

Supplementary Papers for Licensing Sub-Committee

Date: Tuesday, 25 June 2024



6. **Westover Express, 45 Westover Road, Bournemouth**

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Please see enclosed supplementary information from the applicant.

Published: 24 June 2024

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**WESTOVER EXPRESS
45 WESTOVER ROAD, BOURNEMOUTH**

APPLICANT'S RESPONSE TO REPRESENTATIONS

Introduction

My apologies for the late submission of this – the supplementary evidence from Trading Standards was only received late on Friday morning and that from the Police on Friday afternoon. There are no representations from any other body.

In essence, the issues are that Trading Standards contend that they “do not have faith that the operator (the applicant) can uphold the Licensing Objective of the Prevention of Crime and Disorder and object to the application submitted” and that the Police contend (in effect) that the specific location of the Premises is such that “the addition of a further outlet in an area known for youth-related crime will further exacerbate the issues that (they) are working hard to reduce alongside (their) partners.

Trading Standards

The evidence produced by Trading Standards is being kept out of the Public Domain and for that reason, there is a separate response to their evidence.

However, the basis of their case is in effect that the applicant is not a fit and proper person to hold a licence.

As Sgt Gosling (correctly) asserts in his Supplementary Information, “there is currently no “fit and proper “ test within the Licensing Act 2003 which would offer any opportunity for (the police) to invite an assessment of the operator based on their delivery of alcohol provision and other unlicensed activities at other outlets associated with them”.

Further, Para 9.12 of the Guidance asserts “The police should usually therefore be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective.”

On an application for the grant of a new licence, the police (and only the police) can object to the designation of the DPS but only if “due to exceptional circumstances of the case, (the police are) satisfied that the designation of the person concerned as the premises supervisor under the licence would undermine the crime prevention objective” (s.18(9) Licensing Act 2003.

The Guidance goes on to make it clear that any responsible authority may make representations regarding any of the licensing objectives but the grounds upon which Trading Standards object, there is a preliminary issue (quite aside from the evidence) as to the relevance of the evidence and representation that has been submitted and our contention is simply that the sub-committee should not attach any

weight at all to this representation and that to do so and refuse the application on this basis would be wrong in law.

The Police evidence

There are a number of significant contradictions in the submissions made by the Police.

For example, PC Gryba states "Over the past year we have had reports from Westover Road of an increase in street drinkers, beggars, rough sleepers and shoplifters" whereas Sgt Gosling asserts (with reference the levels of crime and ASB over the last 12 months) "Through the effective use of Police resources and the support of our partners and the community, the level of reporting has reduced significantly".

The only statistical evidence that has been produced is that from the Community Safety Officer, Rukan Taki who asserts in his statement dated 17th June 2024 - "As a Team we have dealt with 31 incidents on this road from January 2024. These include twelve begging incidents, five anti-social behaviour incidents, five drug/alcohol incidents and three rough sleeping incidents." I have invited the police to disclose information regarding the level of such incidents in other parts of town, Old Christchurch Road in particular but have received no response.

I note that the number of alcohol or drug related incidents equates to an average over the period of but one a month with no information about the time(s) of day or days of the week upon which these occurred. This level of incidents ca hardly be described as high.

The police also assert that "Whilst there is no evidence to support a Cumulative Impact Zone, Dorset Police are concerned that the addition of a further outlet in an are known for youth-related crime will further exacerbate the issues that we are working hard to reduce alongside our partners."

Reference is also made to the YMCA Hostel in the context of the Statement of Licensing Policy which asserts "In cases where representations are made against applications for off sales of alcohol for premises that are..... near to alcohol addiction recovery activities or buildings held in hospital or clinic settings..... the Licensing Authority may not support such applications and may refuse dependant on the evidence presented to support the representations".

In the words of Sgt Gosling the YMCA Hostel "is used to accommodate individuals with complex needs and some of those needs are often associated with alcohol" - it is not dedicated to alcohol addiction recovery activities per se (and has not itself made any representation). No evidence has been specifically produced concerning what effect the grant of this application might have on the activities of hostel, not least given the number of other alcohol licensed premises in the locality.

There is (in the absence of a Cumulative Impact Policy) a presumption of grant unless those making representations produce evidence that one or more of the licensing objectives would be undermined.

As Sgt Gosling asserts with regard to the option of refusing the application, "Dorset Police continue to support the view that this option should always be a last resort for the Sub-Committee" but "remain of the view that this application, given its location and current conditions being offered should be granted cautiously and only where the Sub-Committee can be satisfied that the Premise Licence Holder can uphold the Licensing Objectives with the appropriate restrictions and conditions." The latter falls far short of an outright objection but seems to be an attempt to introduce a "fit and proper person test".

It is also to be noted that PC Gryba asserts that she is "strongly against a licence being given to Westover Express as it is in the best interest in the community to not have a licence there". This is again, with respect not the appropriate test which is whether the grant would (not could) undermine the licensing objective of crime and disorder.

Regarding the conditions, having reviewed the evidence, we propose the following additions/amendments to those set out in Sgt Gosling's additional submission:

"The premises shall not stock or supply any beer, cider or lager that are stronger than 6.3%" (this because it is the view of the applicant that street drinkers usually prefer to buy beers etc with a strength of over 7%).

"Amend the condition relating to undertaking a risk assessment with regard to the deployment of door staff after 23:00 hours (which makes no sense as the premises would only be licensed to open until 23:00!) to refer to 21:00.

Delete the condition that "Deliveries including alcohol will require appropriate ID at point of transfer" and replace with "No alcohol shall be sold by way of delivery from the premises but shall only be sold or supplied to customers attending the premises in person".

On that basis, we invite the sub-committee to grant the licence subject to the amended conditions.

Philip Day, Consultant Solicitor
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