

LICENSING SUB-COMMITTEE

15 January 2019

Title: Licensing Act 2003 – Personal Licence Application - Akim Rowe	
Report of the Director, Law and Governance	
Open Report	For Decision
Wards Affected: None	Key Decision: No
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Accountable Director: Jonathon Toy, Operational Director, Enforcement Services	
Accountable Strategic Director: Fiona Taylor, Director, Law and Governance	
Summary An application for a personal licence has been made by Mr Akim Rowe Mr Rowe has convictions for offences that are listed as relevant offences under Schedule 4 of the Licensing Act 2003 that are not yet spent under the Rehabilitation of Offenders Act.	
Recommendation That the Sub-Committee considers the content of this report and appendices, together with any oral submissions given at the hearing, and determines the application.	
Reason(s) Under the Licensing Act 2003 the Council, as Licensing Authority for the area, has a duty to consider and determine valid objection notices submitted by the Police in relation to a personal licence application.	

1. Introduction and Background

- 1.1 The Licensing Act 2003 (the “Act”) established the national licensing regime for:
 - The sale and supply of alcohol
 - Regulated entertainment
 - Late night refreshment
- 1.2 Under the Act, any person wishing to act as a Designated Premises Supervisor (DPS) and authorise the sale of alcohol under a premises licence must hold a personal licence.
- 1.3 To obtain a personal licence an application is made to the Licensing Authority where the person resides. The applicant must provide evidence of having passed a licensing qualification and not have been convicted of any relevant offence, evidencing this by the production of a certificate issued by the Disclosure and Barring Service (DBS) with the previous four weeks showing details of any convictions.

- 1.4 Only the Police or the Immigration Service are entitled to issue an objection notice to an application for a personal licence. Any such objection notice can only relate to the licensing objective of the prevention of crime.
- 1.5 A Licensing Authority must grant an application for a personal licence if it appears that:
- The applicant is over 18;
 - He is entitled to work in the United Kingdom;
 - He possesses a licensing qualification or a person of a prescribed description;
 - No personal licence held by him has been forfeited in the period of five years ending with the day the application was made, and
 - He has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty.
- 1.6 Mr Rowe fulfils all these criteria except the last.
- 1.7 The Police issued an objection notice on the 3rd January 2019 stating that they consider his conviction renders him unsuitable to hold a personal licence under the prevention of crime licensing objective.
- 1.8 Upon consideration of a personal licence application where an objection notice has been issued the Sub-Committee may decide to take either of the following steps
- To grant the personal licence, or
 - Not to grant the application.

2. Issues

The Personal Licence Application under Under Consideration

- 2.1 On the 18th December 2019 an application was submitted by Mr. Akim Rowe. A copy of the application is attached at **Appendix A**.
- 2.2 The application was accompanied by his certificate of qualification, attached as **Appendix B**, his DBS certificate, attached as **Appendix C** and his proof of right to work in the UK.
- 2.3 His DBS certificate shows that he was convicted on the 27th July 2015 at Ipswich Crown for a number of offences for which he received a custodial sentence. Some were relevant offences under the Licensing Act.
- 2.4 Due to the date of the conviction, and the sentences imposed they cannot be considered spent under the Rehabilitation of Offenders Act until January 2023

2.5 Objection Notice

- 2.6 The Metropolitan Police have issued an objection notice to this application under the prevention of crime licensing objective. A copy of the Police objection notice is attached at **Appendix D** to this report.

3. Options Appraisal

- 3.1 The Sub-Committee is advised that the hearing is of a quasi-judicial nature and representations from all parties, both written and verbal, will form part of the matters that are to be considered.

- 3.2 The Sub-Committee is required to consider each application on its own individual merits with all relevant matters taken into account. Findings on issues of fact should be on the balance of probability.
- 3.3 Having considered the application, the representations and all relevant submissions, the Sub-Committee must decide what action is appropriate to promote the licensing objectives. In doing so the Sub-Committee must decide which of the steps to take, as set out in section 1.8 of this report.
- 3.4 In reaching its decision, the Sub-Committee must have regard to:
- The Act
 - Secondary regulations
 - The Guidance issued to Local Licensing Authorities by the Home Office (current version April 2017)
 - The Barking and Dagenham Statement of Licensing Policy for 2017-2022.
- 3.5 If any party is aggrieved by the decision of the Sub-Committee, they have the right to appeal the decision to the Magistrates Court. Appeals may be made within 21 days of notification of the Sub-Committee's decision.

4. Consultation

- 4.1 The only consultation required for a personal licence is that the Police are notified if the applicant has been convicted of a relevant offence and the Immigration Service if the applicant appears not to have the right to work in the UK.

5. Legal Implications

Implications completed by: Simon Scrowther, Litigation Lawyer, Corporate Legal

- 5.1 The London Borough of Barking and Dagenham, as Licensing Authority under the Licensing Act 2003 and subordinate legislation, is empowered to determine applications of this nature.
- 5.2 Notice must be given of the Licensing Authority's decision on this matter.

Background Used in the Preparation of the Report: None

List of appendices:

- **Appendix A** - Copy of application
- **Appendix B** – Certificate of Qualification
- **Appendix C** – Copy of DBS Certificate
- **Appendix D** – Police Notice of Objection