

NEW FOREST DISTRICT COUNCIL

LICENSING ACT 2003

APPLICATION: PERSONAL LICENCE: MR C FLITTER

**Decision of the Licensing Sub-Committee hearing held at Appletree Court,
Lyndhurst on Thursday, 11 November 2010 at 10.00 a.m.**

1. Members of the Licensing Sub-Committee

Councillor G C Beck - Chairman
Councillor W H Dow
Councillor J A G Hutchins

2. Parties and their Representatives attending the Hearing

Applicant did not attend
Objectors: Sgt. Tim Adams and Ms G Fice, Hampshire Constabulary.

3. Other Persons attending the Hearing

None

4. Parties not attending the Hearing

Applicant – Mr Flitter

5. Officers attending to assist the Sub-Committee

Tory Putnam – Legal Advisor
Jane Bateman - Clerk

6. Decision of the Sub-Committee

That the application for a personal licence be refused.

7. Adjournment

The Applicant, Mr Flitter had not confirmed his attendance and, in view of the adverse weather conditions, the Sub-Committee adjourned the hearing for 15 minutes. They re-convened at 10:20. Mr Flitter had not arrived. The Sub-Committee agreed that it was not in the public interest to adjourn the proceedings and agreed to hold the hearing in the party's absence. They took into consideration Mr Flitter's lack of communication and the fact that they considered that they had sufficient written evidence from him in the form of the application form to proceed.

NOTE: At 10:50, after the Sub-Committee had come to their decision and closed the hearing, Mr Flitter arrived. He was advised by the legal advisor, Ms Putnam, of the Sub-Committee's decision and of his right of appeal. Mr Flitter informed the legal advisor he had been told that the hearing was at 11:00 a.m. and he had never received the notice of hearing. Ms Putnam again reminded him of his right to appeal and agreed to send the hearing decision notice to him as a matter of urgency via recorded delivery.

8. Reasons for the Decision

The Licensing Sub-Committee carefully considered the written and oral evidence presented to it.

The Sub-Committee was mindful that it should adhere to the Guidance that accompanies the Licensing Act 2003 unless there are good reasons to deviate from it.

The Guidance (at paragraph 4.9) recommends that, where the police object to the granting of a personal licence, the application for the licence should normally be refused unless there are exceptional and compelling circumstances which justify granting it.

The offence committed by the Applicant was 'Fraud by Abuse of Position' under Section 4 of the Fraud Act 2006 which resulted in a Community Order Sentence and a requirement to pay compensation. The offence is current and unspent until August 2012.

The Sub-Committee was of the view that, taking account of the seriousness, relevance and recentness of the conviction, the Applicant's circumstances are not exceptional and compelling enough to justify granting the licence.

The Sub-Committee was satisfied that the grant of the Personal Licence to Mr Flitter given his previous unspent convictions would undermine the crime prevention objective of the Licensing Act 2003 and as such the Sub-Committee has therefore decided to refuse to grant the Personal Licence.

Date: 11 November 2010

Licensing Sub-Committee Chairman: Cllr G C Beck

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Decision notified to interested parties on 11 November 2010