

From: Catlyn, Lucy
Sent: 28 February 2020 11:24
To: 'Reba Danson'
Cc: Licensing <licensing@spelthorne.gov.uk>
Subject: RE: Update

Dear Ms Danson

I refer to email correspondence dated 19 February requesting that the Licensing Authority representation be reviewed by the Head of Governance/Legal to ascertain as to whether the representation meets the definition of a "relevant representation " pursuant to the Licensing Act 2003. The content of which is noted.

Firstly apologies for the delay in response, the penultimate paragraph of your email expressly states that you will continue to prepare for the hearing, meaning you have not been prejudiced by the time taken to consider your correspondence.

I have had the opportunity to ask the Head of Governance to review this matter and in this regard would respond as follows.

As you have correctly pointed out all representations must be about the likely effect of granting the licence on the promotion of at least one of the four licensing objectives.

In addition, the licensing authority can only consider representations that are not "vexatious" or "frivolous".

"Frivolous" or "vexatious" will bear their ordinary meaning. Whether representations are frivolous or vexatious will be for the licensing authority to determine. For example, the licensing authority might find the representations were vexatious if they arise because of disputes between rival businesses or they might be frivolous representations if they plainly lacked seriousness.

As you know the Licensing Authority are under statutory obligation to uphold and promote the Licensing Objectives underpinning the legislation.

I have had regard to case law where it was held that failure to comply with the administrative requirements of the Act; more specifically the requirement to circulate a press advertisement in the local area was not within the spirit of the legislation causing the decision to grant a licence to be quashed. It is with this in mind that there was a de facto fundamental flaw in the process, meaning no prejudice when this fundamental flaw came to light.

You have further rightly pointed out that the section 182 Guidance makes it clear that "Licensing authorities should look to the police as the main source of advice on crime and disorder." Whilst it is acknowledged that the police are the lead authority, the legislation does not expressly exclude other responsible authorities submitting representations relating to crime and disorder.

I confirm that I have had regard to your email of 19th February timed at 21:58 in its entirety and reviewed the representation and conclude that the Licensing Authority are under statutory obligation to promote and uphold the licensing objectives

underpinning the Licensing legislation and have concluded that the representation is valid.

Yours sincerely

Lucy Catlyn
Principal Licensing Officer
Environmental Health and Licensing

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