

DECISION NOTICE

THE LICENSING ACT 2003

LICENSING AND GAMBLING ACTS SUB-COMMITTEE HEARING TO CONSIDER WHETHER A PERSONAL LICENCE HOLDER REMAINS SUITABLE TO HOLD A LICENCE UNDER THE LICENSING ACT 2003

Hearing Venue: Bolsover District Council

Date: 20 June 2024

Time: 10am

Personal Licence Holders name: Mr Mark Marriott

Personal Alcohol Licence No: 18/01019/LAPER

Decision of the Sub Committee

The decision of the Licensing Sub-Committee in exercise of its powers delegated by Bolsover District Council ('BDC') as Licensing Authority was to:

Suspend the personal licence for two months

Facts and Reasons

The Committee made the following findings of fact:

1. Mr Mark Marriott holds a Personal Licence with BDC and has done since 19 July 2018. Mr Marriott is the Designated Premises Supervisor (and landlord) of the George and Dragon Pub.
2. On 9 November 2023 BDC's licensing section was notified by Derbyshire Constabulary that Mr Marriott may have been involved in an assault at a licensed premises and an investigation was ongoing. On 21 March 2024 Derbyshire Constabulary informed the licensing section that Mr Marriott had been convicted of a relevant offence, namely an assault by beating. Chesterfield Magistrates Court subsequently confirmed the details of the conviction.
3. Where a Personal Licence Holder is alleged to have committed a relevant offence they must inform the Court that they hold a Personal Licence, to fail to do so contravenes section 128 of the Licensing Act 2003 ('the Act'). Furthermore where the Personal Licence Holder is convicted of a relevant offence the Licence Holder must notify the Licensing Authority of the conviction – failure to do so is again a criminal offence under the section 132 of the Act. The Court confirmed that Mr Marriott had informed the Court that he was a Personal Licence Holder (the court had not taken any action in this respect) – Mr Marriott also informed the licensing section of his conviction in writing on 5 April 2024. Mr Marriott had therefore complied with the requirements imposed upon him under sections 128 and 132 of the Act.

4. Mr Marriott had been written to in accordance with section 132A of the Act and invited to make representations ahead of the Licensing Authority's consideration of whether to revoke or suspend his Personal Licence due to the relevant offence. Mr Marriott provided a written representation as well as two character references
5. Mr Marriott attended the Sub-Committee and made further representations. Mr Marriott stated that he had previously worked for the injured party to the offence, and that when he had resigned from that role to run his own premises the injured party had held a vendetta against him. Mr Marriott stated that that vendetta had been going on for six years and had included complaints being made to authorities but none had been upheld or taken any further.
6. Mr Marriott stated that the offence was merely pushing and shoving and averred that no injuries were caused. It was noted by the Sub-Committee that Mr Marriott had pled guilty to the offence of 'assault by beating'.
7. Under section 132A of the Act the Licensing Authority may suspend or revoke a Personal Licence where the applicant is convicted of a relevant offence.

The Sub-Committee's reasoning for their decision was:

1. Members considered the offence and the fact that Mr Marriott had pled guilty so had admitted what had happened.
2. As a Personal Licence Holder Mr Marriott should take the role, and its responsibilities seriously. Personal Licence holders should prioritise upholding the licensing objectives.
3. The relevant offence had taken place in a licensed premises (although not the one where Mr Marriott is a Designated Premises Supervisor) and therefore undermined the principle of the prevention of crime and disorder.
4. Mr Marriott has not appeared before a Sub-Committee before and it appeared he did not have any other complaints against him historically.
5. The relevant offence and the undermining of the licensing objectives warranted action being taken against Mr Marriott's Personal Licence.
6. In considering the information presented the Sub-Committee also noted BDC's Statement of Licensing Policy which states at paragraph 7.47: *"The Policing and Crime Act 2017 gives Licensing Authorities a discretionary power to revoke or suspend personal licences, with effect from 6 April 2017. When a Licensing Authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months."*
7. In addition Members considered the Statutory Guidance at paragraph 4.77 which states *".....Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence"*, and paragraph 4.79 which states *"the licensing authority must notify the licence*

holder and chief of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21days)".

8. The conviction of a relevant offence in a licensed premises undermines the licensing objectives, particularly in respect of the prevention of crime and disorder. In accordance with the statutory guidance as set out above, it is our duty to promote the licensing objectives. On that basis the Sub-Committee suspends Mr Marriott's Personal Licence for a period of two months.

Considerations

The Sub-Committee considered all the evidence carefully including:

- The report of the Licensing Officer
- The written representations made by Mr Marriott, as well as the verbal representations made at the Sub-Committee
- The conviction information
- The Licensing Act 2003, in particular Part 6 – Personal Licences
- The (revised) statutory guidance under section 182 of the Licensing Act 2003, in particular paragraphs 4.75 – 4.84

The Sub-Committee also took into account the Council's Statement of Licensing Policy, the Human Rights Act 1998 and the licensing objectives, in particular:

- The prevention of crime and disorder

Right to Appeal

The parties to the Sub-Committee are reminded that there is a right to appeal against the decision to the Magistrates Court, exercisable within 21 days of receipt of this notification. Please see the Important Notes overleaf.

Signed

A. Clarke

Councillor Anne Clarke – Chair of the sub-committee

Dated: 21.06.2024

IMPORTANT NOTES - GUIDANCE NOTES ON APPEALING AGAINST THE COUNCIL'S DECISION

Please read these notes carefully

If you wish to appeal against this decision Schedule 5 to the Licensing Act 2003 governs how you should make your appeal to the Magistrates' Court.

The appeal must be commenced by Notice of Appeal to the Justices' Chief Executive for the local Magistrates' Court at the address below. You should contact the Magistrates' Court or your solicitor immediately to obtain the correct documentation to ensure that your appeal is made correctly.

Unless you are exempt, the Magistrates' Court will require you to pay a fee when you lodge your appeal. You should contact the Magistrates' Court or your solicitor immediately to find out how much you will have to pay.

You must lodge your appeal with the Court within the period of 21 days beginning with the day on which you were notified of the decision. This means that the signed Notice of Appeal and court fee [if applicable] must reach the Court within 21 days. The Court cannot accept appeals lodged once this appeal period has expired.

On appeal, the Magistrates' Court may-

- (a) dismiss the appeal;
- (b) substitute for the decision appealed against any other decision which could have been made by the Licensing Authority;
- (c) remit the case to the Licensing Authority to dispose of it in accordance with the discretion of the Court;
- (d) make such order for costs as it thinks fit.

You are strongly advised to take this decision notice to the Magistrates' Court or your solicitor when seeking advice on how to appeal.

**The Magistrates' Court Office is at:
Chesterfield Justice Centre, Tupton Lane, Chesterfield, S41 7TW**