



Committee: LICENSING ACT SUB-COMMITTEE

Date: WEDNESDAY, 17 OCTOBER 2012

Venue: LANCASTER TOWN HALL

Time: 10.30 A.M.

A G E N D A

1. **Mr. Jason Garside** (Pages 1 - 13)

Application for Personal Licence

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Roger Sherlock (Chairman), Mike Greenall and Margaret Pattison

(ii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068, or email jglenton@lancaster.gov.uk

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Monday, 8 October 2012

Meeting of: LICENSING ACT SUB-COMMITTEE

Date: 17 October 2012

Report of: The Licensing Manager

Reference: WP

Title: Mr Jason Garside

Members of the Sub-Committee have the following documents attached to this report:

1. Application form
2. Copy of the objection notice from the Chief Officer of Police, Lancashire Constabulary
3. Notice of hearing

Details of Application

Mr Jason Garside has submitted an application under Section 117 of the Licensing Act 2003 for the grant of a personal licence.

Police Objection

In accordance with Section 120 of the Licensing Act 2003 the chief officer of police for the Lancashire constabulary has submitted an objection to the grant of this application.

In accordance with that Section,

- (2) The authority must grant the licence if it appears to it that –
 - (a) the applicant is 18 or over,
 - (b) he possesses a licensing qualification or is a person of a prescribed description
 - (c) no personal licence held by him has been forfeited in the period of five years ending with the day the application was made, and
 - (d) he has not been convicted of any relevant offence or any foreign offence.
- (3) The authority must reject the application if it appears that the applicant fails to meet the condition in paragraph (a), (b) or (c) of subsection (2)
- (4) If it appears to the authority that the application meets the conditions in paragraphs (a), (b) and (c) of that subsection but fails to meet the condition in paragraph (d) of that subsection, the authority must give the chief officer of police for its area a notice to that effect

(5) Where having regard to –

- (a) any conviction of the applicant for a relevant offence, and
- (b) any conviction of his for a foreign offence which the chief officer of police considers to be comparable to a relevant offence,

the chief officer of police is satisfied that granting the licence would undermine the crime prevention objective, he must, within the period of 14 days beginning with the day he received the notice under subsection (4), give the authority a notice stating the reasons why is so satisfied (an “objection notice”).

Notice of Hearing

In accordance with the relevant Regulations, the parties have been given notice of the hearing. It was not felt necessary to request any clarification from the parties. The parties have been required in accordance with the Regulations to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

Matter for Decision

The Sub-Committee is requested to consider the application and the objection notice.

This is in accordance with Section 120 (7) of the Act which provides-

- (a) the authority must hold a hearing to consider the objection notice, unless the applicant, the chief officer of police and the authority agree that it is unnecessary, and
- (b) having regard to the notice must –
 - (i) reject the application if it considers it necessary for the promotion of the crime prevention objective to do so, and
 - (ii) grant the application in any other case.

Members are reminded that the licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

Government Guidance under Section 182 of the Licensing Act 2003

Members may wish to note that the Guidance issued by the Government under Section 182 of the Licensing Act 2003 states that -

- 4.10 Certain offences can never become spent. However, where an applicant is able to demonstrate that an offence in question took place so long ago and that they no longer have any propensity to re offend, a licensing authority may consider that the individual circumstance of the case are so exceptional and compelling and any risk to the community so diminished that it is right to grant the application.
- 4.11 If an application is refused, the applicant will be entitled to appeal against the decision
- 4.12 Similarly, if the application is granted despite a police objection notice, the chief officer of police is entitled to appeal against the licensing authority's determination. Licensing authorities are therefore expected to record the full reasons for any decision that they make.

Relevant Parts of the Council's Statement of Licensing Policy

With regard to the prevention of crime and disorder, the Policy provides as follows:

9. The prevention of crime and disorder

- 9.6.1 Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person's known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.

Natural Justice and Human Rights

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

Conclusion

Members should consider whether to grant or refuse the application. Members are reminded that they should state the reasons for their decision.

RECEIVED 10 SEP 2012

[Insert name and address of relevant licensing authority and its reference number (optional)]

Application for a personal licence

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

Your personal details	
TITLE Please tick ✓ Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	GAKSIDE
Forenames	JASON
PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.	
TITLE Please tick ✓ Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	
Forenames	
I am 18 years old or over. Please tick ✓	
Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
ADDRESS WHERE ORDINARILY RESIDENT (We will use this address to correspond with you unless you complete the separate correspondence box below).	
[Redacted address lines]	
Post town	Post code
[Redacted]	[Redacted]
TELEPHONE NUMBERS	
Daytime	[Redacted]
Evening	[Redacted]
Mobile	[Redacted]
FAX NUMBER	
E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)	
[Redacted]	

Address for correspondence associated with this application (if different to the address above)

Post town Post code

TELEPHONE NUMBERS

Daytime

Evening

Mobile

E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)

2. Your licensing qualifications

Read Note 1 Please tick yes

Please indicate below which one of these statements applies to you:

1. I hold an accredited licensing qualification	<input checked="" type="checkbox"/>
2. I hold a certified qualification	<input type="checkbox"/>
3. I hold an equivalent qualification	<input type="checkbox"/>
4. I am a person of prescribed description	<input type="checkbox"/>

If you have ticked either of statements 1, 2 or 3 please provide details of your qualification in the box below (name of qualification, date of issue, issuing body) and please enclose your qualification with your application.
 If you have ticked statement 4, please provide evidence that you are a person of prescribed description.

BIAD LEVEL 2.
 DATE ACHIEVED - 12 JUNE 2012,

3. Previous or outstanding applications for a personal licence

Note: You may only hold one personal licence at a time.


Please tick Yes No

Do you currently hold a personal licence? Yes No

Do you currently have any outstanding applications for a personal licence, with this or any other licensing authority? Yes No

Has any personal licence held by you been forfeited in the last 5 years?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Licensing Authority		
Licence number		
Date of issue		
Date of expiry		
Any further details		

4 CHECKLIST		Please tick <input checked="" type="checkbox"/> yes
I have		
<ul style="list-style-type: none"> enclosed two photographs of myself, one of which is endorsed as a true likeness of me by a solicitor or notary, a person of standing in the community or any individual with a professional qualification 		<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> enclosed any licensing qualification I hold or proof that I am a person of prescribed description 		<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> enclosed a criminal conviction certificate or a criminal record certificate or the results of a subject access search of the police national computer by the National Identification Service 		<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> enclosed a completed disclosure of criminal convictions and declaration form (Schedule 3) 		<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> made or enclosed payment of the fee for the application 		<input checked="" type="checkbox"/>

5 Declaration	
<p>The information contained in this form is correct to the best of my knowledge and belief.</p> <p>It is an offence knowingly or recklessly to make a false statement in or in connection with an application for the grant or renewal of a personal licence. A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement. To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.</p>	
SIGNATURE	DATE
	28.08.2012

NOTES

1. Licensing qualifications

Licensing qualifications are dealt with in section 120(8) and (9) of the Licensing Act 2003.

[Insert name and address of relevant licensing authority and its reference number (optional)]

Disclosure of convictions and declaration

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets if necessary.


You may wish to keep a copy of the completed form for your records.

1. Your personal details	
TITLE Please tick ✓ Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	GRAYSIDE
Forenames	JASON
PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.	
TITLE Please tick ✓ Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	
Forenames	

2. Forfeiture of a personal licence in the last 5 years	
Do not answer this question if you are applying under regulation 8 of the Licensing Act (Personal Licences) Regulations 2005	
Please tick ✓	
Has any personal licence held by you been forfeited in the last 5 years? If yes, please provide details below:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Name of court	
Address of court	
Date of forfeiture *	
Offence which resulted in the forfeiture	
Any additional details	

3. Relevant or foreign offences		
Read Note	Please tick ✓	
Have you been convicted of any relevant offence or foreign offence?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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:		
PLEASE SEE DISCLOSURE		
If you have been convicted of any foreign 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:		

4. Declaration			
I declare that I have not been convicted of any relevant offence or any foreign offence			
SIGNATURE		DATE	

5. Declaration			
The information contained in this form is correct to the best of my knowledge and belief.			
It is an offence knowingly or recklessly to make a false statement in or in connection with an application for the grant or renewal of a personal licence. A person is to be treated as making a false statement if he produces, furnishes, signs or otherwise makes use of a document that contains a false statement. To do so could result in prosecution and a fine not exceeding level 5 on the standard scale.			
SIGNATURE		DATE	28/08/2012

Document is Restricted

LANCASTER CITY COUNCIL

**LICENSING ACT 2003 AND THE LICENSING ACT 2003 (HEARINGS)
REGULATIONS 2005**

NOTICE OF HEARING

To: The Applicant: Jason Garside

Responsible Authority: Chief Constable of Lancashire
Constabulary

THE LANCASTER CITY COUNCIL, AS LICENSING AUTHORITY, HEREBY GIVES YOU NOTICE that a hearing before a Sub-Committee of the Licensing Act Committee to consider relevant representations in respect of an application under Section 117 of the Licensing Act 2003 in respect of an application for a Personal Alcohol Licence submitted by **Jason Garside** will take place on the **17th October 2012** at Lancaster Town Hall, commencing at 10.30 a.m.

AND TAKE NOTICE THAT each party as listed above is required to give to the Licensing Authority by no later than five working days before the day of the hearing a notice in writing stating whether that party intends to attend or be represented at the hearing, and whether he or she considers a hearing to be unnecessary.

AND TAKE NOTICE THAT if a party wishes any other person (other than the person he/she intends to represent him at the hearing) to appear at the hearing, the notice given by that party and referred to in the preceding paragraph must contain a request for permission for such other person to appear at the hearing, and must set out details of the name of that person and a brief description of the point or points on which that person may be able to assist in connection with the matter to be considered by the Sub-Committee.

GIVEN this 3rd day of October 2012 by the Lancaster City Council as Licensing Authority.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

1. Right of attendance, assistance and representation

A party may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.

The hearing will generally take place in public. However, the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking part in public. In such circumstances, a party and any person assisting or representing a party may be treated as a member of the public. The Sub-Committee will exclude the public (and the parties and their representatives) during the decision making process.

The Sub-Committee may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing, and may refuse to permit that person to return, or permit him to return only on such conditions as the Sub-Committee may specify. However, such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which he would have been entitled to give orally had he not been required to leave.

2. Representations and Supporting Information

At the hearing a party shall be entitled to:

- (a) Give further information as applicable in response to a point upon which notice has been given to that party that clarification is required. (Note – if such clarification is required from a party this will have been indicated in the Notice of Hearing).
- (b) Question any other party, but only if given permission by the Sub-Committee; and
- (c) Address the Sub-Committee

3. Failure of Parties to attend the Hearing

If a party has given notice that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or hold the hearing in the party's absence. If the hearing proceeds in a party's absence, the Sub-Committee will consider and give appropriate weight to the application, representation or notice given by that party in their absence.

4. Representations and Evidence

A party who wishes to rely on information or documentary evidence that has not been submitted in advance of the issue of the Notice of Hearing should ensure that such information or evidence, together with sufficient copies for all the parties, is submitted to the Licensing Manager as soon as possible before the day of the hearing.

Parties are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of all the other parties.

A party who wishes to produce audio/visual evidence should make such evidence available as soon as practical, and should give a minimum of two clear working days notice to the Licensing Manager to facilitate arrangements for the appropriate equipment to be available at the hearing.

5. Procedure

A summary of the procedure that will normally be followed at the hearing is enclosed.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all hearings.

However, depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to):

- Whether to proceed in the absence of a party
- Whether to admit new documents/information submitted at the hearing
- Whether it is in the public interest to exclude members of the public from the hearing or any part of the hearing (other than the decision making process)
- Whether any party wished to withdraw representations previously submitted

6. Special Needs

Any person who intends to attend a hearing and who has special needs, for example in connection with access, language, hearing or vision, should inform the Licensing Manager as soon as practical prior to the day of the hearing, so that appropriate provision or arrangements may be made.

PROCEDURE TO BE FOLLOWED AT HEARINGS TO WHICH THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 APPLY

1. The Chairman will introduce the Members and the Legal Adviser and Democratic Support Officer.
2. The Chairman will ask the parties to introduce themselves and any persons with them.
3. The Chairman will confirm that there is no reason why any of the three sub-committee Members should not participate in this matter.
4. The Chairman will confirm that this is a discussion led by the authority, that any questions should generally be put through the Chairman, and that cross-examination will only be permitted if the Sub-Committee considers that it is necessary.
5. The Chairman will ask the parties if they have any requests to cross-examine, and such requests will be considered by the Sub-Committee.
6. The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
7. The Chairman will explain to the parties that the procedure to be followed will be the published one (unless the circumstances of the case require the normal procedures to be varied) – that is,
 - that the Licensing Manager (or his representative) will introduce the details of the application, the reason for the hearing, and the documentation,
 - that each party making representations will address the sub-committee in turn and will call other persons where permission has been given
 - that the applicant/licence holder will present his case and will call other persons where permission has been given
 - that Members may ask questions of all parties and persons
 - that questions from the parties must be directed through the Chairman unless cross-examination has been permitted under 4 above
 - that all parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word
 - that the Sub-Committee will withdraw to make its decision and formulate the reasons for the decision in private, and will ask its Legal Adviser and the Democratic Support Officer to join it in order to assist in documenting the decision and the reasons, or to provide clarification on any point. The decision will be announced in public and confirmed in writing. (In certain circumstances, the decision may not be made on the same day as the hearing). In the event that the Legal Adviser has been asked for clarification on any point then the point raised and the advice given will be declared to all parties.
8. The Chairman will indicate the maximum period of time each party will be allowed in which to present their case, and will seek comments from the parties before the Sub-Committee makes its final indication on this point.
9. The hearing will then proceed following the procedure in 7 above. The Chairman will arrange for reasonable comfort breaks throughout the hearing.