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Merton Council

Licensing Sub-Committee

Membership

Councillors:

Nigel Benbow

John Dehaney

Nick Draper

A meeting of the Licensing Sub-Committee will be held on:

Date: 9 February 2021

Time: 2.30 pm

Venue: This will be a virtual meeting and therefore will not take place in a physical location, in accordance with s78 of the Coronavirus Act 2020

Agenda for this meeting

- 1 Appointment of Chair
- 2 Apologies for Absence
- 3 Declarations of Pecuniary Interest
- 4 Exclusion of the Public

To RESOLVE that the public are excluded from the meeting during consideration of the following report on the grounds that it is exempt from disclosure for the reasons stated in the report.

- 5 Personal Licence Application

1 - 16

Note on declarations of interest

Members are advised to declare any Disclosable Pecuniary Interest in any matter to be considered at the meeting. If a pecuniary interest is declared they should withdraw from the meeting room during the whole of the consideration of that matter and must not participate in any vote on that matter. For further advice please speak with the Managing Director, South London Legal Partnership.

You can also access this agenda through the Modern.Gov App or by scanning this QR code with your smartphone



For more information about the agenda and the licensing decision making process contact democratic.services@merton.gov.uk or telephone 020 8545 3357.

Press enquiries: communications@merton.gov.uk or telephone 020 8545 3181

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www.merton.gov.uk/council/committee.htm?view=emailer

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Procedure to be followed at Licensing Hearing

1. The Chair will welcome all parties and all present will be introduced/introduce themselves
2. The Chair will confirm the sub-committee hearing procedures, a copy of which was included in the notice and agenda packs sent to all parties.
3. The Chair will ask the Legal Adviser to inform those present that the sub-committee had a briefing prior to the hearing to confirm the procedure and for clarification on any aspect of the application.
4. The Chair will ask Legal Adviser to confirm the process for questioning and whether there had been any requests for adjournments.
5. The Chair will ask the Licensing Officer if there are any technical issues they feel should be brought to their attention i.e. withdrawal of objector/agreed conditions (Note: If all objections are withdrawn then the Sub-Committee may go straight to point 14.
If all conditions are agreed by all parties then the Sub-Committee may go straight to point 14)
6. The Applicant will present their case. Questions can then be asked of the Applicant by the Responsible Authority and members of the Sub-Committee.
7. The Responsible Authority will present their case. Questions can then be asked of the Responsible Authority by the Applicant, the interested parties, and members of the Sub-Committee.
8. The Chair will ask the Licensing Officer for any comments/ clarifications
9. The Chair will ask the Legal Adviser for any comments/clarifications
10. The Chair will invite closing statements by the responsible authority
11. The Chair will invite closing statements by the Applicant
12. The Chair will announce that the Sub-Committee are retiring for private session. The Legal Officer and Clerk will be invited to also retire to provide advice.
13. The chair will inform those present that all parties will receive a copy of the written decision notice within 5 working days,
14. In closed session the Sub-Committee will make their decision. They may ask the Legal Officer for advice during this session and this will be detailed in the decision notice.

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Licensing Sub-Committee Report

Subject of hearing: Mr [REDACTED] (Personal Licence Application)

Date: 9 February 2021

Time: 14.30

Venue: Virtual meeting via Zoom/Youtube

1. Type of hearing and powers of the sub-committee

- 1.1 The sub-committee is required to determine the application by taking such of the steps set out below as it considers necessary for the promotion of the licensing objectives.
- 1.2 In making their determination the sub-committee must have regard to the Licensing Act 2003, the licensing objectives, guidance issued by the Secretary of State and Merton's Licensing Policy.
- 1.3 New personal licence: s120
 - (i) To grant or reject the application.

2. Hearing papers

- 2.1 The applications, notices and representations for determination by the sub-committee are contained in the hearing bundles together with any relevant existing licence. This includes any documents which must be sent to any of the parties to the hearing under Regulation 7(2) and Schedule 3 of The Licensing Act 2003 (Hearings) Regulations 2005. This bundle has been issued to all parties to the hearing.

3. Legal advice to the sub-committee

- 3.1 A legal officer appointed by the Assistant Director of Corporate Governance and Head of Legal Services will attend the hearing to advise the sub-committee on statutory provision and legal matters.

4. Licensing Officer comments

- 4.1 On 23 December 2020 the Licensing Authority received a personal licence application in the name of [REDACTED]
- 4.2 A personal licence allows the person to sell and authorise others to sell alcohol by retail.
- 4.3 The Disclosure & Barring Service basic certificate which forms part of the application appeared to contain a relevant offence as listed in Schedule 4 of the Licensing Act 2003.

Offence: [REDACTED]
[REDACTED]

Disposal: [REDACTED]
[REDACTED]

4.4 Schedule 4 of the Licensing Act, Personal licence: relevant offences, paragraph 19, includes as a relevant offence:



4.5 There is a requirement in the Act for the Licensing Authority to notify the police if it appears the applicant has been convicted of any relevant offence. A notice was sent to the Metropolitan Police on 04 January 2021. This included a copy of the application.

4.6 On 08 January 2021, the Licensing Authority received a notice of objection to the issue of the personal licence from the Metropolitan Police.

For enquiries about this hearing please contact

Democratic Services
Civic Centre
London Road
Morden
SM4 5DX

Telephone: 020 8545 3357

Email: democratic.services@merton.gov.uk

Parties to the hearing

This document forms part of the notice of hearing.

The following are parties to the hearing having submitted relevant applications, notices or representations under the statutory provisions indicated:

Applicant	
Mr	
Statutory Authorities	
Metropolitan Police	
Interested Parties	
None	

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.

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					
Forenames					
PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.					
<i>None</i>					
TITLE Please tick					
Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)					
Surname					
Forenames					
Date of Birth					
Nationality					
I am 18 years old or over. Please tick			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;">Yes <input checked="" type="checkbox"/></td> <td style="width: 50%; text-align: center;">No <input type="checkbox"/></td> </tr> </table>	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
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).					
Post town		Post code			
TELEPHONE NUMBERS					
Daytime					
Evening					
Mobile					
FAX NUMBER					


E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail) [REDACTED]
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

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 Notes	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.	
<p>Highfield Level 2 Award for Personal Licence Holders (RQF) Date of Award 19 March 2020 Highfield Qualifications certificate attached.</p>	

3. Previous or outstanding applications for a personal licence		
Note: You may only hold one personal licence at a time.		Please tick
Do you currently hold a personal licence?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Do you currently have any outstanding applications for a personal licence, with this or any other licensing authority?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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	/	
Any further details	/	

4. CHECKLIST:	
I have Please tick yes	
<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 2) 	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> included a proof of my right to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (see note 2) 	<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>I am entitled to work in the UK and am not subject to a condition preventing me from doing work relating to the carrying on of a licensable activity. I understand that my licence will become invalid if I cease to be entitled to live and work in the UK.</p>	
<p>The information contained in this form is correct to the best of my knowledge and belief.</p>	
<p>It is an offence to knowingly or recklessly make a false statement in or in connection with an application for the grant 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 of any amount. It is an offence under section 24B of the Immigration Act 1971 to work illegally.</p>	
SIGNATURE	
DATE	<p>16.12.20 24.8.20</p>

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

Disclosure of convictions and civil immigration penalties 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	[REDACTED]
Forenames	[REDACTED]
PREVIOUS NAMES (if relevant) please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary. None	
TITLE Please tick ✓ Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)	
Surname	[REDACTED]
Forenames	[REDACTED]

2. Forfeiture by a court or revocation by a licensing authority of a personal licence in the last 5 years		
		Please tick ✓
Has any personal licence held by you been forfeited or revoked in the last 5 years? If yes, please provide details below:		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Name of court/licensing authority	[REDACTED]	
Address of court	[REDACTED]	
Date of forfeiture/revocation	[REDACTED]	
Offence which resulted in the forfeiture/revocation	[REDACTED]	

Any additional details	
------------------------	--

3. Relevant or foreign offences and civil immigration penalties


Read Note: 1 **Please tick**

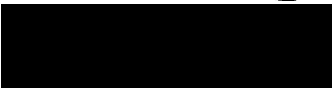
Have you been convicted of any relevant offence or foreign offence or been required to pay a civil immigration penalty?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
---	--	--------------------------------

If you have been convicted of any relevant offence 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:

If you have been convicted of any foreign offence 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: —

If you have received an immigration penalty you must provide details, including the reference, date and company name. —

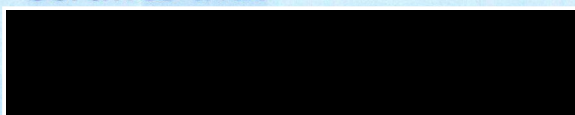
4. Declaration			
I declare that I have not been convicted of any relevant offence or any foreign offence or been required to pay a civil immigration penalty			
SIGNATURE		DATE	16.12.20 24.8.20

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 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 of any amount. It is an offence under section 24B of the Immigration Act 1971 to work illegally.			
SIGNATURE		DATE	16.12.20 24.8.20



Highfield Qualifications

Certifies that



has successfully passed an assessment in
**Highfield Level 2 Award for Personal Licence
Holders (RQF)**

Qualification number



Date of award

19 March 2020

Certificate number



Course Director

Sterling Business School

Training Organisation



Jason Sprenger - Chief Executive
Highfield Qualifications

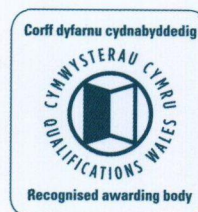


THE QUEEN'S AWARDS
FOR ENTERPRISE:
2016



Regulation

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By virtue of paragraph(s) 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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From: Julian Pirnie <Julian.Pirnie@merton.gov.uk>
Sent: 04 January 2021 16:36
To: Everett Vivien - SW-CU <Vivien.Everett@met.police.uk>; SW Mailbox - Licensing General <SouthWestSWMailbox-.LicensingGeneral@met.police.uk>
Subject: Re Convictions On Disclosure & Barring Services

Hello Vivien

In Regards to Mr [REDACTED] application for a personal Licence. ([REDACTED])

Could you let me Know if the Police have any objections to Merton Council Issuing a Personal Alcohol Licence

To Mr [REDACTED]

Kind Regards

Julian Pirnie
Licensing

From: Vivien.Everett@met.police.uk <Vivien.Everett@met.police.uk>
Sent: 08 January 2021 09:27
To: Julian Pirnie <Julian.Pirnie@merton.gov.uk>; John.C.McGann@met.police.uk
Subject: RE: Personal Licence OBJECTIONS [REDACTED]
Importance: High

Good Morning Julian,

Please be advised that Police will be objecting to the Personal Licence Application submitted by :

Mr [REDACTED]
[REDACTED]

Mr [REDACTED] was convicted on [REDACTED] for [REDACTED] as it is a relevant unspent conviction we believe that if the Personal Licence was to be granted it would undermine the crime prevention objective.

Please find attached letter confirming Police Objections

Kind Regards

Viv

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METROPOLITAN
POLICE

TOTAL POLICING

Territorial Policing

The Licensing Authority

Environmental Health Authority
Regulatory Services Partnership (serving Merton, Richmond and
Wandsworth Councils)
Merton Civic Centre
London Road, Morden
SM4 5DX

Licensing office

Twickenham Police Station
41 London Road
Twickenham.
TW1 3SY

Telephone: 07827553373

Facsimile:

E-mail: [SouthWestSWMailbox-
.LicensingGeneral@met.police.uk](mailto:SouthWestSWMailbox-LicensingGeneral@met.police.uk)

08/01/2021

Dear Sir/Madam,

Police Licensing has received notice of an application for a Personal Licence to be granted under the Licensing Act 2003 for [REDACTED].

On behalf of the Metropolitan Police Service I wish to **object** to this application on the following grounds;

The basic disclosure document reveals that [REDACTED] has a relevant unspent conviction.

Date of conviction: [REDACTED]

Court: [REDACTED]

Offence: [REDACTED]

Disposal: [REDACTED]

[REDACTED] received a [REDACTED] imprisonment sentence which was suspended wholly for 12 months - Suspended custodial sentences are treated the same as custodial sentences for this purpose. It will be the length of the sentence imposed by the court, not the period it is suspended for that dictates when it will become spent.

The Rehabilitation of Offenders Act 1974 gives clear guidance on the rehabilitation period based calculated from the date of conviction or the date a caution is administered.

The Rehabilitation Period for his [REDACTED] sentence is [REDACTED] from the date on which the sentence (including any licence period) is completed which would have been [REDACTED]

Therefore his conviction will not be spent until [REDACTED].

[REDACTED] is a relevant offence relating to the application for a Personal Licence to be granted under the Licensing Act 2003 – Schedule 4 – Personal Licence: Relevant Offences - [REDACTED].

The crime report states that [REDACTED]

I **object** to this application as I satisfied that granting the licence would undermine the crime prevention objective.

Yours sincerely,



John McGann PC 4509SW – SouthWest BCU Licensing Officer