

Report of the Assistant Director Corporate Services to a Hearing before the Bradford Area Licensing Panel to be held on 10 September 2009.

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Subject:

Application for a Personal Licence by Rafique Ali.

Summary statement:

Application for the grant of a personal licence authorising the applicant to sell alcohol.

Suzan Hemingway
Assistant Director Corporate Services (City
Solicitor)

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Portfolio:

Corporate

Improvement Committee Area:

**Corporate Improvement Committee
Safer and Stronger Communities**



2006-2007
Improving Rural Services
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



1. Summary

1.1 The applicant

Rafique Ali. A copy of the application is included at Appendix 1.

1.2 Application

The application is for the grant of a Personal Licence. The applicant resides in the Bradford Metropolitan District.

2. Relevant Representations Received

2.1 West Yorkshire Police

West Yorkshire Police made representations on the 11 August 2009 objecting to the grant of a Personal Licence to the applicant on the grounds of previous convictions, which they consider make the applicant unsuitable to receive a licence on crime prevention grounds. Also, the applicant did not disclose the convictions on the Disclosure Declaration form.

A copy of the letter of representation is attached at Appendix 2, and this contains details of these offences. In the interests of economy this document has been sent to Members of the Panel only.

3. Legal Appraisal

3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

3.2 The Council must also have regard to the guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. The statutory guidance recommends at paragraph 4 that:-

"where the police have objected...refusal of the application should be the normal course unless there are, in the opinion of the licensing authority, exceptional and compelling circumstances...However, where an applicant is able to demonstrate that the offence...took place so long ago and that he or she no longer has a propensity to re-offend, a licensing authority may consider that the individual circumstances of the case are so exceptional and compelling and any risk so diminished that it is right to grant the application".

3.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.

3.4 However, with regard to a valid application for a personal licence only the Police can object on the basis that a previous relevant conviction would compromise the crime prevention objective.

4. **Statement of Policy Issues**

4.1 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime and disorder).

5. **Legal Options**

5.1 Members may:

(a) Grant a personal licence as applied for in the light of stated exceptional circumstances; or

(b) Refuse a personal licence on the grounds that to do so would compromise the prevention of crime objective.

5.2 Should the applicant or West Yorkshire Police feel aggrieved at the decision with regard to the licence they may appeal to the Magistrates Court.

6. **Financial and resource appraisal**

6.1 There are no apparent finance or resource implications.

7. **Other implications**

7.1 **Equal Rights**

There are no apparent equal rights implications.

7.3 **Community safety implications**

Members may consider that there are issues relating to the responsibility of personal licensees with regard to dealings with the public.

7.4 **Human Rights Act**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

8. Not for publication documents

8.1 None

9. The Role of the Panel

9.1 Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application for a personal licence.

10. Appendices

1. Application form dated 20 July 2009.
2. Letter of representation from West Yorkshire Police. (In the interests of economy this document has been sent to Members of the Panel only.)

11. Background documents

Application form.
Legislation, guidance and regulations.

Licensing Team, Room 402, City Hall, Bradford, BD1 1HY

**Application for a Personal Licence
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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): Mr ~~Mrs~~ ~~Miss~~ ~~Ms~~ Other (please state)

Surname	ALI
Forenames	RAFIQUE

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	

I am 18 years old or over: Please tick Yes No

ADDRESS WHERE ORDINARILY RESIDENT (We will use this address to correspond with you unless you complete the separate correspondence box below).

HAREWOOD ST
BRADFORD

Post town BRADFORD Post code BD3

TELEPHONE NUMBERS

Daytime	
Evening	
Mobile	

FAX NUMBER

EMAIL ADDRESS (if you would prefer us to correspond with you by e-mail)

LICENSING UNIT

20 JUL 2009

30h
in
Safe

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

Post town

Post code

TELEPHONE NUMBERS

Daytime

Evening

Mobile

EMAIL ADDRESS (if you would prefer us to correspond with you by e-mail)

2. Your licensing qualification

Read Note 1

Please tick

✓

Please indicate below which one of these statements apply to you:

1. I hold an accredited licensing qualification

✓

2. I hold a certified qualification

3. I hold an equivalent qualification

4. I am a person of prescribed description

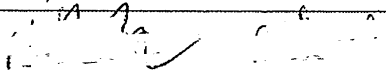
If you have ticked either of statements 1, 2 or 3, please provide details of your qualification in the box below (name of qualification, date of issue, issuing body) and please enclose your qualification with your application.

If you have ticked statement 4, please provide evidence that you are a person of prescribed description.

BIAB LEVEL 2
NATIONAL CERTIFICATE FOR PERSONAL LICENSE
HOLDERS
08/06/09
INN-DISPENSIBLE

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	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
✓		
• 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.		✓
• enclosed any licensing qualification I hold or proof that I am a person of prescribed description		✓
• 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 Intelligence Service		✓
• enclosed a completed disclosure of criminal convictions and declaration form (schedule 3)		✓
• made or enclosed payment of the fee for the application		✓

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	20/07/09

NOTES

Information on the Licensing Act 2003 is available on the website of the Department of Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment/default.htm) or from Bradford Metropolitan District Council (<http://www.bradford.gov.uk/council/licensing>), your local licensing authority.

1. Licensing qualifications

Licensing qualification are dealt with in section 120(8) and (9) of the Licensing Act 2003.

Licensing Team, Room 402, City Hall, Bradford, BD1 1HY

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): <input checked="" type="radio"/> Mr <input type="radio"/> Mrs <input type="radio"/> Miss <input type="radio"/> Ms <input type="radio"/> Other (please state)	
Surname	ALI
Forenames	RAFIQUE
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? If yes, please provide details below:	Yes	No ✓
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	No ✓
If you have been convicted of any relevant offence 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:		

If you have been convicted of any relevant foreign offence 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:

4. Declaration

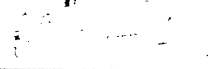
I declare that I have not been convicted of any relevant offence or any foreign offence.

Signature		Date	20/07/09
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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	20/07/09
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NOTES

Information on the Licensing Act 2003 is available on the website of the Department of Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment) or from Bradford Metropolitan District Council (<http://www.bradford.gov.uk/council/licensing>), your local licensing authority.

1. Relevant or foreign offences

Relevant offences are the offences listed in Schedule 4 of the Licensing Act 2003. The meaning of foreign offences 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 paragraph 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).