

REPORT FOR DECISION

DECISION OF:	LICENSING HEARINGS PANEL
DATE:	8th JULY 2019
SUBJECT:	APPLICATION FOR A PERSONAL LICENCE
REPORT FROM:	ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)
CONTACT OFFICER:	MR M BRIDGE
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This report relates to an application for a Personal Licence to be granted under section 117 of the Licensing Act 2003, in respect of which an objection notice has been given by Greater Manchester Police
OPTIONS & RECOMMENDED OPTION	<ul style="list-style-type: none"> To reject the application if it considers it is necessary for the promotion of the crime prevention objective to do so; or To grant the licence
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There are no specific issues from the report other than potential costs/risks associated with legal appeals.
Statement by Executive Director of Resources:	The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.
Equality/Diversity implications:	Yes No (see paragraph below)

Considered by Monitoring Officer:	Yes Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.
Wards Affected:	North Manor
Scrutiny Interest:	Internal Scrutiny Panel

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 This report relates to an application for a Personal Licence in respect of which an objection notice has been given by Greater Manchester Police.
- 1.2 The Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations is the relevant legislation.
- 1.3 A Personal Licence is defined by the Act as a licence which is granted by a Licensing Authority to an individual which authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a Premises Licence.
- 1.4 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Service.

2.0 BACKGROUND

- 2.1 The applicant and Greater Manchester Police have complied with all the necessary procedural requirements laid down by the Act.
- 2.2 As part of the statutory process, the Chief Officer of Police is entitled to make representations in relation to the grant of a Personal Licence. Where representations are made and not withdrawn, Members are required to determine them.
- 2.3 An objection notice must contain the details of the relevant offence and that the Chief Officer of Police is satisfied that granting the licence would undermine the Crime Prevention Objective.
- 2.4 The Secretary of State Guidance issued under Section 182 of the Licensing Act 2003, reminds Licensing Authorities of the legal status of the Guidance in that

Section 4 of the Act provides that in carrying out its functions, a Licensing Authority must 'have regard to' guidance issued by the Secretary of State under Section 182 and to its Local Policy. The requirement is therefore binding on all Licensing Authorities to that extent. The following is an extract from the s182 Guidance issued in April 2018:

4.23 Where an applicant has an unspent conviction for a relevant or foreign offence, and the police object to the application on crime prevention grounds the applicant is entitled to a hearing before the licensing authority. The applicant is also entitled to a hearing if the Home Office (Immigration Enforcement) object to the application on the grounds of the prevention of illegal working where the applicant has an unspent conviction for a relevant immigration offence or has been required to pay an immigration penalty. If the police or Home Office (Immigration Enforcement) do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant it. Home Office (Immigration Enforcement) can object only with respect to convictions and civil immigration penalties received on or after 6 April 2017.

4.24 A number of relevant offences never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that the applicant no longer has a propensity to re-offend, a licensing authority may consider that it is appropriate to grant the application on the basis that doing so would not undermine the crime prevention objective.

4.25 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office (Immigration Enforcement), the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. Licensing authorities are therefore expected to record in full the reasons for any decision which they make.

3.0 THE APPLICATION

3.1 On the 29th May 2019, the Licensing Authority received an application for a Personal Licence. As part of the application process the applicant declared the following conviction:

Details of Offence	Conviction Date	Convicting Court	Sentence
In charge of a mechanically propelled vehicle whilst unfit through drink or drugs (drink)	18/4/19	Greater Manchester Magistrates	Fine £110 Victim Surcharge - £30.00 Costs £85.00 Driving licence endorsed 10 Penalty Points

4.0 REPRESENTATIONS

4.1 An objection notice was received from Greater Manchester Police before the end of the objection period. The police explain that the applicant has a relevant

offence as defined at Section 113 of the Licensing Act 2003, Schedule 4, paragraph 14 (b), in that he has been convicted of an offence under the Road Traffic Act 1988 for which she was sentenced to a fine of £110, victim surcharge of £30, costs of £85.00 and her driving licence endorsed with 10 penalty points.

- 4.2 Section 114 of the Licensing Act 2003, states that a conviction must be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974.

The police request the Licensing Authority to refuse this application because being convicted of such an offence is not conducive to the promotion of the 'Prevention of Crime and Disorder' licensing objective.

5.0 OBSERVATIONS

- 5.1 After hearing the representations made and the evidence presented, Members are obliged to determine the application with a view to promoting the licensing objectives and having regard to the Authority's Licensing Policy and National Guidance issued by the Secretary of State.

List of Background Papers:-

Application form
Disclosure of Convictions and Declaration form
The Basic Disclosure Certificate
Greater Manchester Police Objection Notice

For further information on the details of this report, please contact:

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Licensing Office
Town Hall
Bury
Telephone No: 0161 253 5209



The Licensing Unit Manager.
Bury Council.
3 Knowsley Place
Knowsley Street,
Bury.
BL9 0EJ

11th June 2019

NOTICE OF OBJECTION TO AN APPLICATION FOR A PERSONAL LICENCE

Section 113 Licensing Act 2003 – Schedule 4 Offences.

Dear Sir,

This Objection Notice is given to the Licensing Authority on behalf of the Chief Constable of Greater Manchester Police (GMP) in relation to the following application for a personal licence.

I am in receipt of a Personal Licence Application in the name of [REDACTED]

She has a relevant offence pursuant to S113, it is listed in schedule 4, regulation 14.

Regulation 14 states : An offence under the Road Traffic Act 1988. (b) Section 4 (driving etc. in charge of a mechanically propelled Vehicle whilst unfit through drink or drugs (drink) on 09 March 2019.

Pursuant of S114 spent convictions. A conviction must be disregarded if spent for the purposes of Rehabilitation of Offenders Act. This offence is not 'spent'.

On 18th April 2019, She had her driving licence endorsed with 10 Penalty points, received a fine of £110.00, victim surcharge of £30.00 and court costs of £85.00. The offence was committed on 9th March 2019. She is therefore precluded from holding a Personal Licence.

In conclusion I would ask that the Licensing Authority reject this application because, [REDACTED], drove / in charge of a motor vehicle on a road after consuming so much alcohol that the proportion of it in her breath, blood or urine exceeded the prescribed limit, actions which are not conducive in the promotion of the Licensing objective of crime and disorder.

Yours faithfully

Pc 14484 Greg Scott
Licensing Officer.
Bury Police Station
Dunster Road, Bury

P.C 14484