

**Decision Notice
Licensing Sub-Committee
Tuesday 5 July 2016
Temporary Event Notice**

The Sub-Committee has met today to consider Temporary Event Notices served by **Mr Ali** in respect of premises known as **Spice Lounge, 411 Warrington Road, Culcheth, Warrington, WA3 5SW**

Members of the Licensing Sub-Committee have considered carefully all of the written and verbal representations submitted by and on behalf of the applicant, Cheshire Constabulary and the Licensing Authority acting as a responsible authority.

The Committee is aware of its obligations under the Licensing Act 2003 and in particular the guidance issued under Section 182 of the Act, together with the Council's statement of licensing policy.

Having regard to the Objection Notice as submitted by Cheshire Constabulary, members of the Licensing Sub-Committee have resolved:

To issue a counter notice under section 105(2) of the Act as members consider it necessary to do so to promote the licensing objectives.

Members heard evidence that the Council's licensing policy has recommended core hours for restaurants of 1am and the premises in question was within these hours. It was also put forward in evidence that the policy favours restaurants over bars and clubs and that TEN's should be dealt with on a light touch basis. However, whilst members accepted this looking at the evidence presented by the responsible authorities and on behalf of the applicant, members felt given all of the evidence that they could justify acting outside of the policy guidelines.

Members came to their decision based on the following factors:

- The IVA was not relevant to these circumstances given that this took place in 2012 and the applicant took over the business in 2014 and no effort was made by the applicant to check the license and business arrangements and the applicant has not provided any evidence to show that he obtained independent advice regarding the taking on of this premises;
- It is the responsibility of the applicant to ensure his license is correct under the Act;
- The responsible authorities presented evidence to dispute the applicants statement that he was not present at the meeting held on 17 March 2016. Members were informed that he was present at this meeting;
- Based on the evidence heard, members were not convinced that alcoholic drinks were provided free of charge;
- The applicant is responsible for his staff and members were not convinced that they would give away free alcoholic drinks without the authorisation of the applicant;
- Members had concerns in relation to the lack of control over staff which was admitted by the applicant in a pace interview;
- Evidence was heard that it was the applicants day off when test purchases were made on 25 April and 9 May 2016, however there should be a personal licence holder present when sales of alcohol are made and there was no evidence to show that this was the case;

- The applicant is responsible for ensuring that staff have sufficient training. There was no evidence presented that such training has been put in place;
- Members had concerns that should the TEN's be granted there would be no conditions in place to deal with concerns that members have;
- No evidence was provided that there was currently a Designated Premises Supervisor for the premises and the applicant did not currently hold a Personal Licence. Members found that there was an accumulation of issues which taken collectively showed that there was more than a technical breach of the Licensing Act and felt that the action taken was justified.

For clarity, when the decision was read out, a query was raised in relation to the Personal Licence holder being present. A DPS needs to be present at the premises to authorise the sale of alcohol and that person must hold a Personal Licence.

Based on all of the evidence, members were not convinced that the applicant would uphold the licensing objectives;

21 day right of appeal applies.

Dated: 5 July 2016