

APPLICATION FOR THE GRANT OF A NEW PREMISES LICENCE

BOURNEMOUTH BARGAINS

214 – 216 OLD CHRISTCHURCH ROAD

SKELETON ARGUMENT FOR THE APPLICANT – NOT TO BE PUBLISHED

Introduction

In the light of the supplemental information provided by the police on 28th October we invite the sub-committee to approach this matter on the following basis:

The principle of granting a licence

The police did not originally object outright to the granting of a Licence but sought conditions as evidenced by the emails that have been produced.

The Applicant originally resisted the police requests for conditions but has now acceded to most of the same – the only issue remaining to be resolved was the deployment of SIA Supervisors and had the applicant accepted the police requests (which, to be fair have even now not been fully specified), it is entirely possible that the licence would have been granted without a hearing.

However;

In the additional submission from the Police (received only on 28th October), the police effectively raise the issue of “cumulative impact” for the first time.

The Police concede that they have no evidence that would justify the imposition of a cumulative impact policy but point to nothing more than a “hot spot map” highlighting anti-social behavior (but not incidents of crime and disorder which are alcohol related) and a rather vague statement from a Community Safety Accredited Officer which adds nothing to the case for the Police.

There is (in the absence of a Cumulative Impact Policy) a presumption in favour of the grant of a new licence and we query why it is that it is only at the 11th hour that the Police have sought to raise this as an issue?

We also note that the Police have this morning asserted that if the Sub-Committee is minded to grant a Licence, they would seek a condition that door supervision be provided every day of the year. This is manifestly excessive and we are not aware of any other off-licensed premises in the locality that has such an onerous condition.

We are therefore left with this:

The Police accept that there is no “fit and proper person test” (as there was some 20 years ago before the Licensing Act 2003 came into force).

They have not complied with the requirements of section 18 of the Licensing Act with regard to their objections to the designation of the proposed DPS and there is no evidence whatsoever that to grant a Premises Licence to this application site would undermine any of the licensing objectives.

It is also said that “the applicant will likely not promote the licensing objectives” but there is no evidence that establishes that as a fact. Indeed, the applicant company operates successfully a number of other off-licensed premises in Bournemouth.

There is no lawful basis upon which this application could be refused, That the s.182 Guidance asserts that the Licensing Authority should look to the Police as the main source of advice on crime and disorder is a very far cry from saying in effect that “if the police have a concern, we should simply refuse any application and do as they ask”.

Members will of course be aware and need hardly be reminded that if the operation of these premises as somewhere licensed to supply alcohol turns out to be undermining the licensing objectives, the licence can be reviewed, as indeed is the case in respect of any and other business operated by the applicant (but we note that there have been no such applications)

The fundamental basis of the Common Law applies and all are deemed “innocent until proven guilty”.

The “mere fact” that someone has been arrested proves nothing about their guilt or culpability (as we all know given recent examples).

Conclusion

It is perhaps obvious that the Police do not want this licence to be granted but they have changed their stance, raising “cumulative impact” at the last moment without ever having mentioned that in their original representation and are now effectively looking to apply a “fit and proper test” regarding both the applicant and the proposed DPS, seemingly ignoring statutory requirements

We therefore invite the sub-committee to grant the licence subject the agreed amendments and a reasonable and proportionate condition relating to the deployment of door-staff.

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