

# 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:

- 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.

#### 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.	
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