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LICENSING ACT 2003

Decisions & Reasons of Tamworth Borough Council
Licensing Committee Hearing on 24th January 2013

Application for to Vary a Premises Licence under the Licensing Act
2003

Olivers, 19 Lower Gungate, Tamworth, Staffordshire, B79 7AT

Councillors

- Councillor Allan Lunn (Chair)
Councillor Margaret Clarke
Councillor Tina Clements
Councillor Chris Cooke
Councillor Ken Gant
Councillor John Garner
Councillor Gary Hirons
Councillor Mathew McDermid
Councillor Ken Norchi
Councillor Steven Pritchard
Councillor Peter Seekings

Apologies from Councillor Stephen Doyle

Interest declared by Councillor Daniel Cook

Democratic Services Advisor

Linda Street

Legal Advisor to -Committee

Santokh Gill

DECISION

The Committee proceeded to hear the application to vary the premises licence following the receipt of representations made by Staffordshire Police on the grounds of crime and disorder, public nuisance and public safety, to parts of the variation application.

The Police objected to:

- The proposed extension of hours the premises are open to the public;
- The proposed extension to the hours for films;

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- The proposed extension to the hours for indoor sporting events;
- The proposed extension to the hours for anything of a similar description to live music, recorded music and performances of dance;
- The proposed extension to the hours for the provision of late night refreshment; and
- The proposed extension to the hours for the supply of alcohol.

No objection was made by the Police to the proposed changes in layout and the removal of conditions 1a to 1h from annex 2 of the premises licence.

The Committee decision is as follows:

The application from Mr David Oliver, dated 28th November 2012, for a variation of a premises licence under the Licensing Act 2003 in respect of Olivers, 19 Lower Gungate, Tamworth, Staffordshire, B79 7AT, has been considered on its own merits. The Committee have carefully considered all of the facts presented. The proposed changes in layout are granted. The removal of conditions 1a to 1h from annex 2 of the premises licence is granted.

We note the concerns of the Police and feel there is sufficient evidence under the crime and disorder, public nuisance and public safety licensing objectives to reject the proposed extension of hours for licensable activities and the extension to the hours the premises are open to the public. For this reason the Committee is rejecting all parts of the application relating to increasing hours for licensable activities and hours the premises are open to the public with the exception of proposed changes to the non-standard timings. The changes to the non-standard timings are granted.

REASONS

The Licensing Committee has carefully considered all oral and written representations and submissions made by all parties.

As only the Police have made relevant representations the Committee have particularly considered paragraph 9.12 of the Section 182 Guidance along with the other paragraphs cited by all parties.

We accept that the Police are a very important and essential source of advice and information on the impact and potential impact of licensable activities, particularly crime and disorder. We felt that the Police have acted fairly and reasonably. We had no reason not to accept what the Police (which included the Chief Inspector) have said. The submissions and evidence that was produced was reasonable and proportionate. Indeed the applicant accepted the summary of the police summary of logs. These included incidents of violence and drugs.

It was very disappointing that the applicant failed to answer all questions correctly. He made it clear to members at the beginning that his premises did not offer any promotions or special offers as regards alcohol. It then transpired that he did. It eventually got the applicant to accept that he had misled the committee, but as a result of this the committee were uncertain as to what other submissions made were in fact true or not.

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The applicant's premises are in an area where the Special Cumulative Impact policy applies. Accordingly, the committee are aware that there will be a presumption of refusal unless the applicant can demonstrate in his operating schedule, that there will be no negative cumulative impact on one or more of the licensing objectives.

The applicant's representative gave an explanation for the lack of any contents in the operating schedule. However, the committee still allowed submissions to be made orally for the applicant to demonstrate that there will be no negative cumulative impact.

After allowing generous time and questions between all parties the committee decided that the applicant had failed to demonstrate that there will be no negative cumulative impact should the hours be extended.

The Committee considered each other option that they could have taken including adding more stringent conditions and the hours for the supply of alcohol. The committee were unanimous in deciding that it was not appropriate to grant the extension of hours but allowed the variation on the amended layout and the non standard hours.

Dated 29th January 2013

Signed
Designation Andrew Barrall
(Director - Assets and Environment)

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