

**Committee:**            **Licensing Sub Committee**

**Date:**                **Friday 22 October 2010**

**Time:**                **11.30 am**

**Venue**                **Bodicote House, Bodicote, Banbury, OX15 4AA**

**Membership**

**Councillor Fred Blackwell**

**Councillor P A O'Sullivan**

**Councillor G A Reynolds**

## AGENDA

**1. Constitution of the Sub Committee**

The Membership of the Sub-Committee for this meeting will be Councillors Blackwell, O'Sullivan and Reynolds.

Please contact Natasha Clark (01295 221589) to tender apologies.

**Note:** Declaration of Interests: Any Member with a prejudicial interest will not be able to participate in the hearing, and should therefore notify the Head of Legal and Democratic Services in advance so that arrangements may be made for an alternate Member to attend.

**2. Licensing Committee (Pages 1 - 12)**

Report of Head of Safer Communities, Urban and Rural Services

**Summary**

To provide an outline of an application to for the grant of a Personal Licence in respect of Mr Neil Cowlshaw of 61 Manor Road, Banbury and detail the representations received from Thames Valley Police that have resulted in the need for a hearing to determine the application.

## **Recommendations**

There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

- a) reject the application if it considers it necessary for the promotion of the crime prevention objective to do so, and
- b) grant the application in any other case.

## **Information about this Agenda**

The agenda, reports and associated documents for the above hearing together with the Licensing Hearing Procedure are available at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA or on the Council's web site [www.cherwell.gov.uk](http://www.cherwell.gov.uk);

The Council and its Committees and Sub-Committees are required to consider the implications of the Crime and Disorder Act 1998 and the Human Rights Act 1998 when exercising their functions.)

## **Queries Regarding this Agenda**

Please contact Natasha Clark, Legal and Democratic Services [natasha.clark@cherwell-dc.gov.uk](mailto:natasha.clark@cherwell-dc.gov.uk) (01295) 221589

**Mary Harpley**  
**Chief Executive**

Published on Thursday 14 October 2010

## Licensing Sub Committee

### Personal Licence Determination Hearing

22 October 2010

### Report of Head of Safer Communities, Urban & Rural Services

#### PURPOSE OF REPORT

To provide an outline of an application to for the grant of a Personal Licence in respect of Mr Neil Cowlshaw of 61 Manor Road, Banbury and detail the representations received from Thames Valley Police that have resulted in the need for a hearing to determine the application.

This report is public

#### Recommendations

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There is no recommendation. In considering the representations received and what is appropriate for the promotion of the licensing objectives, the options open to the Sub-Committee are, in broad terms:

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- b) grant the application in any other case.

#### Executive Summary

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##### Introduction

- 1.1. On 10 September 2010 the Licensing Authority received an application for the grant of a personal licence under the Licensing Act 2003 for Mr Neil Cowlshaw of 61 Manor Road, Banbury.
- 1.2. The applicant had disclosed details of offences deemed as relevant to the application under Schedule 4 of the Licensing Act 2003.
- 1.3. As a result of the offences detailed in the application, Thames Valley Police were consulted on 10 September 2010
- 1.4. On 10 September 2010, the Licensing Authority received written a representation against the grant of the application from Thames Valley Police

## Background Information

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- 2.1 This is a brand new application; therefore there is no background information to this application.

## Key Issues for Consideration/Reasons for Decision and Options

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- 3.1. The Licensing Act 2003 states that all licensing matters must promote the four Licensing Objectives, they are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm
- 3.2. The representation received states concerns in relation to potential issues in respect of the promotion of the prevention of crime and disorder objective.
- 3.3. The relevant sections of the Guidance and Licensing Authority Policy issued under the Licensing Act 2003, which are applicable to the representations for this case are as follows:

### Guidance:

Pages 34	Sections 4.9	The Secretary of State recommends that, where the police have issued an objection notice, the licensing authority should normally refuse the application unless there are exceptional and compelling circumstances which justify granting it. For example, certain offences can never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that they no longer have any propensity to re-offend, a licensing authority may consider that the individual circumstances of the case are so exceptional and compelling and any risk to the community so diminished that it is right to grant the application.
Page 34	Sections 4.10	If an application is refused, the applicant will be entitled to appeal against the decision. Similarly, if the application is granted despite a police objection notice, the chief officer of police is entitled to appeal against the licensing authority's determination. Licensing authorities are therefore expected to record in full the reasons for any decision that they make.

### Cherwell District Council Statement of Licensing Policy:

Page 18	Policy LA2	Section 7.2	Personal Licences
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The following options have been identified. The approach in the recommendations is believed to be the best way forward

**Option One**                      Reject the application if it considered necessary for the promotion of the crime prevention objective to do so

**Option Two**                      Grant the application.

### **Consultations**

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Thames Valley Police were notified of the application and its content upon its receipt by the Licensing Authority in accordance with the Licensing Act 2003.

### **Implications**

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**Financial:**                      There are no financial implications of this report  
Comments checked by Denise Westlake, Service Accountant, 01295 221982

**Legal:**                              The decision must comply with relevant legislation and Council Policy. All parties have a right of Appeal to the Magistrates Court against the decision.  
Comments checked by Nigel Bell, Solicitor, 01295 221687

**Risk Management:**              There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.

### **Wards Affected**

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None

### **Document Information**

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<b>Appendix No</b>	<b>Title</b>
Appendix 1	Application for a Personal Licence (including Disclosure of convictions and declaration)
Appendix 2	Representation from Thames Valley Police
<b>Background Papers</b>	
Members have been issued with copies of the Guidance, the Statement of Licensing Policy and the Council's pool of conditions and are asked to bring them with them to the meeting.	
<b>Report Author</b>	Claire Bold, Licensing Team Leader
<b>Contact Information</b>	01295 753744 clairebold@cherwell-dc.gov.uk

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## 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 (delete as appropriate) <u>Mr</u> <del>Mrs</del> <del>Miss</del> <del>Ms</del> Other (please state)	
Surname	COWLISHAW
Forenames	NEIL
Previous Names (if relevant). Please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.	
Title (delete as appropriate) Mr Mrs Miss Ms Other (please state)	
Surname	N/A
Forenames	
I am 18 years old or over. Please tick <input checked="" type="checkbox"/>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Address where originally resident (we will use this address to correspond with you unless you complete the separate correspondence box below).	
61 MANOR ROAD.	
Post Town	Postcode
BANBURY	OX16 3JD.

<b>Telephone Numbers</b>	
Daytime	
Evening	
Mobile	07722 972999
Fax Number	
E-mail address (if you would prefer us to correspond with you by e-mail)	

**Address for correspondence associated with this application (if different to the address above)**

<b>Post Town</b>	<b>Postcode</b>
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**Telephone Numbers**

Daytime	
Evening	
Mobile	

**E-mail address (if you would prefer us to correspond with you by e-mail)**

**2 YOUR LICENSING QUALIFICATIONS**

<b>Read Note 1</b>	<b>Please tick ✓ yes</b>
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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.

EDI Level 2 National Certificate. 12-1-2010

**3 PREVIOUS OR OUTSTANDING APPLICATIONS FOR A PERSONAL LICENCE**

<b>Note: You may only hold one personal licence at a time</b>	<b>Please tick ✓</b>
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Do you currently hold a personal licence?	Yes	No ✓
Do you currently have any outstanding applications for a personal licence, with this or any other licensing authority?	Yes	No ✓
Has any personal licence held by you been forfeited in the last 5 years?	Yes	No ✓

Licensing Authority	
Licence Number	
Date of Issue	
Date of Expiry	
Any further details	

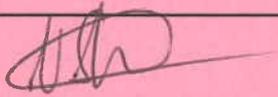
**4 CHECKLIST**

I have	Please tick ✓ yes
<ul style="list-style-type: none"> <li>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</li> </ul>	✓
<ul style="list-style-type: none"> <li>enclosed any licensing qualification I hold or proof that I am a person of prescribed description</li> </ul>	✓
<ul style="list-style-type: none"> <li>enclosed a criminal conviction certificate or a criminal record certificate or the results of a subject access search of a police national computer by the National Intelligence Service</li> </ul>	✓
<ul style="list-style-type: none"> <li>enclosed a completed disclosure of criminal convictions and declaration form (Schedule 3)</li> </ul>	✓
<ul style="list-style-type: none"> <li>made or enclosed payment of the fee for the application</li> </ul>	✓

**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 or renewal 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 not exceeding level 5 on the standard scale [£5,000]

Signature		Date	10-SEPT-2010
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**NOTES**

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport ([http://www.culture.gov.uk/alcohol\\_and\\_entertainment/default.htm](http://www.culture.gov.uk/alcohol_and_entertainment/default.htm)) or from your local licensing authority.

- Licensing Qualifications** – Licensing qualifications are dealt with in section 120(8) and (9) of the Licensing Act 2003.



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## Disclosure of convictions 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 (delete as appropriate) <u>Mr</u> <del>Mrs</del> <del>Miss</del> <del>Ms</del> <del>Other (please state)</del>	
Surname	COWLISHAW
Forenames	NEIL
Previous Names (if relevant). Please enter details of any previous names or maiden names. Please continue on a separate sheet if necessary.	
Title (delete as appropriate) Mr Mrs Miss Ms Other (please state)	
Surname	
Forenames	

### 2 FORFEITURE OF A PERSONAL LICENCE IN THE LAST 5 YEARS

Do not answer this question if you are applying under regulation 8 of the Licensing Act (personal licences) Regulations 2005

		Please tick ✓	
Has any personal licence held by you been forfeited in the last 5 years?		Yes	No
			<input checked="" type="checkbox"/>
Name of court			
Address of court			
Date of forfeiture			
Offence which resulted in the forfeiture			
Any additional details			

**3 RELEVANT OR FOREIGN OFFENCES****Read Note 1**

Please tick ✓

Have you been convicted of any relevant offence or foreign offence?	Yes <input checked="" type="checkbox"/>	No <input checked="" type="checkbox"/>
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If you have been convicted of any relevant offences you must provide details for each conviction, the date of conviction, the name and location of the convicting court, offence of which you were convicted and the sentence imposed:

7/11/2007 ① DRIVING A Motor VEHICLE WITH EXCESS ALCOHOL  
200 hrs Community work  
25/2/2008 ② USING a vehicle while uninsured 2 YR ban reduced to 18 months  
Breach of Community work Extra 15 hrs. work.

If you have been convicted of any foreign offences 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:

**4 DECLARATION**

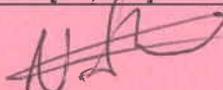
I declare that I have not been convicted of any relevant offence or any foreign offence

Signature		Date	
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**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 or renewal 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 not exceeding level 5 on the standard scale [£5,000]

Signature		Date	10-9-2010
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**NOTES**

Information on the Licensing Act 2003 is available on the website of the Department for Culture, Media and Sport ([http://www.culture.gov.uk/alcohol\\_and\\_entertainment/default.htm](http://www.culture.gov.uk/alcohol_and_entertainment/default.htm)) or from your local licensing authority.

**1 Relevant or Foreign Offences**

**Relevant offences** are the offences listed in Schedule 4 to the Licensing Act 2003:

The meaning **foreign offence** is dealt with in section 113 of the Licensing Act 2003.

If you are the holder of a justices' licence and you are applying for a personal licence under regulation 8 of the Licensing Act (Personal licence) Regulations 2005 see paragraphs 23 and 28 in Part 3 of Schedule 8 to the Licensing Act 2003 for the information you are required to give.

If you are convicted of any relevant or foreign offence during the period between when your application is made and when your application is determined or withdrawn, you must notify the authority to which your application was made. Failure to do so without reasonable excuse could lead to prosecution and a fine not exceeding level 4 on the standard scale [£2,500].

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Division/Station : St Aldates

From : Laura Morris  
Licensing OfficerTo : Cherwell District Council  
Licensing dept

Ref: Neil Cowlshaw

Date : 10 September 2010

Tel.No. 01865 266109

Subject :

**Objection to the application of a personal licence**

I am writing to formally present Thames Valley Police's objection against the application by Neil COWLISHAW, DoB 13/12/1972, for a Personal Licence.

Mr Cowlshaw's application contains a disclosure of convictions which states that the applicant has a relevant, unspent conviction. Neil Cowlshaw has been convicted of driving a motor vehicle with excess alcohol, 7<sup>th</sup> November 2007. For this Mr Cowlshaw received a community order of 200 hrs unpaid work, disqualified from driving for 2 yrs (reduced to 6 months if course completed) and £60 costs. Therefore the conviction will remain unspent until 7<sup>th</sup> November 2012 (5 years). Also on the 25<sup>th</sup> February 2008 Mr Cowlshaw was found guilty of breach of community order resulting from original conviction of 07/11/07. the order was varied to unpaid work requirement of 215 hrs.

Under the 2003 Licensing Act 2003, one must refer to the legislation's guidance which states that 'the expectation will be to refuse the application.' Further, 'the secretary of state recommends that, where the Police have issued an objection notice, refusal of the application should be the normal course unless there are, in the opinion of the licensing authority, exceptional and compelling circumstances which justify granting the application.'<sup>1</sup>

Due to the fact that Neil Cowlshaw's conviction will remain unspent for a further 2 years and 2 months, Thames Valley Police Licensing feel that an objection is the only appropriate course of action.

Laura Morris  
Licensing Officer  
Thames Valley Police



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