

From: Reba Danson [REDACTED]
Sent: 19 February 2020 21:58

Appendix M

To: [REDACTED]
Subject: Premises Licence Application Representation

Dear Tracey,

Please forgive that I have emailed this directly to you, but having searched the Spelthorne Council website I don't recognise the names or departments any more and it seemed inappropriate to send it straight to Michael Graham or Lee O'Neil. I thought you would prefer me to send it to you and then you can forward it to the appropriate person, if you don't mind please.

Dear Sir/Madam,

Following receipt of the attached representation received yesterday, on the last day of the consultation period, I have taken advice and am writing to ask that the representation be reviewed by the Head of Governance/Legal in order to ascertain that it meets the definition of a 'relevant representation' under the terms of the Licensing Act 2003.

With the greatest respect to the officer(s) concerned, having studied the representation in detail, I wish to challenge the validity/relevance of the representation on the following grounds:

1) **Prejudice**

The representation states at page 1 para 2:

*The Licensing Department spoke to **Gurhan Cetin on the telephone at 17.02pm on 14 January 2020** and advised that the licence application he made (form is dated 19.10.2019) was void because the statutory requirements to advertise in the local newspaper have not been complied with. **He was advised he needs to submit a new application form and pay again.** He was advised to remove all alcohol from display and that he was not allowed to sell alcohol. **He was also advised that if they submit a new application then we would be submitting a representation.***

This statement does not accord with the spirit of the Licensing Act 2003 and appears to be prejudiced in relation to the submission of this representation against an application made by someone other than Mr Gurhan Cetin. There is the clear implication that the Licensing Officer had decided on 14 January 2020 that a representation would be submitted regardless of any actions taken by the applicant or indeed who the applicant was.

2) Grounds for representation as of 14 January 2020.

At the time of making the above statement, 17:02 on 14 January 2020, the only errors made by the applicant's consultant (at the time) were to fail to follow the proper procedure prescribed in the Licensing Act 2003.

At this point no offences had been committed – other than the unlicensed sale of alcohol from 3 January 2020 due to the Licensing Team prematurely confirming by telephone, on 3 January 2020, that no representations had been received, and therefore the licence was granted – so it is unclear why any representations would be perceived as necessary at that time.

The statement confirms that the applicant needed to submit a new application, but then goes on to threaten the applicant with representations if he does submit a new application.

Surely, in such cases, the purpose of the Licensing Authority is to notify the applicant of the need to submit a new application and then provide advice, if necessary, to enable them to properly comply with the prescribed process? In any event, Mr Gurhan Cetin has not submitted a further application and the application this representation has been made against is by a different applicant entirely. The owner of the company.

3) Crime and Disorder

The Section 182 Guidance makes clear at Section 2.1 that 'Licensing authorities should look to the police as the main source of advice on crime and disorder.'

Having consulted the Surrey Police Licensing Officer, Jacquie Clark, I am advised that the Police are entirely satisfied that every necessary or appropriate measure that could be taken has already been volunteered by the applicant and formalised within the licence application.

The Police Licensing Officer went on to confirm that the submission of a representation by the Police on the grounds of preventing crime and disorder would be deemed to be disproportionate, given that no further measures could be requested that are not already proposed on the licence application.

The Police Licensing Officer stated that the view of Surrey Police is that a hearing could not be justified and would amount to a waste of everybody's time and the taxpayers' money as the applicant had taken every action possible to rectify the mistakes made and prevent further offences being committed.

4) Negotiation and co-operation with the authorities

During the consultation period, on 31 January 2020 and again on 10 February 2020 the Licensing Team were contacted by email and conditions were proposed to ensure the highest level of compliance with the provisions of the Licensing Act 2003.

On both occasions I asked for some guidance on any further measures that might be considered appropriate or necessary that could provide further reassurance to the Licensing Authority.

After the second time of enquiring, the response received from the Licensing Team was:

"I did not state that I would let you know what further measures Licensing or Surrey Police would consider necessary for the restaurant to be operated to the level of compliance required. It is for the applicant to say how they are going to promote the licensing objectives in all licensing applications."

It is true that the applicant is expected to propose their own operating schedule; however, the Licensing Officer had previously advised me that she wished to see Mr Mulayim prohibited from any involvement with the premises and a further condition requiring a personal licence holder to be present at all times the premises was open or conducting licensable activities, which we had happily accommodated by proposing additional conditions in the email itself.

I was disappointed that this email made clear that negotiation and discussion was no longer an option, as I had expected to use the remainder of the consultation period to co-operate with the authorities to achieve a satisfactory outcome.

After all, the Section 182 Guidance makes clear that the consultation period is an opportunity to resolve issues and achieve a satisfactory level of compliance, which is how we have worked with the Surrey Police to achieve a co-operative outcome with a satisfactory level of compliance.

5) Removal of Manager

Mr Mulayim, the individual responsible for selling alcohol after being advised that a licence was not in force, was present at the meeting on 15 January 2020 and Mr Sadettin Guler, the current applicant, believed that the instruction from Police and Licensing Officers needed no further endorsement as he had heard the instruction first hand during the meeting.

Having ignored the warnings and committed offences after the meeting, Mr Mulayim has been removed entirely from having any involvement in the business. This was confirmed to the Licensing Team by email on 31 January 2020, as soon as full information about his actions became clear.

Taking into account the above factors, and of course with the greatest respect for the Licensing Team who work hard to execute the Council's duties under the Licensing Act 2003, I would like to ask for the representation to be reviewed by the Head of Governance/Legal in order to ascertain that the representation is relevant under the circumstances specifically relating to this application.

As you will know from my time in Staines, I am the greatest advocate of the hearing process and I fully appreciate that where relevant representations are lodged, a hearing is the necessary course of action. However, an unnecessary hearing will have a serious financial impact upon the Mr Guler's business and, having already invested more than £150,000 in bringing his business to Staines and renovating a historic building dating from around 1700s, I believe the appropriate course of action is to formally ask for the relevance of this representation to be re-considered.

I thank you for taking the time to action this request and look forward to hearing from you in due course.

In the meantime, I will continue to prepare for a hearing and I will submit a comprehensive document containing pre-hearing information for the benefit of the Sub-Committee, to be included in the Committee report, in the next few days.

I would be grateful if someone could please email me the deadline by which my report needs to be with the Committee Manager for inclusion in the report.

With kindest regards

Reba

