

The Highland Licensing Board

Meeting – 26 November 2024

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| Agenda Item | 8.2 |
| Report No | HLB/112/24 |

Application for personal licence – Andrea Montanaro

Report by the Clerk to the Licensing Board

Summary

This report invites the Board to hold a hearing to consider and determine an application for a personal licence under Section 72 of the Licensing (Scotland) Act 2005 (the Act).

1. Background

- 1.1 A personal licence is required to allow any individual to supervise or authorise the sale of alcohol.
- 1.2 On 19 September 2024, an application for a personal licence was received from Andrea Montanaro.
- 1.3 Under section 73 of the Act, Police Scotland have timeously given notice confirming that the applicant has a conviction for a relevant offence. A copy of the notice received from Police Scotland dated 16 October 2024 is attached (**Appendix 1**).
- 1.4 Police Scotland have included in their notice a recommendation under section 73(4) that the personal licence application be refused.

They have included additional information under section 73(5) which they consider may be relevant to consideration by the Board of the application.
- 1.5 Under section 73A of the Act, the Licensing Standards Officer (“LSO”) has also been given notice of the application and has offered no further information which he considers relevant to the consideration by the Board of the application.
- 1.6 The applicant is entitled to be heard and has been invited to attend the hearing along with Police Scotland.

2. Legal position

- 2.1 Section 74(6) of the Act requires that at the hearing the Board must refuse the application if, after having had regard to the Police Scotland notice, any information provided by Police Scotland under section 73(5) and any information provided by the LSO under section 73A(2), the Board is satisfied that a ground of refusal applies. If not so satisfied, the Board must grant the application.

2.2 The grounds of refusal are-

- (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,
- (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

2.3 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

Recommendation

The Board is invited to determine the application as follows:-

- (a) If, having had regard to the Police Scotland notice, any information provided under section 73(5) or 73A(2) and any submissions made by the applicant and/or the Police Scotland representative at the hearing, the Board is satisfied that a ground of refusal applies, the Board must refuse the application.
- (b) If the Board is not so satisfied, the Board must grant the application.

Ref.: HC/CSR/9280

Author: G Sutherland

Date: 31 October 2024

Appendices: Appendix 1 - Letter from Police Scotland dated 16 October 2024

16/10/2024

Your Ref: FS648364038

Our Ref: 865014

Highland Council
Licensing Office
Council Headquarters
Glenurquhart Road
Inverness
IV3 5NX



Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

FOR THE ATTENTION OF Claire McArthur

Dear Madam,

LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A PERSONAL LICENCE. ANDREA MONTANARO, 22/03/1990. 5 SELLAR PLACE, CONON BRIDGE, IV7 8BU.

I refer to the above application.

In terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005 (the 2005 Act) I give notice that, based upon the information provided and as far as the Chief Constable is aware, the applicant has been convicted of the following relevant offence which was declared by the applicant in the application form.

| Date | Court | Crime/Offence | Disposal |
|------------|-------------------------|---|--|
| 11/04/2024 | Inverness Sheriff Court | Section 1 Domestic Abuse (Scotland) Act 2018 Aggravation – Domestic Abuse | Plea of guilty. Community payback order with 100 hours unpaid work to be completed within 1 year. |

I am unable to confirm the existence of any foreign offence in respect of the applicant.

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In terms of Section 73(5) of the 2005 Act the Chief Constable provides the following information in relation to the applicant which is relevant to the Board's consideration of the application: -

The applicant was in a relationship with the victim mentioned below from around 2014 to 2022.

On the 12th of June 2022 police were contacted by a third party to report concerns for the victim due to their view that the applicant was domestically abusing the victim.

Police attended to speak with the victim.

The victim provided an account of controlling and coercive behaviour, psychological harm, emotional abuse and physical abuse by the applicant over a period of years.

Much of this behaviour was observed by various friends, family and colleagues of the victim.

Whilst police were speaking with the victim, they observed the applicant repeatedly call and message the victim to an excessive extent. Police eventually answered a phone call to tell him to desist where he became hostile with Police and demanded to speak with the victim.

The applicant was advised that Police would require to speak to him however the applicant was not cooperative.

Extensive enquiry was conducted, and a report was submitted to the Procurator Fiscal for consideration of prosecution thereafter.

On the 4th of March 2024, at Inverness Sheriff Court, the applicant pled guilty to Section 1 Domestic Abuse (Scotland) Act 2018 offence and, on the 11th of April 2024, received a community payback order of 100 hours unpaid work to be completed within 1 year.

Section 1 Domestic Abuse (Scotland) Act 2018 is defined as abusive behaviour towards a partner or ex-partner and the offence is committed when a person engages in a course of behaviour which is abusive of the partner or ex-partner.

In light of the above, the Chief Constable considers that it is necessary for the purposes of the preventing crime and disorder and securing public safety licensing objectives, that the application be refused. The Chief Constable accordingly makes a recommendation to that effect in terms of section 73(4) of the 2005 Act.

Yours faithfully

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Chief Superintendent Rob Shepherd
Divisional Commander

For enquiries, please contact the Licensing Department on 01463 720817.