
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 6 October 2011

Present: Councillors Cunio, Drake (Items 40-45), Osmond (Item 46) and Thomas

Apologies: Councillor Brian Parnell

40. **ELECTION OF CHAIR**

RESOLVED that Councillor Thomas be appointed Chair for the purposes of the meeting.

COUNCILLOR THOMAS IN THE CHAIR

41. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Panel noted that Councillor Thomas was in attendance as a nominated substitute for Councillor Parnell and Councillor Osmond was in attendance as a nominated substitute for Councillor Drake for Item 46.

42. **DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS**

Councillor Drake declared a personal and prejudicial interest in Item 46 and withdrew from the meeting.

43. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

RESOLVED that the minutes of the meeting held on 22nd September 2011 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

44. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the press and public be excluded at a predetermined point whilst the Sub-Committee reach its decisions.

45. **APPLICATION FOR A PREMISES LICENCE - RAJ OF SHIRLEY, 19 ROMSEY ROAD, SOUTHAMPTON, SO16 4BY**

The Sub-Committee considered the application for a premises licence in respect of Raj of Shirley, 19 Romsey Road, Southampton, SO16 4BY. (Copy of the report circulated with the agenda and appended to signed minutes).

Mr and Mrs Rahman, Owners, PS Marshman and PC Harris, Hampshire Constabulary, were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

RESOLVED

- (i) that the agreed extension of hours be as follows:-
Sunday – Thursday : 17h00 - 0h30
Friday and Saturday : 17h00 - 1h30
- (ii) that the agreed condition relating to the Incident Book be attached to the licence; and
- (iii) that the CCTV condition be attached to the licence, subject to the following amendments:-
 - The final paragraph should state after the telephone number “or other number as notified from time to time; and
 - The following wording should be added to the condition “the CCTV shall be to a standard and operated with a procedure to be agreed in advance, in writing, by the police, prior to the commencement of licensable activities”.

REASONS

The Sub-Committee considered carefully the application for a premises licence and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of licensing policy, human rights legislation and representations made, both written and given orally by both parties.

The Sub-Committee noted that the premises licence holder had co-operated with Hampshire Constabulary and that the condition relating to the Incident Book had been agreed.

The Sub-Committee had considered very carefully the evidence of the police, in particular relating to the prevention of crime and disorder and was satisfied that in all circumstances, it was necessary and proportionate to require the provision of CCTV at the premises. This conclusion was based on the specific evidence of the police relating to the likely increase in problems at the premises at a later hour. It was stressed that the financial cost was not a factor that the Sub-Committee had borne in mind whilst making the decision and that it had focussed upon the four licensing objectives, in particular the prevention of crime and disorder.

46. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE - 90 DEGREES AT CARLTON, 24 CARLTON PLACE, SO15 2DY**

The Sub-Committee considered the application to vary a premises licence in respect of 90 Degrees at Carltons, 24 Carlton Place, Southampton, SO15 2DY. (Copy of report circulated with agenda and appended to signed minutes).

Mr N Raftopolous, Designated Premises Supervisor (DPS), Mr L Weston (Counsel for 90 Degrees), Mr C Morris, Solicitor, Mr A Winder, Head Door Manager (Securdoors), Mr D Curtis, Head Door Supervisor, PS Marshman and PC Harris, Hampshire Constabulary and Miss S Nevill and Mrs J Nevill, Witnesses, were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee accepted legal advice and refused applications to exclude police evidence on two grounds namely :-

- (i) that evidence not submitted with the application is inadmissible in accordance with Section 51 of the Licensing Act 2003 and Regulation 16 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005; and
- (ii) that any evidence relating to the licence prior to a variation application and subsequent grant of amended premises licence did not relate to the current license in existence.

The applications were refused for the following reasons:-

- (i) Regulation 16 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 relates to the application specifically and not supplemental for additional evidence. Further, Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005 state that “the Authority may take into account documentary or other information produced by a party in support of their application.....before the hearing”; and
- (ii) The fact that a premises licence had been varied and in this instance only in order to amend the plan, did not amount to the creation of a “new licence” detached in its entirety from the previous. In the circumstances the premises were the same, the premises licence holder was the same and the DPS was the same and as a result the Sub-Committee determined that the evidence relating to a period prior to the variation should be admissible.

The Sub-Committee considered the condition in confidential session in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

RESOLVED

- (i) that the condition relating to CCTV should not be attached to the premises licence;
- (ii) that the condition relating to the Incident Book be attached to the premises licence and in addition the wording of the condition should

- require the prior written approval of the Police of the procedure to be implemented;
- (iii) that the condition relating to Training as set out in the report be attached to the licence and in addition the wording of the condition should require the prior written approval of the police of the content and scope of any training to be provided;
 - (iv) that the condition relating to the Dispersal Policy should not be attached to the licence;
 - (v) that the condition relating to the Toilet Check Policy be attached to the licence as set out in the police application;
 - (vi) that the condition relating to the Challenge 25 Policy be attached to the licence as set out in the police application; and
 - (vii) that the application for the removal of the Designated Premises Supervisor be refused at the present time.

REASONS

The Sub-Committee considered carefully the application for a review of the premises licence and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy, human rights legislation and the evidence submitted by all parties, including the witnesses, both written and given orally today.

In relation to the proposed condition regarding CCTV at the premises the Sub-Committee was not satisfied that there was sufficient evidence to justify an additional condition at this time. CCTV evidence produced during the course of the hearing appeared to be of a satisfactory quality and no police evidence was presented with regards to any failings in either recording of images, quality of images, location of cameras or production of evidence/images when required.

The Sub-Committee considered very carefully the arguments of the premises licence holder to the effect that the Incident Book was not necessary. It rejected the argument that it would only be considered necessary if evidence could prove that if such incidents were recorded, an alternative outcome would have been the result. On balance it accepted the police argument that an incident book as a management tool, would allow management to direct and target resources to issues as they arose and specifically enable the management at the premises to identify issues of concern. Likewise, an incident book at the premises would enable the police to assess those issues and direct resources in co-operation with the premises licence holder to those particular issues or days of the week that created a problem.

The Sub-Committee considered the premises licence holder's recent actions with regard to training but was mindful of the fact that there was a need for training in light of the issues and evidence submitted, and that such training should be maintained on an on-going basis, in co-operation with the police. Accordingly, in light of the issues evidenced, it was felt appropriate that any training be approved by the police in advance.

It was accepted that as the premises licence holder asserted that there were few, if any issues with drug taking at the premises, nonetheless, there were serious concerns with regards to patrons being heavily intoxicated in the premises and in particular, incidents

within the toilet areas. As a result, it was felt necessary, in this instance, to require that the toilet areas be checked, as a minimum, every half an hour. If, as a by product, this also helped prevent drug misuse at the premises, then this could only be seen as a positive outcome, but it was not the Sub-Committee's main consideration. That said, the Sub-Committee was mindful that the relevant licensing objective related to the prevention of crime and disorder.

The Sub-Committee felt that despite the premises licence holder's case that a Challenge 25 Policy would hinder its operation on those evenings that the premises catered for a younger clientele, it accepted the apparent endorsement of the Challenge 25 Scheme by the police and in particular the door staff giving evidence. Further, the premises licence holder's argument that statistically one incident ought not make the policy necessary was rejected. It was felt that this one incident was of a sufficiently serious nature to warrant the checks and balances of the Policy in order to attempt to ensure that those under age are not permitted entry. In combination, these factors were felt to make the condition sufficiently necessary and proportionate.

The Sub-Committee stressed that it held very real concerns regarding the competence of the Designated Premises Supervisor (DPS) at the premises, however, it has taken into account the long period of experience and the enthusiasm and hands-on approach demonstrated. The DPS must be very strongly warned, in the strictest terms, that further issues resulting in a future review of the premises licence would be considered extremely seriously and his position as DPS might well be put in jeopardy should matters not improve.

The Sub-Committee was concerned about the level of drunkenness at the premises and despite the applicant's arguments to the contrary, did feel that the evidence presented, showed a causal link between those found to have been heavily intoxicated and requiring assistance. It was accepted that proprietors face the issue of pre-loading, however, it was for this very reason that impeccable procedures were required to check on patrons as they entered the premises. This clearly had failed and it was the Sub-Committee's hope that the conditions now imposed and ongoing co-operation with the police would lead to an improvement.