

## **Bardon Truck Park**

### **Legal & Policy Points.**

There are no Representations from any of the Statutory Licensing Authorities (or indeed non-Statutory Authorities). This means that each and every Statutory Authority each recognised in law as an expert in their own field do not believe that the Licensing Objectives will be in any way undermined by the granting of this Application. This includes the Police lawfully recognised as the lead Authority for Crime and Disorder

Bardon Truck Park have proposed a set of appropriate control measures to help promote the four Licensing Objectives.

### **Para 42 Toulson LJ Hope & Glory Court of Appeal.**

42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, **the economic benefit to the proprietor** and to the locality by drawing in visitors and stimulating the demand, the effect on law and order,

the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to public nuisance. Although such questions are in a sense questions of fact, they are not questions of the “heads or tails “variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgement rather than a matter of pure fact.

## **Decision of the High Court in Daniel Thwaites plc v Wirral Borough Magistrates' Court [2008] EWHC 838 (Admin)**

The licensee successfully judicially reviewed that decision. Mrs. Justice Black was also critical of the way the Justices used their local knowledge, saying "There can be little doubt that local magistrates are also entitled to take into account their own knowledge, but ... they must measure their own views against the evidence presented to them." She particularly made that point because the evidence was that the responsible authorities were untroubled and that the history of the premises when operating to the longer hours did not substantiate the Justices' fears.

In her conclusions, **Black J stated that the Justices should have looked for "real evidence"** that greater regulation was required in the circumstances of the case. Their conclusion that it was required was, in her judgment, not a conclusion to which a properly directed bench could have come. Here, it was said, **they proceeded without proper evidence, gave their own views excessive weight and the police views none at all.**

## **Sec 182 Guidance to the Licensing Act 2003**

### **Purpose**

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises.

7. 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

## **North West Leicestershire Statement of Licensing Policy**

### **1.1. Profile of the District**

The Council vision statement is "North West Leicestershire will be a place where people and businesses feel they belong and are proud to call home".

4.1 To prevent crime and disorder. The Licensing Authority will look to the police as the main source of advice on crime and disorder.