

THURSDAY 19 DECEMBER 2013

**REPORT OF THE DIRECTOR
ASSETS & ENVIRONMENT**

**CONSIDERATION OF AN APPLICATION FOR GRANT OF A NEW PREMISES LICENCE
10 CHURCH STREET TAMWORTH B79 7DH UNDER THE LICENSING ACT 2003**

EXEMPT INFORMATION

Not applicable

PURPOSE

To consider the grant of an application for a premises licence in respect of 10 Church Street Tamworth Staffordshire B79 7DH.

RECOMMENDATIONS

If the representations have not been withdrawn, the Committee must take any of the following steps it considers appropriate for the promotion of the licensing objectives:

- Grant the application in accordance with the original request;
- Modify the conditions of the licence. Conditions of the licence are modified if any of them is altered or omitted or any new condition is added. Conditions can only be placed on the licence if they are appropriate to promote the licensing objectives;
- Reject the whole or part of the application.

EXECUTIVE SUMMARY

On 5 November 2013 an application was received by the Licensing Section in Assets and Environment for a new premises licence in respect of 10 Church Street Tamworth. The description of the premises given in the application form is of a general convenience store with off licence. Following the required 28 day consultation period, representations have been received from Staffordshire Police and Trading Standards Officers of Staffordshire County Council. This application has not been granted under officers' delegated powers because representations have been received from two responsible authorities. As a consequence the matter must be considered by a Licensing Sub Committee at a hearing.

RESOURCE IMPLICATIONS

If the decision of the Licensing Committee is appealed there will be a cost implication.

LEGAL/RISK IMPLICATIONS BACKGROUND

The following parties are entitled to appeal against the decision of the Licensing Sub Committee

- The applicant for the premises licence
- Staffordshire Police and Staffordshire County Council Trading Standards Section who have made representations.

Although there is no reference in the statute, the appeal to the Magistrates' Court is a complete rehearing.

SUSTAINABILITY IMPLICATIONS

The effective regulation of licensing activities contributes to the strategic priority of being healthier and safer in Tamworth

CONCLUSIONS

The Committee is obliged to determine this application with a view to promoting the four licensing objectives which are:

- The prevention of crime and disorder;
- The prevention of public nuisance (odour, noise, litter, light pollution);
- Public safety; and
- The protection of children from harm.

However, the committee should focus on those steps needed to promote the particular licensing objectives which have given rise to the representations, namely:

- The prevention of crime and disorder;
- Public safety.
- The protection of children from harm

BACKGROUND INFORMATION

The location of the premises is shown shaded in grey on the location plan at **Appendix 1**. On the 5 November 2013 Tamworth Borough Council received an application for the grant of a premises licence which was accepted as being duly made. A copy of the application is given at **Appendix 2**. Page 5 of the application form gives the description of the proposed premises as being a general convenience store with off licence.

The application has been made by Mr Sokhi S.Paul. Mr Paul who holds a personal licence issued by Birmingham City Council has also specified in the application that he will be the designated premises supervisor.

The application seeks to provide licensable activities selling alcohol for consumption off the premises at the following times:

Sunday – Saturday 0700 hours - 23:00 hours.

The hours that the premises are open to the public are as stated above.

Steps to Promote Licensing Objectives

The applicant has detailed on pages 22, lower part of page 27 and page 28 of the application form any additional steps they intend to take in order to promote the four licensing objectives if the application is granted.

Members of the Licensing Sub Committee should be aware that the premises at 10 Church Street was first granted a premises licence on 2 August 2011. The business was known as Bargain Booze.

Staffordshire County Council Trading Standards Officers made a visit to the premises on 23 November 2011, when illicit and non duty paid counterfeit alcohol was seized.

On the 5th July 2012 an application for Review of the premises licence was made by Staffordshire County Council Trading Standards to the Licensing Authority. The grounds for review were that the premises licence holder was not promoting the statutory licensing objective of the prevention of crime and disorder. The Staffordshire Police also submitted a relevant representation within the 28 day consultation period following the application for review.

The matter was considered by a Licensing Sub Committee hearing on 23 August 2012. The decision of the Licensing Sub Committee was to revoke the premises licence.

The premises licence holder appealed against this decision to the magistrate's court. However, the appeal was subsequently withdrawn and the appellant agreed to pay all of the Council's costs incurred during the appeal period.

Responsible Authorities

Ordinarily, if no representations to an application for a premises licence are received the licensing authority is required to issue the premises licence as requested by the applicant.

On this occasion, relevant representations were received from Staffordshire Police and Trading Standards Officers of Staffordshire County Council.

Consequently, the decision whether or not to grant the premises licence has not been made under Officer's delegated powers because the Licensing Act requires that the decision must be made at a licensing hearing.

A copy of the Police representation is given in **Appendix 3**. The grounds for the police representation are that the application for this premises licence undermines following licensing objectives:

- the prevention of crime and disorder;
- public safety; and
- protection of children from harm

In their representation, Staffordshire Police state that the previous premises licence was revoked on 23 August 2012 as Trading Standards found illicit, non duty paid counterfeit bottles of alcohol at the premise. Staffordshire Police believe the applicant's daughter was connected and worked at the premise at the time the review document was served on this family run business.

Staffordshire Police also believe that the applicant's daughter is married to the person who had been the designated premises supervisor of the business known as Bargain Booze.

Staffordshire County Council Trading Standards representation is given at **Appendix 4**. Trading Standards believe that granting the licence would undermine the Prevention of Crime and Disorder licensing objective. Their representations are in

support of the concerns raised by Staffordshire Police.

The Staffordshire Police and Trading Standards officers have been discussing their concerns with the applicant with a view to reaching an agreement. The applicant may make changes to their operating schedule. However at the time of writing this report, we are not aware of any changes having been agreed between the parties concerned.

The need for a hearing can only be dispensed with by the agreement of the licensing authority, applicant and all of the parties who made relevant representations. However, the regulations require that representations must be withdrawn 24 hours before the first day of the hearing. If they are withdrawn after this time the hearing must proceed.

The licensing committee must consider the application, confining its deliberations to the crime prevention, public safety and protection of children from harm objectives, and determine which of the following steps to take in relation to the premises licence:

- Grant the licence in accordance with Mr Paul's original request;
- Modify the conditions of the licence (including the times licensable activities are permitted,). Conditions of the licence are modified if any of them is altered or omitted or any new condition is added. Conditions can only be placed on the licence if they are appropriate to promote the licensing objectives;
- Reject the whole or part of the application.

In making its decision with a view to promoting the licensing objectives in the overall interests of the local community, the Committee is required to give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives;
- The representations and any additional supporting information provided by Staffordshire Police and Staffordshire County Council Trading Standards;
- The National Guidance; and
- The Council's own licensing policy.

Local Policy Consideration

A copy of the Licensing Authority's statement of Licensing Policy can be found in **Appendix 5**. Please refer to **Appendix 6** of this report for a list of paragraphs within the Licensing Policy that are considered relevant to this application.

National Guidance

A copy of the Home Office Amended Guidance Issued under Section 182 of the Licensing Act 2003 (June 2013) can be found in **Appendix 7**.

Please refer to **Appendix 8** of this report for a list of paragraphs within the Home Office Guidance that are considered relevant to this application.

Home Office Guidance now gives greater weight to Police representations. Paragraph 9.12 states:

"In their role as a responsible authority, the Police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The Police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The Police should be the licensing authority's main source of

advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.”

The licensing authority must deviate from the national guidance and Tamworth Borough Council’s own licensing policy if the facts of the case demand it in the interests of the promotion of the licensing objectives. If the committee does depart from the guidance and Tamworth Borough Council’s policy it must be able to provide full reasons.

In making its decision, the Committee must consider the Licensing Authority’s own licensing policy and have regard to national guidance. In particular, the Committee should have due regard to paragraph 3.1 of the Statement of Licensing Policy and paragraph 1.17 of the Home Office Guidance which state that each application must be considered on its own merits.

Right of Appeal

There is a right of appeal against the decision made by this Licensing Sub Committee. The Sub Committee is therefore expected to record in full the reasons for any decision that it makes.

An appeal against the Licensing Sub Committee’s decision may be made by:

- Mr Sokhi S. Paul (the applicant for the premises licence);
- Staffordshire Police and Staffordshire County Council Trading Standards Section who have made representations

Any such appeal must be made to the Magistrates’ court within 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

The determination made by the committee does not have effect until the end of the 21 day appeal period, or if the decision is appealed against, until the appeal is disposed of.

REPORT AUTHOR

“If Members would like further information or clarification prior to the meeting please contact Colin John Environmental Health Officer Telephone: 01827 709429.”
Email: colin-john@tamworth.gov.uk

LIST OF BACKGROUND PAPERS

- Report of Director Assets and Environment to Licensing Sub Committee on 23rd August 2012 – Consideration of the Application for Review of a Premises Licence in respect of Bargain Booze 10 Church Street Tamworth Staffordshire B79 7DH under the Licensing Act 2003.
- Tamworth Borough Council Licensing Policy, 2011-2014 (**Appendix 5**)
- Home Office Guidance June 2012 – Amended Guidance Issued Under Section 182 of the Licensing Act 2003 (**Appendix 7**)

APPENDICES

Appendix 1	Location plan
Appendix 2	Application form
Appendix 3	Staffordshire Police representation
Appendix 4	Staffordshire County Council Trading Standards representation
Appendix 5	Local policy guidance (full document)
Appendix 6	Local policy guidance summary table
Appendix 7	National policy guidance document (full document)
Appendix 8	National policy guidance summary table

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