

TROUVILLE HOTEL

RESPONSE TO REPRESENTATIONS

Introduction

This is (technically) an application for the grant of a new licence but in reality, an application to effectively re-instate a licence that lapsed following the insolvency of the previous licence holder.

The applicant (who is the freehold owner of the property) attempted to make an application to transfer the licence within the 28 day period allowed following the lapse of the licence in order to re-instate the same. Unfortunately, the application was made out of time because the applicant relied on the date upon which notification on Companies House appeared regarding the appointment of a liquidator, rather than the actual date of the appointment.

This meant that the previous licence could not be re-instated, hence the application for the grant of a “new” licence.

The application is for exactly the same premises licence as previously existed (particularly with regard to the plans) save that:

This application includes the provision of alcohol and late-night refreshment to residents and their bona fide guests 24 hours a day;
It allows the supply of alcohol from 10:00 on Sundays instead of noon;
Plays and Indoor Sporting events have been added so as to allow the occasional “Murder Mystery Night” (arguably a theatrical performance) and snooker and pool tournaments organised by some coach tour operators for the entertainment of their guests.

and

Includes a raft of conditions that were not attached to the previous licence.

The present application.

The lapsed licence appears to have been granted under the “conversion” and “grandfather rights” that applied in 2005 when the Licensing Act 2003 came into effect.

It has been the case that since at least 1964, residents of on-licensed premises were entitled to be supplied with alcohol 24 hours a day. For some reason, that “grandfather right” did not appear on what is now the lapsed licence.

Conversely, the lapsed licence was granted subject only to conditions that applied to the licences held back in 2005 and did not include the myriad of conditions that Licensing Authorities now expect to see.

The present application addresses both these issues – it includes both “modern conditions” and caters for hotel residents and their bona fide guests.

Representations received.

To both my surprise and that of the applicant, there have been a large number of representations but all from the same development of flats more or less opposite the application site. The site notices were posted on a Friday, the day after the application was made but by the Sunday, the Licensing Authority had received 3 representation and by the following Wednesday, over 20 and more had been received.

It would appear that there has been some sort of concerted campaign to solicit objections to the application.

There is of course nothing wrong about anyone making local people aware of a licensing application and encouraging them to make representations – as is their right.

However, it does seem to me that whatever may have been said to local residents may have been “less than the full truth and nothing but the truth” and may have been somewhat misleading.

Firstly, many of the representations refer to the Trouville “looking to extend their licensing hours”. This is simply not the case (save as to residents and their bona fide guests) as the application replicates the lapsed licence.

Secondly, there seems to have been a misunderstanding about the inclusion of “off-sales” of alcohol in the application. Some seem to have understood this to mean that alcohol would be sold in external areas of the hotel.

This is simply not the case – the plans (which are the same as on the lapsed licence) do not include any external areas and there are no such areas where alcohol may be sold or indeed consumed.

Further, it is standard practice to include “off-sales” in any premises licence that authorises the sale of alcohol for consumption on the premises (but not vice-versa!) – indeed, legislation introduced during the pandemic allows those relatively few on-licensed premises that did not have “off-sales” included on the licence to simply post notices on the premises to the effect that they would be making “off-sales” without even having to notify the Licensing Authority that they would be doing so. That legislation remains in force until at least 2025.

Many of the representations refer to noise and disturbance caused by patrons of other premises in the locality walking past their homes late at night. This, with respect is not a relevant consideration.

None of the representations include evidence of any incidents directly related to the Trouville both in respect of the period during which it was operating under the lapsed licence nor during the limited periods (26th to 30th May and 30th June to 7th July) under which it has been operating under Temporary Event Notices, pending the determination of this application.

Legal argument

There is (in the absence of any Cumulative Impact Policy) a presumption of grant of a new Premises Licence application.

Any objection to the grant needs to be supported by evidence that the grant of the licence would undermine one or more of the licensing objectives (please refer to the “Daniel Thwaites case”. Those making representations have not adduced any evidence to that effect.

The Licensing Authority should also take its lead from Responsible Authorities, none of whom have made any representations in this case regarding any of the licensing objectives.

It is of course also the case that if a licence is granted and the worst fears of residents turn out to be justified, they can always (and at not cost to themselves) seek a review of the licence which, ultimately, could lead to its revocation.

Conclusion

It remains something of a mystery as to why this application has attracted so many representations from residents of the same block of flats and it is of some concern to me that they may have been misled about the situation.

Those residents with genuine concerns will no doubt take the time and trouble to attend the hearing but in the meantime, I do invite them to engage with me and my clients in the hope that we can mediate this application and answer any concerns they might have.

Philip Day
Consultant Solicitor
Laceys Solicitors LLP
9 Poole Road
Bournemouth BH2 5QR
p.day@laceyssolicitors.so.uk
01202 377867

26th June 2024