



## **LICENSING ACT 2003**

### **Application for a New Premises Licence**

### **Decision Record**

**PREMISES:** DETERMINATION OF AN APPLICATION FOR THE REVIEW OF A PERSONAL LICENCE

**DATE OF HEARING:** Tuesday, 1 April 2025

**MEMBERS SITTING:** Councillor Gaynor Austin, Councillor  
Bill O'Donovan and Councillor  
Jacqui Vosper (Chairman)

## DECISION

The Sub-Committee decided to revoke the licence.

## REASONS

### Application for a Review of a Personal Licence

#### Decision Record

1. The Licensing Sub-Committee utilised the “Review Hearing Procedure for Chairman” document for conducting the hearing. At the outset of the hearing, the Licensing Sub-Committee voted to exclude the public from all of the hearing as it considered that the public interest in so doing outweighed the public interest in the hearing taking place in public. This was due to the desire to avoid the disclosure of exempt information within Schedule 12A to the Local Government Act 1972.
2. The Licensing Sub-Committee deliberated in private. The legal adviser, a local authority lawyer and Democratic Services Officer were present but, save for assisting with legal advice, provision of documents and drafting the reasoning, played no part in the decision-making process.

Decision:

3. To revoke the licence.

Reasons

4. The Licensing Sub-Committee, as a whole, took into account that it must promote the licensing objectives and in particular the prevention of crime and for the sake of public safety and must have regard to the Secretary of State’s National Guidance, made under s.182 of the Licensing Act, in particular chapter 4 on personal licences, along with the Council’s own Statement of Licensing Policy & Guidance. Due consideration was given to the written material contained in the paperwork and the oral evidence and representations at the meeting as well as the relevant legislation, guidance and policies of Rushmoor Borough Council. This material included Exempt Licensing Report No OS2506.
5. The decision was based upon an appreciation of the likely effect of the decision of the review upon the promotion of the four Licensing Objectives: the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. A stepped and measured approach was considered.

6. The Licensing Sub-Committee carefully considered the fact that the applicant had properly notified the licensing authority of his conviction for a relevant offence (appendix A) and that he has held a personal licence with Rushmoor Borough Council since the 7<sup>th</sup> August 2015.
7. The Licensing Sub-Committee considered the fact that the conviction was for driving whilst under the influence of alcohol and that the applicant did not make any representations within the specified timescale when given the opportunity to do so (appendix B).
8. The Licensing Sub-Committee took into account the representations from Hampshire Constabulary (appendix C).
9. The Licensing Sub-Committee considered the fact that the applicant's offending took place in the early hours of 1<sup>st</sup> January and this was while venues were still open and there were more pedestrians around due to the new year celebrations than one would normally expect at that time of night. The Licensing Sub-Committee considered the applicant's admission that he had consumed three alcoholic drinks over a period of time, that he didn't think he was over the limit and that something about the manner of his driving caused the Police to stop him.
10. The reading of 40 micrograms of alcohol in 100 millilitres of breath was also taken into account along with the sentencing disposal. That reading was taken whilst in custody so was an unknown period of time after the applicant was initially stopped. The Licensing Sub-Committee was also told that, generally, the Police would not prosecute cases where the reading was 39 micrograms of alcohol in 100 millilitres of breath or below. The length of the driving disqualification was noted and that the applicant had undertaken the course so his driving disqualification was reduced.
11. The Licensing Sub-Committee considered his frankness and honesty in accepting what he drank that night and that what he did was wrong albeit he was drinking when not working. The Licensing Sub-Committee considered his explanation about the circumstances of the offence and the limited effect, if any, on the various premises connected with the applicant if his personal licence was revoked or suspended. The Licensing Sub-Committee ensured that they did not view the application as an opportunity to punish the applicant for the commission of the offence. It was not a case of sentencing the applicant again.
12. The Licensing Sub-Committee considered that the applicant accepted that, due to his behaviour, some action should be taken due to his offending and his assertion that a suspension was a more proportionate way of dealing with the matter than revocation. The fact that this was the first issue that had arisen since 2015 was a relevant factor.

13. The Licensing Sub-Committee took into account section 17 on “Personal Licences” of the Local Authority’s Statement of Licensing Policy & Guidance and that, in the event of a fresh application, the policy referred to “exceptional and compelling circumstances” justifying the granting of an application. Although that is not the test for a review, the Licensing Sub-Committee found the section of assistance, especially 17.12 and 17.13.
14. The Licensing Sub-Committee took into account that the applicant had proactively worked with the licensing authority to remove himself from the role of DPS pending this review so that the premises could continue unaffected by his decision.
15. The majority of the Licensing Sub-Committee found that the sale and supply of alcohol carries with it a significant responsibility and that any period of suspension would not serve any purpose. The Licensing Sub-Committee found that his decision-making at the time of the offence and his evidence at the hearing showed that he was not a person sufficiently responsible to hold a personal licence any longer.
16. A minority of the Licensing Sub-Committee found, on the matters above, that the proportionate and effective outcome would be to suspend the personal licence for a period of six months.
17. Bearing all of these matters in mind, the only proportionate and effective outcome, in the view of the Licensing Sub-Committee, was to revoke the applicant’s personal licence.
18. Any party who has made a relevant representation may appeal to the Magistrates’ Court in writing within 21 days of receipt of this written decision.

**OTHER CONDITIONS**  
**(New, amended and deleted conditions consistent with**  
**the operating schedule)**

--