

IN THE LEEDS MAGISTRATES COURT

BETWEEN :-

BREWDOG BARS LIMITED

Appellant

- and -

LEEDS CITY COUNCIL

Respondent

NOTE OF DECISION OF
DISTRICT JUDGE ANDERSON
6th SEPTEMBER 2012

No doubt when the 2003 Licensing Act came into being, no-one foresaw the emergence of an operation such as Brewdog. They are a A Scottish company specialising in craft beers with a devoted clientele. They do not operate large public houses selling cheap lager or cheap food. They have outlets in other cities including in cumulative impact areas where they operate well and without police objection. Now they seek to come to Leeds.

The company takes a didactic approach, with books on brewing, and customers invited to watch instructional videos playing at their premises. Their customers could be described as “alcohol geeks.” They are not run of the mill or everyone’s cup of tea, but there is a demand for outlets selling a good quality of beer.

If they had identified a site outside the City’s Cumulative Impact Policy area, there is absolutely no doubt that they would already have their licence. They are an intelligent, well-run company, and in a short space of time they have shown themselves to be an effective operator.

However, this site does fall foul of the Cumulative Impact Policy which was introduced with the best possible motives to control the grant of licences to new premises. There is a presumption within it that new applications shall not be granted, unless the applicant can discharge the reverse burden in establishing that they will not add to the cumulative impact, and that is the issue in this case.

I can deal with one conclusion briefly, the issue of noise and nuisance. The Court heard evidence from Miss Ludford that she had gone to the trouble of circulating a letter to all residents in the neighbouring block of flats but received no objections. Against that was the more general evidence of Mr Kenny, which showed noise complaints to the Council. But most of those complaints were amplified music and Brewdog does not seek to be able to provide amplified music and so there is no risk of noise from regulated entertainment emanating from the premises. The capacity is small and any noise generated as people leave the premises will be very marginal indeed. It seems to me that the premises of this public house would not be a significant impact on the Cumulative Impact area regarding public nuisance and so I do not intend to mention this further.

That leaves the more important objection of the Police and the potential impact of another premises on the levels of crime in the area. There are a number of clubs around the Corn Exchange and the late

hours they trade, the marketing operations and the type of customer they attract means that there is regular disorder and violence. they run with late hours, attracting a different sort of customer. Their presence causes violence. That is a sad fact of modern life. The situation cannot be assisted by the sort of promotion I saw advertised by Chilli White with cheap vodka and free vodka, but they have their licence.

It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain clanging down to allow such clubs to continue to trade while shutting out Brewdog which attracts more discerning customers who do not engage in binge drinking, though I do accept the requirement of the Cumulative Impact Policy is to ascertain specifically whether there will be impact.

If I accept, as I do, that the enterprise sells expensive beers in expensive measures, then I think I can conclude that the people likely to be attracted are not “get it down your neck” drinkers but rather better heeled customers. The type of clientele a premises attracts has a material part to the play in the decision, because if I am not worried about their clientele and am impressed by the running of their bars elsewhere, it follows that it is unlikely that their clientele will have any adverse impact on the area here.

The Police argued that customers may accidentally cause impact. Their argument that customers could get caught up in a melee caused by others is not a valid one. A simple increase in footfall isn't a rational reason to refuse entry to Leeds by Brewdog.

I have listened carefully but have heard nothing which causes me to believe that the application should not be granted. I am satisfied that the appellants have discharged the burden of proof placed on them.

I accept that the Committee and the Police did their best but their application of the Policy was too rigid. They seemed to take the view that man was made for the Policy, when the Policy should be made for man.

The appeal is upheld, and the licence granted in the terms set out in the bundle served on the Court.