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Licensing Sub-Committee - 23/11/15

LICENSING SUB-COMMITTEE

Monday, 23rd November, 2015

Present:- Cllr Hambleton in the Chair

Councillors Eastwood, Hambleton and Winfield

1. APPLICATION FOR A PREMISE LICENCE - LAMB STORES

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Council's Statement of Licensing Policy and also the fact that representations had been received from Staffordshire Police, Trading Standards and a number of residents from the area on the basis that to grant the application would undermine the licensing objectives relating to crime and disorder, public nuisance and the protection of children from harm.

The Committee considered those licensing objectives in the light of what had been said and took into account that both Staffordshire Police and Trading Standards had entered into negotiations with the applicant and were both prepared to withdraw their objections to the granting of the premises licence on the basis of an agreement that had been reached regarding the imposition of the conditions referred to in the report.

With regard to the petition, the Committee considered that the proposed conditions submitted by both the Police and Trading Standards should be sufficient to meet the objections set out in the petition.

On the basis of such agreement and having considered the petition the Committee were persuaded that it would not offend the licensing objectives to grant the application subject to the agreed conditions.

The Committee were, therefore, disposed to grant the application and a Notice would be issued to that effect.

The conditions which the Committee were disposed to impose in addition to the relevant mandatory conditions and also conditions that were consistent with those listed by the applicant in the operating schedule were those conditions set out in Agenda Item 4 on pages 15 and 17 of the Agenda.

2. APPLICATION TO VARY A PREMISE LICENCE - THE ALBION

Having taken into account the Licensing Act 2003 and the guidance issued under Section 182 of the Act, the Council's Statement of Licensing Policy and also the fact that objections to the application have been received from both the Police and the Council on the basis that to grant the application would undermine the licensing objectives relating to the prevention of crime and disorder, the prevention of public nuisance and public safety.

The Committee have considered those licensing objectives in the light of what has been said and have listened to the arguments and are persuaded that having regard specifically to Guidance 13.29 and having heard the evidence of the Police referring to the information which had been before the Licensing Authority when it developed its Statement of Licensing Policy, the Committee consider that it may lawfully

consider giving effect to its Special Policy there has been no objections to this, the Committee then considered whether it would be justified in departing from its Special Policy in the light of individual circumstances.

In the light of evidence given the Committee are not however convinced that the proposals will warrant such a departure from its Policy.

The Policy states that where representations are received, applications for variations that are likely to add to the existing cumulative impact, including applications for later hours will normally be refused unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants need to clearly demonstrate in their operating schedule measured to address identified problems of drink related violence in the town centre and in particular will need to demonstrate measures to prevent binge drinking on the premises.

No such evidence appears in the premises operating schedule. The Committee were referred to the case of Portsmouth City Council v 3rd Entertainment Group (GC) Ltd and atmosphere bars and clubs and the judgement of the High Court on 18 February 2011. It was concluded that the Police did not have to provide hard evidence or to investigate the cumulative impact. The burden is on the applicant to persuade the Licensing Authority that its operating schedule was such that there would be no cumulative impact.

Further, in the Daniel Thwartes Case 2008 to which the Committee were referred, the Court made it very clear that the views of the Police concerning issues of Crime and Disorder should weigh heavily.

The applicant gave evidence that the Committee should more importantly give consideration to how the premises had been operated since it had been taken over by the current licensees in July 2014.

The Police in turn gave evidence of a number of incidents that had occurred in and around the premises between 28 September 2014 and 1 November 2015 half of which had occurred during later hours whilst TEN's were in operation. It was, however, accepted that this was only a proportion of cases where TEN's had been applied for. The Committee however took a serious view of the fact that a Mr Banks who the Committee were advised still has controlling influence in the premises, was convicted of assaulting a male customer whilst acting as a Doorman at the premises. The Police also gave evidence to the effect that the premises were in breach of Licence conditions relating to CCTV, Pubwatch and failure to use the radio.

The applicant referred to statistics which implied that crime and disorder had actually reduced in the vicinity of the premises but the Committee took the view that this was as a result of its Special Policy.

The Committee were also concerned as secondary issues about the possibility of migration of people from neighbouring areas if the Licence were granted and also the Police ability to Police the area in such circumstances to promote the objective. The Committee were not convinced that the application could be beneficially approved by the imposition of these conditions so as to promote the Licencing objectives.

Having taken the information into account, all the evidence given and the Authorities referred to the Committee are disposed to refuse the application and a Notice will be issued to that effect.

Chair

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