enforcement Officer's report and all relevant representations and documents submitted.

After careful deliberation and consideration of the Licensing Objectives, ENC's Statement of Licensing Policy and Guidance issued under Section 182 of the Licensing Act 2003 as amended, the Panel has reached a decision.

The Panel has unanimously decided to suspend the personal licence for three months.

The reason for the decision is as follows:-

### **1. Public safety**

The Panel were concerned that this was the second offence of drink driving committed by the Licence Holder within a 10 year period. It shows a degree of gross irresponsibility by the Licence Holder. Nonetheless, the Panel Members are aware that revocation would have a serious impact on the Licence Holder's brewery business.

Given that the Panel Members seriously considered revocation of the Licence Holder's Personal Licence, they hereby request the issuing of a written warning to the Licence Holder drawing his attention to his ongoing professional responsibilities.

The Panel Members received legal advice in terms of:

1. The Licensing Objectives
2. The options available to the Panel – Under the Licensing Act 2003
3. The legal test to be applied
4. Section 182 Guidance.

The Panel considered the written representations of the Police. The Panel would like to state that the decision made is commensurate with the licensing objectives which, in their view, are proportionate and relevant.

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant and any Party that has made representation has the Right to Appeal to the Magistrates' Court within 21 days of receiving the Decision Notification letter.

**Chairman**