
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 4 October 2012

Present: Councillors Cunio, Parnell and Tucker

47. **ELECTION OF CHAIR**

RESOLVED that Councillor Cunio be elected Chair for the purposes of this meeting.

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

RESOLVED that the Minutes of the meeting held on 20th September 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

49. **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 reached its decisions.

50. **APPLICATION FOR REVIEW OF PREMISES LICENCE - RHINO, WATERLOO TERRACE, SOUTHAMPTON, SO15 2AL**

The Sub-Committee considered the application for review of premises licence in respect of Rhino, Waterloo Terrace, Southampton, SO15 2AL. (Copy of report circulated with the agenda and appended to the signed minutes).

PS Wood and PC Harris, Hampshire Constabulary, Mr Felgate, Premises Licence Holder, Mr Bailey, Designated Premises Supervisor and Mr Weston, Counsel for Premises Licence Holder, 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 that:-

- (i) the following conditions, agreed between the parties, and as detailed on pages 93 and 94 of the bundle, be attached to the licence:-
 - CCTV
 - ID Scanner
 - Crime Mapping
 - Refusals Book
 - Incident Book

- Staff Training
- Challenge 25; and

(ii) the following additional conditions be attached to the licence:-

- the DPS shall complete a nationally recognised Level 2 DPS course, if not already so attained, within 6 months of notification of the decision and any subsequent DPS shall attain such qualification within 6 months of appointment; and
- last admission to the premises shall be at 02h30, seven days a week, for patrons. For clarification, last admission does not include those who may exit or re-enter the premises due to the smoking legislation.

REASONS

The Sub-Committee considered very carefully all of the evidence and in particular considered which steps, if any, were necessary and appropriate in accordance with the legislation and the terms of the guidance.

The Sub-Committee stressed that it held very real concerns with regards the evidence relating to violence, drug use, theft and anti-social behaviour/nuisance either at or within the vicinity of the premises. It considered very carefully the evidence presented by the police. It noted issues raised for the premises licence holder regarding comparison of that evidence with another premises and the number of incidents that might show good practice or may be recorded and included without showing a causal link directly to licensable activities at the premises. Nonetheless and in spite of those issues, the Sub-Committee found that there was a disproportionate level of problems regarding in particular crime and disorder and public nuisance at this premises which it took very seriously. At the same time, the Sub-Committee carefully noted the extent of co-operation shown by the premises, including appointment of an alternative DPS and implementation/agreeing to all of the suggested conditions put forward by the police. A significant factor taken into account by the Sub-Committee in reaching its decision was the relatively short period of time that had elapsed since those changes were put into place. Accordingly the Sub-Committee found that those steps had not yet been fully tested and in all the circumstances, ought to be given a full opportunity to operate in order to properly assess whether it was appropriate and necessary to either reduce the terminal hour at the premises or introduce a last entry time as suggested by the police of 02h00.

The Sub-Committee accepted legal advice that in the instance of a review it was required to take into account the financial impact of steps taken as a result, but likewise noted that the Guidance similarly stated that where the premises were trading irresponsibly, it should take tough action to tackle problems at the premises. Accordingly, it was stressed that in the event that the measures adopted and the change of management failed to address the most significant incidents at or in the vicinity of the premises, further steps may well be taken on any subsequent review.

Whilst the Sub-Committee accepted issues raised regarding parts of the evidence, it was not accepted that where incidents of crime and disorder occurred and were

reported, that that evidence should automatically be discarded due to it showing best practice. In those circumstances, the Sub-Committee balanced the fact that incidents of such a nature occurred against the steps taken in response and therefore very carefully considered all of the evidence and attached due weight accordingly. To this end the Sub-Committee remained concerned regarding the number and seriousness of incidents at the premises but in assessing the risk felt that at this time the conditions imposed and the last admission time of 02h30 were appropriate measures, if properly implemented, to address those issues.

It was argued that the only issue to be determined by the Sub-Committee was that of the terminal hour or last hour for admission to the premises. Legal advice on that point was sought and it was accepted that in fact, on review, the Sub-Committee should consider the entirety of the application and the issues presented, as well as all of the steps available. The distinction between review and ordinary applications being that there was no presumption of grant in the absence of representations and the fact that a hearing could not be averted by way of negotiation and agreement between the parties. That said, the fact that the parties had reached agreement and narrowed the issues remained highly persuasive.

There is a right of appeal for all parties to the Magistrates' Court. Formal notification of the decision will set out that right in full.