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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 25 April 2013

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Present: Councillors Mrs Blatchford, Cunio and Spicer

102. **ELECTION OF CHAIR**

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

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

**RESOLVED** that the minutes of the meeting held on 14<sup>th</sup> March and 11<sup>th</sup> April 2013 be signed as correct records. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

104. **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 decision.

105. **APPLICATION FOR PREMISES LICENCE - TESCO, WITTS HILL, SOUTHAMPTON, SO18 4QA**

The Sub-Committee considered the application for a premises licence in respect of Tesco, Witts Hill, Southampton, SO18 4QA. (Copy of report circulated with the agenda and appended to the signed minutes).

Mr Colenutt, Operations Manager, Ms Tyklesley, Store Manager and DPS, Miss Petrove, DPS (Applicants), Mr P Whur, Solicitor for Applicant, Mr Clark, Mrs Finch, Mrs Sonchhatia, Mr Goulding, Mr Paisley, Mr Summers, Mr Parnell, Mr Robertson, Ms J Smith, Residents and Councillor White, Ward Councillor, 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 the application for a premises licence be granted. (Details set out below).

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons:

All parties will receive formal written notification of the decision and reasons.

The Sub-Committee considered carefully the application for a premises licence at Tesco Stores, Witts Hill 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, both written and given orally today by the residents and the applicant.

It notes that the premises licence holder had agreed conditions with the police in relation to CCTV, Challenge 25 and training and that on this basis the Police effectively had no objection and further, no other responsible authority had made a representation.

The Sub-Committee has considered very carefully the evidence submitted by all parties both written and given orally today.

In consideration of all the above, the Sub-Committee has determined to grant the application in the terms sought and subject to the agreed and amended operating schedule, namely:-

- Reduction of the opening hours of the premises and the sale of alcohol to the following - Monday to Sunday - 06h00 to 23h00; and
- Removal of the ability to offer late night refreshment between 23h00 and midnight.

## REASONS

The Sub-Committee has considered very carefully the evidence of the residents relating to the licensing objectives, but were satisfied that the steps proposed by the amended operating schedule (via amended conditions as agreed) would be sufficient to address the four licensing objectives.

The Sub-Committee considered very carefully the potential for problems caused by the premises in this location, but were cognisant that the police were now satisfied with the application and had withdrawn their representation.

Despite the residents' concerns about anti-social behaviour, careful analysis of the evidence presented did not sufficiently show that it was appropriate and necessary to refuse a licence or impose further conditions. The Sub-Committee has accepted legal advice that it may only consider those issues relating to the four licensing objectives. Accordingly, issues of need, demand or commercial viability were not taken into account.

The residents expressed concern that issues previously associated with the public house would inevitably reoccur if the application was granted. However, the sub-committee, after careful consideration, were not satisfied that an off-licence permitting the sale of alcohol when combined with the level of training, provision of a full-time security guard, the experience of the manageress, co-operation with the police to date, including in particular the approval of CCTV systems, the Challenge 25 policy including till prompts as well as other policies and procedures, would necessarily lead to those issues returning to the area. Perhaps the largest distinction between what was there previously and what is now proposed is the fact that alcohol was consumed on the premises and now will not. The sub-committee also heard evidence that alcohol would form part of a basket of goods available and would in fact form a small proportion of sales at the premises. The sub-committee accepted evidence that alcohol would not be discounted and cans of alcohol would not be sold individually.

It is noted that the area has improved since the closure of the previous premises and it is hoped that through the ongoing maintenance of relations with the local community, those issues will not return.

Residents can be reassured by the fact that the Licensing Act 2003 does allow for significant steps to be taken in the event that a premises does cause issues and undermines the licensing objectives in the future. Evidence showing a clear causal link to the premises when operating, shall be taken extremely seriously and both the police and local residents may initiate a review in the event that issues arise.

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

106. **APPLICATION FOR PREMISES LICENCE - SHELL UK OIL PRODUCTS LTD, BASSETT AVENUE, SOUTHAMPTON, SO16 7LQ**

The Sub-Committee considered an application for a premises licence in respect of Shell UK Oil Products Limited, Bassett Avenue, Southampton, SO16 7LQ. (Copy of report circulated with the agenda and appended to the signed minutes).

Mr Lockett, Applicant, Mr Phillips, Counsel for Applicant, PC Smith and PC Norris, Hampshire Constabulary and Mr and Mrs Nicholson, residents, 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 the application be adjourned to 17<sup>th</sup> October 2013 (Details set out below).

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons:

The Sub-Committee has considered very carefully the application for a premises licence at Shell Bassett Avenue. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights legislation has been borne in mind.

It has considered very carefully all the evidence submitted by all parties, both written and given orally today, including the additional information supplied by the applicant.

The Sub-Committee listened carefully to the representations of residents and heard evidence presented by the applicant, including an explanation of figures produced. In addition the Sub-Committee heard evidence from the Police primarily in relation to the primary use of the premises as a garage.

At the previous hearing a substituted decision, agreed by all the parties, required the applicant to supply both figures relating to transactions by way of number with regards fuel purchases only, fuel and convenience purchases and convenience purchases only as well as comparison of turnover excluding VAT. That evidence was specifically

requested to allow the Sub-Committee to make a proper determination as to whether the primary use is that of a garage.

On the previous occasion evidence was heard to the effect that it was impossible with the then systems in place to produce figures relating to the number of transactions (albeit that evidence was given in relation to a linked application the same is assumed to apply). The Sub-Committee has again heard that it is impossible for those figures to be produced due to the high volume of transactions taking place in one day (in excess of 1000 per day). The Sub-Committee have considered very carefully this particular point and especially whether it would be unreasonable or excessive to expect the applicant to undertake such a monitoring exercise of sales (if it is the case that such analysis is not possible utilising existing systems). The Sub-Committee was not satisfied that it is either unreasonable or disproportionate to insist on an indication of the intensity of use in this way. However, in light of the fact that it has been expressed that this may incur considerable cost the Sub-Committee has determined that it would wish to see a shorter period of figures i.e. a minimum of two weeks trading.

As a result the Sub-Committee reiterates its request for further evidence in accordance Regulation 17 of the Licensing Act 2003 (Hearings) Regulations 2005. The Sub-Committee are disappointed to note that the applicants have failed, despite the lengthy adjournment, to attempt to provide the figures requested.

The Sub-Committee accordingly adjourns the hearing to 17<sup>th</sup> October 2013 in order for the applicant to undertake the analysis requested and implement whatever systems may be required to do so.

In the event that the applicant can produce, prepare and present the requested evidence before the adjournment date, the licensing authority shall convene an earlier hearing, convenient to all parties.

In any event the applicant is requested to produce the figures compiled at least one week prior to any hearing.

107. **APPLICATION FOR PREMISES LICENCE - SHELL HAMPTON PARK, 197 BURGESS ROAD, SOUTHAMPTON, SO17 1TU**

The Sub-Committee received an application for a premises licence in respect of Shell Hampton Park, 197 Burgess Road, Southampton, SO17 1TU. (Copy of report circulated with the agenda and appended to the signed minutes).

The Sub-Committee received an application for a premises licence in respect of Shell Hampton Park, 197 Burgess Road, Southampton, SO17 1TU. (Copy of report circulated with the agenda and appended to the signed minutes).

In light of the similarity of this application to the former (Bassett Avenue), following opportunity for the Applicant to make any additional statement or produce any additional evidence, it was agreed by all the parties that the same decision to adjourn (and the same terms of that adjournment) apply to this application.

**RESOLVED** that the application be adjourned to 17<sup>th</sup> October 2013 (Details set out above).