

## LICENSING ACT 2003 SUB-COMMITTEE

FRIDAY 15 DECEMBER 2023

1.30 PM

Bourges/Viersen Rooms - Town Hall

### AGENDA

Page No

1. **Apologies for Absence**

2. **Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

3. **Application for Personal Licence Review - Mr Bhakta Bahadur Bishwokarma**

3 - 12



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Committee Members:

Councillors: Ray (Chairman), Ayres, W Fitzgerald, Khan, Trust, Thulbourn, Qayyum, Wiggin, Bond  
(Vice Chairman), J R Fox and P Hiller

Substitutes: Councillors: Allen, Hogg, Iqbal and C Harper

Further information about this meeting can be obtained from Karen Dunleavy on telephone 01733  
452233 or by email – [karen.dunleavy@peterborough.gov.uk](mailto:karen.dunleavy@peterborough.gov.uk)

<b>LICENSING ACT 2003 SUB COMMITTEE</b>		AGENDA ITEM No. 3
<b>15 DECEMBER 2023</b>		<b>PUBLIC REPORT</b>
Contact Officers:	Darren Dolby, Licensing Regulatory Officer Maria Crowe, Trainee Regulatory Officer	Tel. 453491 Tel. 453426

<b>APPLICATION:</b>	<b>REVIEW OF PERSONAL LICENCE</b>
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<b>APPLICANT:</b>	Cambridgeshire Constabulary
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<b>REFERENCE NO:</b>	076891
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<b>LICENCE HOLDER :</b>	Mr Bhakta Bahadur Bishwokarma of Carolside Grove, Hampton Garden, Peterborough, PE7 8QF
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<b>GLOSSARY OF TERMS:</b> Attached at <b>Appendix A</b> on <b>Page 6</b>
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## 1. PURPOSE OF REPORT

- 1.1 To consider and determine this application for a review of the personal licence for Mr Bhakta Bahadur Bishwokarma whose home address is given as Carolside Grove, Hampton Garden, Peterborough, PE7 8QF taking into account the information that has been received.

## 2. BACKGROUND INFORMATION

- 2.1 Mr Bishwokarma applied for a personal licence in February 2018. The documents supplied with the personal licence application included a criminal record subject access report. This report dated 19<sup>th</sup> February 2018 indicated that there was no information held on the Police National Computer relating to Mr Bishwokarma. Mr Bishwokarma's personal licence can be found at **Appendix C Page 11**.
- 2.2 On the 29<sup>th</sup> September 2023 an application was made for a premises licence with Mr Bishwokarma named as the proposed DPS.
- 2.3 On the 24<sup>th</sup> October 2023 a request was received from Cambridgeshire Constabulary for the review of Mr Bishwokarma's personal licence. This request was made as a result of Mr Bishwokarma's conviction at Cambridgeshire Magistrates Court on 25 March 2022 for the offence of Driving a motor vehicle with excess alcohol and is a relevant offence in relation to the Licensing Act 2003. Cambridgeshire Constabulary's letter to review Mr Bishwokarma's personal licence can be found at **Appendix B Page 9**.
- 2.4 Mr Bishwokarma received the following penalty:
- Fine £597.00
  - Costs £105.00
  - Disqualification from driving reduced if course completed
  - Disqualified from driving - Obligatory 12 Months
  - Victim Surcharge £60.00
- 2.5 Mr Bishwokarma did not notify the Licensing Authority of his conviction.

- 2.6 The Police have requested that the Committee consider suspending or revoking Mr Bishwokarma's personal licence.

### **3. APPLICATION**

- 3.1 Please refer to Cambridgeshire Constabulary's letter dated 24 October 2023. This is an application to review Mr Bishwokarma's personal licence.

### **4. MEDIATION**

- 4.1 No mediation has been attempted.

### **5. POLICY & GUIDANCE IMPLICATIONS**

- 5.1 The following sections/paragraphs are applicable to this application:

#### **5.2 Council's Statement of Licensing Policy**

- Objectives, Section 4 on Page 6
- Fundamental Principles, Section 6 on Page 8
- Reviews, Section 17 page 20
- Delegation / Decision Making / Administration, Section 18 on Page 20

#### **5.3 Guidance Issued under Section 182 of the Licensing Act 2003 August 2023**

- The Licensing Objectives – Section 2 pages 6 to 13
- Applications for Personal Licenses – Section 4 pages 21 to 37
- Determining applications – Section 9 pages 73 to 81
- Reviews – Section 11 page 94 to 100

#### **5.4 Section 4.59 of guidance issued under Section 182 of the Licensing Act 2003 August 2023 states :**

*“The holder of the licence is required by the 2003 Act to notify the licensing authority of any changes to a holder's name or address. These changes should be recorded by the licensing authority. The holder is also under a duty to notify any convictions for relevant offences to the licensing authority and the courts are similarly required to inform the licensing authority of such convictions, whether or not they have ordered the suspension or forfeiture of the licence. The holder must also notify the licensing authority of any conviction for a foreign offence. These measures ensure that a single record will be held of the holder's history in terms of licensing matters.”*

### **6. LICENSING OFFICER'S COMMENT (FOR INFORMATION)**

- 6.1 Regulation 19(a) requires authorities to disregard any information given by a party or person that is “not relevant” to the application.

### **7. LEGAL OFFICER'S COMMENTS**

- 7.1 The Licensing Authority (hereafter referred to as “the Council) is charged with implementing the provisions of The Policing and Crime Act 2017. This is an application to revoke or suspend a personal licence under The Policing and Crime Act 2017.

- 7.2 In this case, the application was received at these offices on 24 October 2023.

- 7.3 The application before this Committee will be treated on its own merits, and the Licensing committee will make its decision based upon:

- The merits of the application;

- The promotion of the four licensing objectives;
- The statement of policy of the Licensing Authority; and
- The Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003 – August 2023.

7.4 The licensing authority may determine the application, depending upon what is appropriate for the promotion of the licensing objectives, in any of the following ways:

- Revoke or suspend the personal licence
- Allow Mr Bishwokarma to keep his personal licence

## APPENDIX A LICENSING ACT 2003 GLOSSARY OF TERMS

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

### **'Child'**

- (a) means an individual aged under 16
- (b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

**DCMS:** Department for Culture Media and Sport

**'Designated Premises Supervisor'** means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

### **'Other Persons':**

- persons who live, or are involved in a business, in the relevant licensing Authorities area and who are likely to be affected by the application and are not a Responsible Authority.

**'Late Night Refreshment'** means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

**'Licensable Activities'** means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

**'Licensing Authority':** - is the licensing function of Peterborough City Council

**'Licensed Premises'** includes club premises and events unless the context otherwise requires.

### **'Licensing Objectives'**

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

**'Operating Schedule'** means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

**'Challenge 25'** means that a retailer will ask for proof of identification if they have reason to believe that the person making a purchase of alcohol is under the age of 25.

**'Rateable Value'**: as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

**'Regulated Entertainment'** (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Except where there is an exemption under the Live Music Act 2012 or Statutory Instrument 2013 No. 1578 The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

**'Relevant Licensing Authority'**: is the Authority in the area the premises are situated.

**'Responsible Authority'** means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children's Services – Child Protection & Review Manager
- Primary Care Trust or Local Health Board (Director of Public Health)
- The Relevant Licensing Authority, Peterborough City Council
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

**'Supply of alcohol'**:

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

**'Temporary Event Notice'** means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used; and
- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

**'the Act'**: means the Licensing Act 2003

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Ref: Personal Licence Holder Mr Bhakta Bahadur Bishwokarma



Creating a safer  
**Cambridgeshire**

Tuesday 24<sup>th</sup> October 2023

Licensing Authority  
Peterborough City Council  
Sand Martin House,  
Bittern Way,  
Peterborough  
PE2 8TY.

Licensing Officer,

**Re: Personal Licence 076891- Mr Bhakta Bahadur Bishwokarma (09/10/1979) & objection to DPS re Application 123857.**

Mr Bhakta Bahadur Bishwokarma who holds an Alcohol Personal Licence 076891 with Peterborough City Council, recently applied to be the DPS (Designated Premises Supervisor) of the Marigold Tavern, 41 Crowland Road, Eye Green, Peterborough. Having carried out due diligence checks on Police Computer systems it has been established that Mr Bishwokarma has a relevant conviction that has never been disclosed to the Peterborough City Council, Licensing Department.

I can confirm that Mr Bishwokarma was convicted at 25/03/22 Convicted at Cambridgeshire Magistrates Court (ref 22/1949/18978W) for Driving a motor vehicle with excess alcohol on 21/02/22 and received the following penalty.

1. Fine £597.00
2. Costs £105.00
3. Disqualification from driving reduced if course completed
4. Disqualified from driving - Obligatory 12 Months
5. Victim Surcharge £60.00

Driving a vehicle when under the influence of drink or drugs contrary to the Road Traffic Act 1988 section 4, is a relevant offence under the Licensing Act 2003. Unfortunately, the courts did not deal with his Alcohol Personal Licence at the time and Mr Bishwokarma failed to inform Peterborough City Council, Licensing Department.

Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave licensing authorities the power to revoke or suspend personal licenses with effect from 6th April 2017. Cambridgeshire Constabulary respectfully requests that the licensing authorities consider the use of this power, and the process to retrospectively suspend the personal licence as set out at section 132A of the Licensing Act 2003.

**Cambridgeshire Constabulary**, Police Licensing Officer, Thorpewood Police Station, Peterborough, PE3 6SD  
[Tel:01733424438](tel:01733424438) Email:licensingnorth@cambs.pnn.police.uk

Whilst the future of Mr Bishwokarma Personal Licence is being debated, Cambridgeshire Constabulary formally objects to Mr Bishwokarma being the DPS (Designated Premises Supervisor) of the Marigold Tavern, 41 Crowland Road, Eye Green, Peterborough, which was made within the Premises Licence Application (123857).

Yours faithfully,

*Paul Hawkins*

PC2094 Paul Hawkins  
Police Licensing Officer  
Partnership & Operational Support  
Thorpewood Police Station  
Cambridgeshire Constabulary  
Peterborough  
PE3 6SD  
Email: [licensingnorth@cambs.police.uk](mailto:licensingnorth@cambs.police.uk)

**Licensing Act 2003 (Section 125) and (Personal Licences)  
Regulations 2005**

**PERSONAL LICENCE**

**Mr Bhakta Bahadur Bishwokarma**

Of

**█ Bedford Street  
Peterborough  
PE1 4DN**

**Personal Licence Number : 076891**

**Relevant and foreign offences:**

**Relevant Offences: Conviction Date: Sentence Imposed:**

**Foreign Offences: Conviction Date: Sentence Imposed:**

Resources  
Peterborough City Council, Town Hall  
Bridge Street, Peterborough, PE1 1FA

## FURTHER INFORMATION ON PERSONAL LICENCES

### 1. CHANGE OF NAME/ADDRESS

The holder of a Personal Licence has a duty to inform the Council (the Licensing Authority), as soon as is reasonably practicable, of any change of name or address as stated in the Personal Licence. The Personal Licence and the correct fee should accompany this (see PART 7 of the 'Guidance Notes For Applicants'). Any person failing to do this will be committing an offence.

### 2. CONVICTIONS

- 2.1 The holder of a Personal Licence has a duty to notify the Council of any convictions for relevant offence or comparable foreign offence as soon as reasonably practicable following conviction (see PART 6 of the 'Guidance Notes For Applicants'). Similarly the Courts are required to inform the Council of convictions, whether or not they have ordered the suspension or forfeiture of the licence. If a licence is suspended or declared forfeit, then the Council will contact the Personal Licence holder, requesting the licence. The Council will retain any licence declared forfeit. Allied to these provisions is the duty of a Personal Licence holder when charged with a relevant offence to either produce to the Court the Personal Licence or if that is not practicable notify the Court of the existence of the Personal Licence and the identity of the relevant licensing authority along with the reasons why he cannot produce the licence. This MUST be done no later than the time he makes his first appearance in a Magistrates' Court.

### 3. RECORDS

- 3.1 The Council will maintain accessible records of licences issued. It will also provide a service that will enable the police in any area and other licensing authorities to be advised of details on Personal Licence holders. A central database containing the details of all Personal Licence holders is likely to be developed in due course (the Secretary of State to detail).

### 4. SURRENDER OF LICENCE

- 4.1 A Personal Licence issued by Peterborough City Council may be surrendered upon notice to the Council, provided the notice is accompanied by the licence or if not practicable, a statement of the reasons for failing to provide the licence. The Personal Licence will lapse upon receipt of the notice of surrender by the authority.

### 5. THEFT, LOSS, ETC

- 5.1 In the event of a Personal Licence being lost, stolen, damaged or destroyed, Personal Licence holders can apply to the Council for a copy, provided it is the authority that issued the original licence. You must satisfy the Council that the licence has been lost, stolen, damaged or destroyed and that where lost or stolen, the holder has reported such to the police.

- 5.2 Applications for a replacement should also be accompanied by:

- i) the correct fee (see PART 7 of 'Guidance Notes For Applicants');
- ii) a photograph (endorsed as a true likeness by a person of professional standing e.g. solicitor, notary, teacher, lecturer or other professional person).