

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON FRIDAY, 27th JULY 2023 AT 10.00 AM

Sub Committee:

James Tumbridge (Chairman)
Deputy John Fletcher
Deputy John Dunphy

Officers:

Raquel Pinto – Town Clerk's Department
Julie Mayer – Town Clerk's Department
Aggie Minas – Environment Department
Robert Breeze – Environment Department
Jillian Bradbeer – Comptroller & City Solicitor's Department

Applicant:

Mr Jason Ward - Personal License Holder

Licensing Act 2003 (Hearings)

A Public Hearing was held at 10 am to consider the suspension or revocation of a Personal Licence after becoming aware of conviction of Personal Licence Holder for a relevant offence.

The Sub-Committee had before it the following documents:

- Hearing Procedure
- Report of the Executive Director Environment
- Appendix 1: List of relevant offences
- Appendix 2: Copy of Personal Licence of Mr Jason Ward
- Appendix 3: Notification of conviction from South Devon Magistrates Court, a)
- Appendix 4: Copy of notice given to Mr Ward (i) Representations received from Mr Jason Ward
- Appendix 5: Copy of notice given to Chief Officer of Police (i) Representations received from the Chief Officer of Police
- Appendix 6: Confirmation email from South Devon MC of no notification

The Hearing commenced at 10.00 am. The Chairman introduced himself before asking the Sub Committee, the City of London Corporation officers and other parties present to introduce themselves.

The Sub-Committee comprised of Mr James Tumbridge (Chairman), Deputy John Fletcher and Deputy Peter Dunphy. The Chairman explained the process for the hearing and the content of the agenda and papers before the Sub-Committee. The Sub-Committee heard representations from Mr Ward and noted that the Police had provided written representations, but they had not sent a representative to the meeting. The Licensing Authority and Comptroller and City Solicitor were present.

The Chairman explained to Mr Ward that the Sub-Committee sought to understand the circumstances surrounding the commission of the relevant offence and whether Mr Ward's personal licence should be revoked or suspended.

The Chairman explained at the hearing that under Section 132A of the Licensing Act, the Sub-Committee had three options:

1. To suspend the licence, or
2. To revoke the licence, or
3. Propose to take no action.

The Sub Committee heard the representations from Mr Ward, including his explanation that the incident that led to his criminal conviction had been a one-off incident, was out of character and he showed contrition. He had accepted fully the consequences of his decision to drive that evening, which he described as very poor judgement. Mr Ward explained that he had always had a good working relationship with the police and there were no historic or ongoing issues with this premises in Devon. Mr Ward explained he fully co-operated with the Police on the night of the incident, he gave a breath test at the roadside, for unknown reasons the breath test did not register, but a subsequent one at the police station worked and was below the limit.

The Sub-Committee retired to consider the outcome of the hearing, carefully deliberating on the representations submitted in writing and orally at the hearing.

The Sub Committee noted Mr Ward's account that he had not refused to provide a specimen; he had attempted to provide a specimen at the roadside, but the breath test failed. He then provided another specimen at the Police Station which was slightly under the limit. Therefore, it was not a refusal, and this had been accepted by the Magistrates Court.

The Sub Committee further noted that Mr Ward had not disclosed his status as a Personal Licence Holder at the Magistrates Court hearing. Mr Ward stated that he was not aware that he needed to do this nor had his legal representative at the hearing advised him of this obligation. He had provided his address to the Magistrates Court (Fox and Hounds Pub) and had intended to contact the City of London Corporation about his conviction after his sentencing, but the City of London Corporation had initiated contact with him first. The Sub-Committee heard that these events occurred during a very difficult time for Mr Ward's business, as set out in his representations.

In reaching its conclusion, the Sub-Committee took into account the factors set out in section 132A (7) Licensing Act 2003 which must be taken into account by the licensing authority before deciding whether to suspend or revoke a licence. Section 132A (7) provides as follows:

7. Before deciding whether to suspend or revoke the licence the relevant licensing authority must take into account—

- (a) any representations made by the licence holder under this section,*
- (b) any decision of a court under section 129 or 130 of which the licensing authority is aware, and*
- (c) any other information which the authority considers relevant.*

The Sub-Committee's conclusion is set out below.

Outcome

The Sub-Committee considered the written and oral representations made by Mr Ward, the details of the conviction received from the Magistrates Court and the written submission made by City of London Police. The Sub-Committee concluded that no action was necessary.

Having considered the representations as set out in the agenda and those made orally at the hearing, the Sub-Committee felt satisfied that Mr Ward had been as helpful as possible and was contrite. Given the circumstances which were now explained, the Sub-Committee was satisfied that the Licensing Objectives have not been undermined. The Magistrates Court had dealt with the offence and it was not necessary, in the view of the Sub-Committee, to revoke or suspend Mr Ward's personal licence.

As the Sub-Committee proposes not to revoke or suspend the licence, Sections 132A (9) to (12) Licensing Act 2003 apply and require the Authority to give notice to the Chief Officer of Police for its area that it proposes not to revoke the licence and invite representations, which may be made within 14 days of receipt of the notice by the Chief Officer of Police. If any representations are received, the Sub-Committee must take these into account and then make a final decision, which the Sub-Committee will duly communicate to Mr Ward.

The meeting ended at 12:20pm

Chairman

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