REASONS

There has been a number of important and salutary reminders in recent caselaw about the quality and content of Licensing Sub-Committee reasons. It is still too common to see determination letters that simply cite a list of evidence and information that was produced to the Sub-Committee, and then a conclusion something to the effect of:

"The Sub-Committee accepted the evidence of the Police"

Or

"The Sub-Committee rejected the evidence of the Applicant",

and the nomination of the step that the Sub-Committee has decided to take.

This kind of reasoning is almost certainly flawed, in the absence of an answer to the question naturally begged, which is: "Why?"

The jurisprudence surrounding the giving of reasons has now been confirmed to be the same in the planning regime as it is in licensing. This has been confirmed most recently in the Thompson v Oxford case, in the Court of Appeal. This is helpful, because there is an established body of caselaw on the topic in planning law.

R (Alistair Thompson) v Oxford City Council v Spearmint Rhino Ventures (UK) Limited [2014] EWCA Civ 94:

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Lloyd Jones LJ:

"44 Both Mr. Gouriet and Mr. Philip Kolvin QC, in his written submissions on behalf of the intervener, have submitted that before a decision maker may depart from an earlier decision in relation to the same matter he must address each material consideration in the earlier decision and explain whether and, if so, why he takes a different view as to its significance. This seems to me to go much too far and to place an undue burden on the decision maker. I consider that the guidance as to what is required by way of reasons in a planning context provided by Lord Brown in South Buckinghamshire District Council v Porter (No. 2) [2004] UKHL 33 (at paragraphs 35-6) applies equally in this context."

The High Court in a slightly earlier case had already confirmed that the planning jurisprudence applied in ***Little France Ltd v London Borough of Ealing [2013] EWHC 2144 (Admin).*** In this case, the Sub-Committee had failed to give any reasons at all, and the Court confirmed that this would necessitate a trip to the Appeal Court in its own right, even of that Appeal Court ultimately agreed with the outcome of the Committee's determination, and it could also mean a consequent award of costs. The Licensee was entitled, above all, to reasons:

Mr CMJ Ockelton:

"14. Secondly, the duty to give reasons. In the context of licensing decisions there are at least three separate potential sources for the duty to give reasons.

(a) Section 52(10) of the 2003 Act requires the licensing authority to give the reasons for making its determination on a review such as that it undertook in the present case.

(b) Section 4(3) of the same Act requires the licensing authority to have regard to guidance. Guidance has been issued by the Secretary of State under section 182 of the Act. Paragraph 12.9 of the guidance in force, dated October 2010, requires the licensing authority to give reasons for a decision.

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(c) There is a general common law duty on decision-makers, and particularly on courts, to give reasons for their decisions.

15. I do not need to set out all the authorities. The locus classicus is now South Buckinghamshire District Council v Porter (No 2) [2004] UKHL 33 in the speech of Lord Brown of Eaton-under-Heywood at paragraph 36… [*there set out*].

16. Those observations were made, as their content makes clear, in a planning case. But although Mr Cannon points that out, he does not say that there is any material distinction in relation to the general principles set out in the licensing cases. The licensing authority is bound by the duties derived from section 52(10) from the guidance and from the general common law duty, save in so far as the latter is superseded by the statutory duty. The magistrates hearing an appeal are bound by the guidance and are bound also by the general common law duty. Whether they inherit also the duty under section 52(10) and whether it makes any difference I leave for decision in another case. I do not think that Article 6 of the European Convention on Human Rights adds anything material in the context of this case.

17. What the duty may mean in an individual case is illustrated by the judgment of Lindblom J in R v (on the application of Townlink Ltd) v Thames Magistrates' Court [2011] EWHC 898 (Admin) at paragraphs 60 and following:

> "60. Mr Gouriet submits, and I accept, that it is trite law that a litigant should know why he had won or lost his case. In a case such as this it was not enough, in my judgment, for the District Judge simply to say that the decision taken below was not wrong. He needed to explain why. That does not mean that he needed to provide extensive reasons, but his reasons needed at least to show that he had addressed the main issues before him.

61. The appeal before him had raised three main questions: first, whether regulated entertainment should be suspended for three months, or a shorter period, or at all; secondly, whether the operating hours of the premises should be cut back; and thirdly, whether the disputed conditions ought to have been imposed either at all or in the form in which they were imposed.

62. In my view one reads the notes of the District Judge's judgment one does not see reasoning sufficient to grapple with those matters, certainly not to the extent that the claimant can understand why in each of those three respects its appeal has failed. The claimant is left without an explanation of why the suspension of regulated entertainment should be left in place. As I have already said, there is no explanation for the judge's rejection of the claimant's argument on conditions. And there is no explanation for the judge apparently having accepted that the operating hours should remain as the Council's sub-committee had left them.

63. In my judgment, therefore, the District Judge was at fault in failing to provide proper and adequate reasons for his decision."

20. I turn now to the questions posed in the case stated. I begin by observing that Mr Phillips sought to enlarge them by suggesting that where, as in the present case, the licensing authority gives no reasons, the magistrates on appeal ought to remit the matter to the licensing authority for a fresh lawful decision accompanied by reasons. That submission was made to the magistrates in the present case. They evidently rejected it.

21. The questions posed in the case stated are those drafted on the appellant's behalf. I see no good reason to allow the appellant to add to them now, and so I turn to the questions that actually were asked:

22. (1) Where the licensing authority had failed to give any adequate reasons for its decision were we, following the decision in ***R (on the application of Hope and Glory) v Westminster JJ (2009) EWHC 1996 (Admin)*** required in our own reasons to state what weight, if any, we had attached to that decision, upon our determination of the appeal? In general no, but it would depend how the reasons given were formulated. It seems to me that the status of the decision of the licensing authority, envisaged by the judgment both of Burton J and the Court of Appeal in Hope and Glory, is as follows. First, the decision itself is the starting point of the appeal as it is the decision against which the appeal is brought; secondly, it may also be the finishing point of the appeal, as unless the appeal is successful the decision will stand; thirdly, it has a function between those points because as the authorities make clear it is for the appellant to show in the appeal that the decision is wrong, and if the appellant fails to show the decision is wrong he will lose his appeal. Solely as a decision, those, in my judgment, are its functions.

23. The reasons given for the decision have a different function. They may be reasons that help to persuade the magistrates on an appeal that the decision was not wrong. One can envisage an appeal in which the reasons given by the licensing authority are the sole ground on which the licensing authority might successfully contest an appeal. On the other hand, the reasons given for a decision may help an appellant to show that the decision was, on the facts or the law, incorrect. Where no reasons are given for a decision it does not seem to me that the decision itself can have any other function than those I have set out.

24. There is, in my judgment, no obligation on a bench of magistrates to state what weight, if any, they have given to the original decision. What is important is that they leave no room for doubt that they have carried out the correct function, that is to say that they have considered, by way of an appeal against it, whether they are persuaded that the licensing authority's decision was wrong. The fewer the reasons for the original decision, the greater the chance that the magistrates will transgress against that requirement if they express their own decision by reference to the decision under appeal. A wholly unreasoned decision may well be correct, or, which is the same thing, not shown to be wrong: but a wholly unreasoned decision can say nothing itself about why it is correct, and the decision on appeal needs to be expressed so as to recognise that.

25. In my judgment the present decision did not do so. The reasons originally given and confirmed by the words "We have given our reasons" do not indicate that the magistrates were alive to the task before them. The insertion of the word "correct" in the summary of reasons in the case stated may indicate that they had become aware of that defect, but, in any event, that insertion does not cure the defect. The refer-ence to the decision in the reasons given by the magistrates appears to me to read as an endorsement of it, and gives no indication that the magistrates were aware that in dealing with an appeal against an unreasoned decision they needed to consider the matter de novo on the evidence before them, and reach their own conclusion as to the reasons for any conditions or restriction on the licence.

….

31. The magistrates were, in this appeal, dealing with a decision which it is to be hoped was virtually unique. It was a decision entirely without reasons, contrary to all the requirements to give reasons. That, it seems to me, is a matter which any reasonable bench of magistrates would have taken into account in deciding on the award of costs. The position was that the appellant was entitled, both by statute and by common law, to a decision which itself encompassed reasons; and could obtain reasons only by appealing. That ought to have been taken properly into account by the magistrates in deciding whether to make any award of costs to the appellant. They failed to take that into account and for that reason I would regard the decision on costs as being one to which they were not entitled to come."

Porter is the classic case on reasons in the planning world.
The relevant paragraphs were set out in Little France, and we read more in KVP:

R (on the application of KVP Ent Ltd) v South Bucks District Council
[2013] EWHC 926 (Admin)

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SALES J:

"[69] The basic principles in relation to the obligation to provide reasons are not in contention. They are those set out in the speech of Lord Brown in *South Buckinghamshire District Council v Porter (No 2)* [2004] UKHL 33 at paras 35 and 36, [2004] 4 All ER 775, [2004] 1 WLR 1953, where Lord Brown said this:

> "35 It may perhaps help at this point to attempt some broad summary of the authorities governing the proper approach to a reasons challenge in the planning context. Clearly what follows cannot be regarded as definitive of exhaustive nor, I fear, will it avoid all need for future citation of authority. It should, however, serve to focus the reader's attention on the main considerations to have in mind when contemplating a reasons challenge and it generally its tendency is to discourage such challenges I for one would count that a benefit.
>
> 36 The reasons for a decision must be intelligible and they must be adequate. They must enable the reader to understand why the matter was decided as it was and what conclusions were reached on the 'principal important controversial issues', disclosing how any issue of law or fact was resolved. Reasons can be briefly stated, the degree of particularity required depending entirely on the nature of the issues falling for decision. The reasoning must not give rise to a substantial doubt as to whether the decision-maker erred in law, for example, by misunderstanding some relevant policy or some other important matter or by failing to reach a rational decision on relevant grounds. But such adverse inference will not readily be drawn. The reasons need refer only to the main issues in the dispute, not to every material consideration. They should enable disappointed developers to assess their prospects of obtaining some alternative development permission, or, as the case may be, their unsuccessful opponents to understand how the policy or approach underlying the grant of permission may impact upon future such applications. Decision letters must be read in a straightforward manner, recognising that they are addressed to parties well aware of the issues involved and the

arguments advanced. A reasons challenge will only succeed if the party aggrieved can satisfy the court that he has genuinely been substantially prejudiced by the failure to provide an adequately reasoned decision."

The exposition of these principles in a licensing review context was most elegantly done in a Scottish case:

Thomas Melville, v City of Glasgow Licensing Board [2012] ScotSC 77.

Sheriff of Glasgow and Strathkelvin

The Judge overturned the Licensing Board's decision, but had this to say in particular on reasons:

"Inadequacy of the reasons given for the decision

[68] Secondly, even if the defender [*Licensing Board*] did take account of the pursuer's evidence, in my judgment the defender's decision of 19 March 2012 cannot stand because no adequate reasons were given for the decision. This failure constitutes an error of law and a failure to exercise the defender's discretion in an unreasonable manner, in terms of Section 131(3)(a)(i) of the 2005 Act.

[70] The obligation to give reasons is designed not merely to inform the parties of the result of the Board's deliberations, but to make clear to the parties, and to the Court, the basis on which that decision was reached. Adequate reasons explain not only what the decision is, but how and why it was reached. By explaining how and why it was reached, an informed reader can satisfy himself that the decision was reached in conformity with principles of natural justice (Albyn Properties Ltd v Knox, supra., at page 43).

[71] Of course, it is not necessary for a Statement of Reasons to condescend in detail upon the precise thinking which lies behind the reasons actually given (Ranachan v Renfrew District Council 1991 SLT 625). However, an informed reader (being a person who knows what the proceedings are about and who may even be a party to the proceedings) should be able to understand from the Statement of Reasons what the reasoning was that led to the decision (Robertson , supra).

[72] The fatal flaw in the Statement of Reasons is that the Statement gives no insight whatsoever into why the information provided by the Chief Constable was preferred.

[73] The Statement offers no explanation of, or discussion upon, the nature or quality or merits of the conflicting evidence presented to the defender. The Statement offers no comment upon the source, form, content or substance, or credibility or reliability, of the conflicting material presented to it. In particular, the Statement sheds no light on why the police evidence was preferred to the pursuer's evidence. The result is that an informed reader is left in real and substantial doubt as to why the defender chose to accept the police evidence over the pursuer's evidence.

[74] Absent any such explanation, an informed reader might assume that the defender had simply flipped a coin. No doubt, that would be an incorrect assumption in this case. But no better explanation is offered.

[75] It is precisely to avoid opaque, arbitrary or irrational decision-making (or the appearance of such) that adequate reasons are required - to explain what was decided, and how and why.

[76] The reasons need not be extensive or intricate. They merely require to be reasonable, rational, and founded in fact.

[77] For this reason also, the defender's decision cannot stand."

Although Scottish in legal context, the analysis of the correct approach to reasons in a Licensing Determination is illuminating.

A typical flaw in licensing hearings is that Committee members are forthcoming, sometimes excessively so, with comment and opinion in the course of the hearing, but far too sparse in explanatory opinion and reasons in the place where it is actually wanted – in the determination letter itself. Committee members are very much expected and required to have, and express, opinions: it is

what they were elected, if not born, to do. According to Toulson LJ in ***Hope & Glory(C/A)*** and Hickinbottom J in ***Matthew Taylor***, we require our Licensing Councillors to conduct a 360° holistic examination into licensing cases, on behalf of the community as a whole, and they are entitled, if not expected to take their own views into account in doing so. Asking the Sub-Committee, politely, to desist even temporarily from relying entirely on their own opinion during the course of the hearing itself sometimes appears to be challenging. Many are not even aware that they are doing it. Many more clearly believe that it is a fundamental duty to take every opportunity which presents itself in the course of a hearing to dispense advice, correction and guidance. It is questionable as to whether this is welcome or appropriate. The perfect place for the opinion of the Sub-Committee is in their written reasons. That, indeed, is where it is wanted – the assessment that the Members made of the evidence they heard; the views they reached about it, and their reasons for doing so. There, all too often, it is lacking, and the determination letter merely sets out the conclusion, without any exposition whatsoever as to how the Sub-Committee got there.

Another aspect of reasons in licensing determinations that has been given recent consideration is the practice of giving "amplified reasons". At first blush, this looks like a second bite of the cherry, and might be thought to be a practice that the Courts would discourage. It appears not:

R (on the application of KVP Ent Ltd) v South Bucks District Council [2013] EWHC 926 (Admin)

SALES J:

"[3] In its letter before claim, sent some eight weeks later, KVP complained about the adequacy of the reasons in the decision notice of 28 November 2011. In light of that complaint the Council undertook to go back to the Sub-Committee to ask it to explain its reasons more fully. The Sub-Committee reconvened and produced what it described as "Amplified Reasons for Refusal", dated 8 February 2012 (ie some two weeks after the complaint from KVP). Despite the giving of these further reasons by the Council, KVP remained dissatisfied and launched this claim for judicial review. An issue arises whether the Council is entitled to rely on the Amplified Reasons in these judicial review proceedings.

[52] As mentioned above, in light of a prospective challenge to that decision by KVP, the Licensing Sub-Committee issued its Amplified Reasons for Refusal dated 8 February 2012. …….

THE GROUNDS OF CHALLENGE

[53] The grounds on which KVP seeks to challenge the lawfulness of the decision to refuse to grant an SEV licence are as follows:
"Ground 1, inadequate reasons: It is said that no adequate reasons have been given by the Council to demonstrate any assessment of the character of the locality to explain or justify the decision to refuse to grant a licence. Particular complaint is also made that the Sub-Committee has failed to explain in its reasons why it did not adopt a similar assessment of the character of the locality as had been set out in the Planning Report and apparently accepted by the Planning Committee.

…
GROUND 1: INADEQUACY OF REASONS

[62] It is in relation to this ground that the question arises whether the Council is entitled to rely upon the Amplified Reasons put forward by the Licensing Sub-Committee. In my judgment, it is plainly appropriate that the Council should be entitled to rely upon those reasons.

[63] There is a considerable body of case law which deals with the question of whether and in what circumstances a decision-maker may seek to rely upon further reasons given by it after a decision has been taken and initial reasons given for that decision. Amongst a number of other authorities, I refer in particular to R v Westminster City Council, ex parte Ermakov [1996] 2 All ER 302, 95 LGR 119, [1996] 2 FCR 208. It is clear from the authorities that a court should approach with great care a submission that a decision-maker should be able to put in further reasons to justify a decision he has made, but that circumstances may exist in some cases in which it will be legitimate for the decision-maker to do that and for the court to take such reasons into account.

[64] The authorities were helpfully reviewed by Stanley Burnton J, as he then was, in R (Nash) v Chelsea College of Art and Design [2001] EWHC Admin 538 at paras 23 and following. In that case Stanley Burnton J considered that it was appropriate to admit and to consider further reasons given by the decision-maker. In particular I emphasise what he said at paragraph [27] of his judgment:

"In R v Legal Aid Area No 8 Appeal Committee ex parte Angel [1990] 3 Admin LR 189, Simon Brown J held that a failure by a tribunal to give reasons for its decision, or the giving of inadequate reasons, does not of itself justify the quashing of the decision; and that the remedy of the Claimant is an order remitting the matter to the tribunal with a direction to state reasons fully and accurately. The tribunal in question in that case was under an express statutory duty to give written notice of its decision and the reasons for it to the Appellant. It had given inadequate reasons, no more tan a virtually meaningless generalisation. The Applicants before Simon Brown J contended that the decision of the tribunal was therefore liable to be quashed. Simon Brown J rejected this submission. He said, at 205:

'Naturally the Courts will look circumspectly at additional reasons; these clearly cannot carry quite the same authority as reasons properly given as part of the actual decision, and of course, anything suggestive of ex post facto reasoning, let alone anything in the way of inconsistency with previous reasons, would be particularly scrutinised. Certain bodies, moreover, will clearly be held to the reasons expressed with their decision - for instance, the Secretary of State on planning appeals and tribunals of the kind in question in Alexander Machinery and ex parte Khan. Furthermore, whenever as here a public body files evidence, it is desirable that each member should approve the supplementary reasoning disclosed in the individual deponent's affidavit as the actual basis for the decision earlier taken. But given these sorts of qualifications, there seems to me much to be said in favour of allowing affidavits to supplement reasons, and little against either in the way of legal or practical objections. Of course, the supplementary reasons go only to the question whether the decision reached was erroneous in point of law; they cannot repair the breach of duty involved in having provided inadequate reasons in the first place.'"

[65] I also emphasise what was said by Hutchison LJ in Ermakov at p 316F-H:

> "(5) Nothing I have said is intended to call in question the propriety of the kind of exchanges, sometimes leading to further exposition of the authority's reasons or even to an agreement on their part to reconsider the application, which frequently follow the initial notification of rejection. These are in no way to be discouraged, occurring, as they do, before, not after, the commencement of proceedings. They will often make proceedings unnecessary. They are, in my judgment, very different from what happened in this case."

This passage is quoted by Stanley Burnton J in his review of Ermakov at para 29.

[66] Stanley Burnton J summarised the position at paras 34 - 36 of his judgment, as follows:

> "34 In my judgment, the following propositions appear from the above authorities:
>
> (i) Where there is a statutory duty to give reasons as part of the notification of the decision, so that (as Laws J put it in Northamptonshire County Council ex parte D), 'The adequacy of the reasons is itself made a condition of the legality of the decision', only in exceptional circumstances if at all will the court accept subsequent evidence of the reasons.
>
> (ii) In other cases, the court will be cautious about accepting late reasons. The relevant considerations include the following, which to a significant degree overlap:
>
> (a) Whether the new reasons are consistent with the original reasons.
>
> (b) Whether it is clear that the new reasons are indeed the original reasons of the whole committee.
>
> (c) Whether there is a real risk that the later reasons have been composed subsequently in order to support the tribunal's decision, or are a retrospective justification of the original decision. This consideration is really an aspect of (b).

(d) The delay before the later reasons were put forward.

(e) The circumstances in which the later reasons were put forward. In particular, reasons put forward after the commencement of proceedings must be treated especially carefully. Conversely, reasons put forward during correspondence in which the parties are seeking to elucidate the decision should be approached more tolerantly.

35 To these I add two further considerations. The first is based on general principles of administrative law. The degree of scrutiny and caution to be applied by the court to subsequent reasons should depend on the subject matter of the administrative decision in question. Where important human rights are concerned, as in asylum cases, anxious scrutiny is required; where the subject matter is less important, the court may be less demanding, and readier to accept subsequent reasons.

36 Secondly, the court should bear in mind the qualifications and experience of the persons involved. It is one thing to require comprehensiveness and clarity from lawyers and those who regularly sit on administrative tribunals; it is another to require those qualities of occasional non-lawyer tribunal chairmen and members."

[67] Stanley Burnton J somewhat expanded upon his treatment of this question in a later case, R (London Fire and Emergency Planning Authority) v The Secretary of State for Communities and Local Government [2007] EWHC 1176 (Admin) at paras 65 and 66, [2007] LGR 591, as follows:

"65 Should the court, therefore, take the expanded reasons into account? In my judgment in Nash v Chelsea College of Art and Design [2001] EWHC Admin 538, I sought to summarise, at paragraphs 34 to 36, the principles applicable to such questions. My summary was not comprehensive, as has been pointed out by Silber J in R(Leung) v Imperial College [2002] EWHC 1358 (Admin), and in Ashworth Hospital Authority v Mental Health Review Tribunal [2001] EWHC Admin 901 at paragraph 56 I myself accepted that paragraph 34(i) of my judgment in that case is too widely expressed, in that it fails to reflect the general rule, as

stated in Ermakov, permitting the admission of evidence that merely elucidates original written reasons.

66 In my judgment, in so far as they justify the original decisions, the court should not accept the expanded reasons. They were produced a year after the decisions were taken, without the benefit of any contemporaneous record of the reasons given at the meeting of 12 January 2006 for rejecting the original recommendation, and well after the Authority had formulated its challenge to the original reasons. I do not question the honesty of the maker of the belated witness statement, but it seems to me that in these circumstances the court cannot and should not be assured that the reasons put forward in the expanded reasons were in fact the reasons and, what is equally important, that they represent a comprehensive summary of the salient reasons for the Secretary of State's decision to reject the unanimous recommendations of his officials and to allow the appeals."

[68] In my judgment, the Amplified Reasons in this case should be admitted as reasons which "elucidate" (within the meaning of that term as used in the guidance in these authorities) the reasons originally given by the Licensing Sub-Committee in its decision notice of 28 November 2011. There is no inconsistency between the Amplified Reasons and the brief reasons given in that notice. I am satisfied that the Amplified Reasons do indeed constitute elucidation of the Licensing Sub-Committee's reasons, rather than any change or modification of them. I am also satisfied on the evidence that the Amplified Reasons were indeed the genuine reasons of the Licensing Sub-Committee for taking the decision which it did. Therefore, I proceed to consider the first ground of challenge on the footing that the reasons under review include the Amplified Reasons."

Since then, the practice of submitting "Amplified Reasons" has become rather fashionable:

Bean Leisure and Ruby May v Leeds CC [2014] EWHC 878 (Admin)
Stuart Smith J:

"36. After Bean Leisure and Ruby May had moved for interim relief, the Council issued amplified reasons, while not accepting that its original reasons were deficient.

Relevant extracts from those reasons are at Annexe D. The following points emerge:

i) The Amplified Reasons state the order of sensitivity attributed to the six applicants: Liberte and Purple Door were the least sensitive and were not otherwise distinguished; Silks was considered to be the third least sensitive but was renewed for eight months only because of the proposed development and its impact on Leeds' aspirational progression towards being a child friendly and 24 hour city; Deep Blue came next because of its proximity to the Railway Station and was regarded as inappropriate for inclusion in the maximum of four SEVs that might be licensed in the city centre; Wildcats and Red Leopard presented most concern because of their proximity to the Civic Buildings on the Headrow;

ii) It does not appear from the Amplified Reasons that the ranking was formalised. Wildcats and Red Leopard came "last" because they "presented most concern"; Deep Blue was "effectively ranked fourth"; the other three were in locations that "presented insufficient concern to refuse to renew in all three cases" and were considered to be "far less sensitive" than those where renewals were refused. This lack of formalised ranking also makes sense of the last sentence of the Amplified Reasons ("However, had there been a ranking, the Sub Committee is clear that Deep Blue would have been fourth, followed by Red Leopard and Wildcats.") which, in the context of what has been said before, can only mean that there was no formal ranking even though the committee evidently formed a view about which premises were more or less objectionable, which should have their licences renewed, and which should not.

The Obligation to Give Reasons

48. The principles summarised at [35-37] of South Bucks DC v Porter [2004] UKHL 33 apply to reasons on SEV applications: see Thompson in the Court of Appeal at [44] per Lloyd Jones LJ.

Amplifying Reasons

49. The provision of amplified reasons is appropriate where a disappointed applicant complains that the reasons given are inadequate. Generally they should only elucidate what has been provided before: see KVP at [62]-[68]. Where reasons are provided after a decision is challenged, they

should be scrutinised carefully to see whether they are new reasons contrived to provide an ex post facto justification or genuine amplification of the reasons already given."

The giving of amplified reasons can go wrong, and must be approached with care:
Bridgerow Limited –v- Cheshire West and Chester Borough Council and Whitefriars Resident Association [2014] EWHC 1187 (Admin)

Stuart-Smith LJ:

"2. Bridgerow now challenges the Council's decision of 17 September 2013. In the light of Bridgerow's challenge, the Council took steps to try to provide amplified reasons for its decision. For sound reasons, the Council conceded at the hearing that it should not attempt to rely upon those steps to supplement the original decision. It follows that the Council's decision stands or falls by what happened at the meeting that made the decision and the terms of its Decision Notice."

Nevertheless, this is an approach which now has clear judicial approval, and may be considered by Licensing Authorities which find themselves under challenge.

The correct approach to reasons continues to give rise to difficulties and issues, and is one of the most fruitful grounds for appeals. As such, it is a clear area for further consideration and training.

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