

Louise Faulkner

From: Neil Polden
Sent: 16 October 2012 14:18
To: Louise Faulkner
Cc: 'martin@hakamou.co.uk'; Paul Mallard
Subject: RE: Occo Licensing Hearing
Attachments: Occo Statement.doc

Louise

I have put together a statement for the committee to consider ahead of the hearing on Monday. As advised Paul Mallard will attend in my stead as I will be out of the office between Thursday, Friday and Monday.

I have asked Paul to review this ahead of Monday so do expect some minor changes. I did meet with Martin Stevens on Friday morning to discuss his application, which having listened to his proposals any issues from internal noise have generally been allayed. I have tried to think up some possible controls for noise from smokers and dispersal noise (with Paul) but unfortunately I cannot come up with anything that I know would be certain of controlling these types of issue save for reducing the hours. I am doubtful that this will satisfy the requirements that Martin has for his business hours.

My additional concerns are for the use that will be established by the relaxation of the existing licence as well as the current proposal that is being put forward. If the licensing committee is inclined to grant the licence, or allow a variation of hours that treads the middle ground I have come forward with a number of conditions that were discussed with Martin to suit him, but then allow a degree of control over any potential future occupiers should the business change or move on such that we do not have a situation which could create blight. These conditions I would seek to apply in any instance, i.e. licence granted with restricted hours or granted with no restriction.

On a closing point, should Martin have any additional ideas for conditions then we are open to suggestion.

Regards

Neil

Neil Polden
Senior Environmental Health Officer
Customers & Communities (Regulatory Services)

Northampton Borough Council
Westbridge Depot, St James Mill Road, Northampton, NN5 5JW
Tel: (01604) 837648 - Fax: (01604) 838755

From: Louise Faulkner
Sent: 16 October 2012 09:16
To: Neil Polden
Subject: RE: Occo Licensing Hearing

Thanks Neil

Louise Faulkner CHE in Licensing Law (Warwick)
Senior Licensing Officer
Northampton Borough Council

Direct Dial: 01604 838545
email: lfaulkner@northampton.gov.uk

Occo Statement

This statement is written in support of the objection lodged by Environmental Health in respect of the application made to extend the hours for the vacant Occo restaurant at 15 Derngate.

The proposed extension seeks to remove the restaurant condition and extend the hours for sale of alcohol and provision of recorded music until 01.30 and 02.00 respectively. The concerns that have been raised are on the grounds of public nuisance due to noise from the operations of the premises and street noise from customers, i.e. smokers and dispersal on closing.

A meeting was recently held with the applicant Martin Stevens of Manuia Bar Company Ltd on 12/10/12 to discuss his proposals in more detail and explain EH's reasoning for the objection.

Mr Stevens explained he seeks to remove the restaurant condition to attract customers who wish to have a drink only, and/or to allow customers to continue drinking after service of a meal. Presently the licence only permits sale of alcohol with a person taking a meal.

It is proposed that the business shall operate whereby the sale of alcohol relies upon table service only and that there will be no provision of a bar from where customers can order drinks. It is not proposed to be a vertical drinking establishment, and the capacity of the premises will be determined by seating only. All bills will be settled by customers upon vacating the premises. It is understood that the way in which the business is being set up is that the intention is to attract a specific type of clientele which would be considered less likely to cause the sorts of issues associated with some town centre licensed premises, e.g. noise and antisocial behaviour.

With regard to noise from the within the premises itself, it is considered that this issue can be controlled by way of suitable conditions to restrict the volume of music to background levels and by limiting the maximum capacity of the premises to 65, as proposed by the applicant

Limiting music to background levels would appear to be acceptable to the applicant. In addition, the majority of customers will be seated within the basement area and therefore concerns that noise transmission from the ground floor to the flat located immediately above will be assuaged. It is proposed that seating for a maximum of 12 customers will be provided on the ground floor.

However concerns still remain with regard to control of noise from customers in the street. This is specifically related to smokers who, as a result of the smoking ban, are now required to smoke outdoors, and also to noise from customer arrival/dispersal through the night, but

particularly around closing time. This section has considered what controls could be implemented that would allow the application to go ahead without restriction, but has been unable to identify suitable controls other than a reduction in the proposed hours.

We have further concerns that inadequate control could lead to a decline of the area. Taking a longer term view of the implications of the licence extension and the removal of the restaurant condition there is an opportunity for the premises to change into a bar rather than a restaurant. The flexible licensing system simplifies the process of transferring the licence from one person to another and one person's use of a licensed premises can be quite different.

In order to offer a clearer explanation of the line of thinking of EH the following situations have been considered:

- The application in its current format for an extension of hours for sale of alcohol and provision of regulated entertainment is granted. The premises begin trading and, as a result of good management controls, the premises operate with any disruption to its immediate neighbours.
- Unfortunately the business fails and the business is sold. The premises are leased to another proprietor and the licence transferred into their name. This person, however, has a different business model, which is more akin to the typical bar in Northampton with music at entertainment levels and a higher turnover of alcohol. As a 2 am licence has already been granted the new occupier commences trading and is subject to noise complaints.

Some concerns might be dealt with by suitably worded conditions, which can be applied to the premises licence. However, there is no practical way of dealing with noise from smokers outside the premises or dispersal from the premises at closing time, other than a reduction in hours. Therefore, should the committee be minded to grant the extension we would respectfully suggest that the following conditions be applied to the Licence.

- The capacity of the premises shall be limited to 65 persons (referred to as customers), with no more than 12 customers being allowed to occupy the ground floor at any time.
- Customers shall only be served whilst seated at a table.
- Recorded music shall be played at background levels only and the music noise level shall be controlled by means of a compressor-limiter under the sole control of the DPS.

Background music is a music played at a level that would not interfere with normal conversation between two individuals when 1m apart.

- There shall be no dance floor or dancing.
- Musical entertainment shall not be provided by a DJ.
- Customers shall not be permitted to take drinks outside.
- No seating shall be provided outside for customers.
- No change to the hours currently permitted.