

LICENSING AND APPEALS SUB-COMMITTEE

27 JUNE 2023 at 10.00 hours

PRESENT:-

Members of the Licensing and Appeals Sub-Committee

Councillor A Kirke (Chair) (Conservative Group), and Councillors V Redfern and A Tilley (Labour Group)

District Council Representatives

Elisabeth Page - Legal and Democratic Services Manager
Emma McHugh – Senior Licensing Officer
Patricia Hill - Democratic Services Officer

Objectors to the Application

Representatives from Derbyshire Constabulary PC Phillips and Acting Sergeant G Williamson.

In Attendance

Councillor M Gee

LAS/07 **APOLOGIES**

The Sub-Committee was informed that no apologies have been received.

LAS/08 **DECLARATION OF INTEREST**

The Sub-Committee was informed that no declarations of interest had been received.

MATTERS DELEGATED TO SUB-COMMITTEE

LAS/09 **HEARING FOR THE CONSIDERATION OF THE GRANT OF A PERSONAL LICENCE**

The Chairman introduced himself and other members of the Sub-Committee introduced themselves. The Legal Advisor, Clerk to the Sub-Committee, Licensing Representative and all those present also introduced themselves.

The Chairman then outlined the procedure to be followed during the hearing, in accordance with the Council's Licensing Hearings Procedure.

This was a hearing to determine the application for a Personal Licence under the Licensing Act 2003 for Mr Edward Felix.

The Applicant did not attend the hearing but provided an email to be read out and an email from his offender manager.

The Sub-Committee resolved to continue in his absence.

The Chairman invited the Council's Licensing Representative to present the facts of the matter and an outline of the application.

The Sub-Committee and Derbyshire Constabulary had opportunity to ask questions of the Council's Licensing Representative.

At the invitation of the Chairman, PC Phillips (Derbyshire Constabulary) made representations to the Sub-Committee.

The Sub-Committee had opportunity to ask questions of PC Phillips and invited the Licensing Representative and the Sub-Committee to put questions to him as well.

The Senior Licensing Officer read the email from the Applicant and his Offender Manager.

The Chairman invited the Derbyshire Constabulary to comment on those representations.

The Chairman invited the Licensing Representative and PC Phillips (Derbyshire Constabulary), to sum up their representations.

The Sub-Committee retired from the Council Chamber to deliberate.

In making its decision, the Sub-Committee had regard to South Derbyshire District Council's Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 and the Human Rights Act 1998, as well as the evidence presented in writing and given orally at the hearing.

The Sub-Committee considered in detail the representations of the Council's Licensing Representative, Derbyshire Constabulary and the Applicant.

RESOLVED:

In the Applicant's absence, the Sub-Committee considered carefully the representations made by the Applicant including the Applicant's Offender Manager.

The Sub-Committee also considered the representations made by Derbyshire Constabulary.

Whilst the Sub-Committee noted the progress made by the Applicant, it was persuaded by Derbyshire Constabulary that granting the applicant a Personal Licence would expose him to vulnerable persons under the

influence of alcohol and therefore the Sub-Committee considered that customers could be at risk from the Applicant.

Therefore, the Sub-Committee was satisfied that the Prevention of Crime Licencing Objective was promoted by refusing the application for a Personal Licence and that granting the application would undermine the objective.

Therefore, the application for a personal licence is refused.

REASON FOR THE DECISION

Having taken into account the Prevention of Crime Licensing Objective, the guidance issued under Section 182 of the Licensing Act 2003, the Council's Licensing Policy and the Human Rights Act 1998, the Sub-Committee sought to balance the interests of the Applicant and the representations made by the Derbyshire Constabulary.

The issue that concerned the Sub-Committee was whether the Prevention of Crime Licensing Objective was promoted by refusing the application for a personal licence by Edward Felix.

The Sub-Committee were satisfied that the convictions detailed below were relevant convictions for the purpose of the Licensing Act 2003 and the most recent convictions were not spent for the purposes of the Rehabilitation of Offenders Act 1974.

Date	Conviction Details	Disposal
31 st March 2017	<ol style="list-style-type: none"> 1. Voyeurism – record a person doing a private act on 1st February 2009 2. Voyeurism – record a person doing a private act on 17th September 2010 3. Voyeurism – record a person doing a private act on 17th September 2010 4. Voyeurism – record a person doing a private act on 5th November 2010 5. Voyeurism – record a person doing a private act on 11th March 2011 6. Voyeurism – record a person doing a private act on 16th November 2011 	<ol style="list-style-type: none"> 1. Imprisonment 5 months Forfeiture of laptops and mobile phone. Compensation £1000 Sex Offenders Notice 10 years 2. Imprisonment 5 months concurrent 3. Imprisonment 5 months concurrent 4. Imprisonment 5 months concurrent 5. Imprisonment 5 months concurrent 6. Imprisonment 3 months concurrent

	<p>7. Voyeurism – record a person doing a private act on 26th December 2011</p> <p>8. Voyeurism – record a person doing a private act on 26th December 2011</p> <p>9. Sexual assault – intentionally touch female – no penetration on 26th December 2011</p> <p>10. Sexual assault – intentionally touch female – no penetration on 26th December 2011</p> <p>11. Voyeurism – record a person doing a private act on 3rd October 2013</p> <p>12. Voyeurism – record a person doing a private act on 19th February 2014</p> <p>13. Assault occasioning actual bodily harm on 21st June 2014</p>	<p>7. Imprisonment 3 months concurrent</p> <p>8. Imprisonment 3 months concurrent</p> <p>9. Imprisonment 11 months concurrent</p> <p>10. Imprisonment 11 months consecutive to count 1</p> <p>11. Compensation £1000 Imprisonment 3 months consecutive to count 1</p> <p>12. Imprisonment 3 months concurrent</p> <p>13. Imprisonment 3 months consecutive to count 1</p> <p>Overall length of sentence 22 months</p>
3 rd June 2019	Sexual assault – intentionally touch female – no penetration on 9 th June 2018	<p>Imprisonment 18 months</p> <p>Victim surcharge £140</p> <p>Restraining order – protection from harassment</p> <p>Sex offenders notice 10 years</p>

LAS/10 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

That, in accordance with Section 100(A)(4) of the Local Government Act 1972 (as amended), the press and public be excluded from the remainder of the Meeting as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that there would be disclosed exempt information as defined in the paragraphs of Part 1 of the Schedule 12A of the Act indicated in brackets after each item.

The Meeting terminated at 10:50hrs.

COUNCILLOR A KIRKE

CHAIR