

Merton Council
Licensing Sub-Committee
29 November 2018
Supplementary Agenda

6 Additional statement and amendments from Applicant

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APPLICANTS STATEMENT FURTHER TO RECEIPT OF REPRESENTATIONS.

Compliance Direct Ltd, being the Authorised Agents for the applicant, Mr Jyothis Joseph, serving this statement to support this application.

A new Premises Licence application for OFF sales at 37-39 Upper Green East, CR4 2PF was submitted to the Licensing Authority in October 2018. This application was advertised in the local newspaper and advertised on site for 28 days as per regulations and to the satisfaction of the Licensing Authority.

During the period of this consultation, objections have been received for this application from 2 responsible Authorities and 4 other persons.

Representation by Metropolitan Police: Pages 23-26 (Agenda papers)

The police objection is based on all 4 licensing objectives and further sighting the CIZ (Cumulative Impact Zone) and recent history and the events leading up to the surrender of the previous Premises Licence.

As to the history at the premises and events leading up to the surrender of the premises, we would like to say the following;

This application by Mr Joseph has no bearing as to how the previous licence holder/DPS operated or managed this premises. The Licensing Act 2003 and the Guidance states that the application must be determined on the merits of each individual application and matters outside the applicants' control cannot be reasonably taken as relevant for determination.

The representation further gives details of 14 incidents, page 28, 8 of which are since these premises have stopped selling alcohol.

Mr Joseph, a personal licence holder and the proposed DPS at the premises is keen to demonstrate that his premises will operate in a manner that would not add to the existing problems at the Town Centre and thus will not impact on the CIZ. To this effect, we now amend the application and add conditions as follows;

1. The opening hours for sale of alcohol will be 0800 to 2300 every day of the week
2. The premises will be open for public between the hours of 0800 and 2300.
3. The layout of the premises will be changed so that all alcohol, save for Wines, will be behind Counter (no self-service for spirits and beers).
4. Beers/Lagers will be restricted to a maximum 5-5% ABV
5. Beers/lagers will only be sold in packs of 4.
6. Stout/Guinness will only be sold in crates (24 in a pack)
7. Clear Notices will be displayed to inform as to no sale of alcohol to known street drinkers
8. All items of alcohol sold will be marked with an identifier specific to this premises.

The above additional conditions along with those suggested as part of the application will provide the necessary and adequate measures not only to promote the licensing objectives but also to address the CIZ by not adding to the existing issues.

The CIZ, requires that applicant to demonstrate that the grant of the licence will not impact adversely on the licensing objectives thus exacerbate the existing problems. It is our position that above additional conditions, especially with the addition of condition 3, which is an extremely restrictive condition that allows us to make better judgement as to who is purchasing the alcohol.

The Statutory Guidance is clear that the requirements for determining applications for New licenses are the same in areas with CIZ as they are elsewhere. Cumulative Impact Assessments (CIA) cannot impose quotas based either the number of premises or capacity as this will have the effect of predetermination of outcome.

The Council's Licensing Policy deals with licensing hours in section 13. The Statutory Guidance in section 14.52 states; Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The Council's policy is clear that no such opening hours are set and each application will be determined in its own merits.

Further, the Council's CIA was introduced prior to the Policing and Crime Act 2017, which came into effect on 6 April 2018. This CIA was covered by the previous Guidance issued on April 2017. It is our view that whilst the 2018 Guidance is relevant for all aspects of this application, for the CIA the correct guidance would be the one issued in April 2017. Paragraph 14.30 of the April 2017 Guidance states that an application will normally be refused following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Other Representations: pages 27-39

Most of the representations from "Other Persons" appears to have an impression that a CIZ gives the Licensing Authority blanket powers to refuse to grant any further off licences in this area. This perception is incorrect and it is the duty of the Licensing Authority to discharge its duties in accordance with its policy and the Guidance issued by the Secretary of State.

SUMMARY

We believe these amendments along with the experienced DPS/Licensee the operation at the premises will not have any adverse impact on the CIZ, and on this basis we invite the Sub-Committee to grant this application in line with the Guidance and Council's Policy.