
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 20 APRIL 2016

Present: Councillors Spicer, Thomas and Tucker

41. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 22, 29 and 30 March 2016 be approved and signed as a correct record.

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

RESOLVED

- (i) that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005, the press and public be excluded from the meeting in respect of viewing CCTV evidence disclosed by the Police in relation to Item 7 (minute no 44) and be invited to return immediately following private session; and
- (ii) that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the parties to the hearing, press and public be excluded at a predetermined point whilst the Sub-Committee reaches its decision.

44. **HEARING TO CONSIDER APPLICATIONS FOR REVIEW AND SUMMARY REVIEW OF A PREMISES LICENCE - SHIELD AND DAGGER, STRATTON ROAD, SHIRLEY, SOUTHAMPTON SO15 5QZ**

The Sub-Committee considered applications for Review and Summary Review of a Premises Licence in respect of Shield and Dagger, Stratton Road, Shirley, Southampton SO15 5QZ.

Jon Wallsgrove (Solicitor), Tony Cookson (Manager / Owner – Shield and Dagger), Christopher Kelly, Rob Kelly (Local Residents), Craig Hawkes (Hampshire Fire and Rescue Service) and PC Boucouvalas (Hampshire Constabulary) were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee moved into confidential session to view CCTV evidence disclosed by the Police in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

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

RESOLVED that the premises licence be amended to include all the conditions imposed at the interim steps hearings, save for the amendment of hours, DPS and SIA door supervisor conditions. That four additional conditions be imposed.

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

The Sub-Committee determined that the hearing should proceed with the press and public excluded at a pre-determined point, namely whilst CCTV evidence was shown. This decision was made in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. It was heard that the CCTV footage showed and thereby identified individuals (unconnected third parties) and that accordingly it would not be in the public interest to disclose it more widely. In addition, it was noted that police investigations are also ongoing in relation to the incidents shown.

The Sub-Committee has considered very carefully the certificate of Superintendent Heydari, the application for summary review and the interim steps imposed at the previous Hearing. In addition, the representations by all the parties present at the hearing as well as written representations were also fully taken into consideration.

It has given due regard to the provisions of the Licensing Act 2003, including the statutory licensing objectives, the statutory guidance and the City Council's adopted statement of licensing policy. Human rights legislation has been borne in mind.

The Sub-Committee determined not to revoke the premises licence in this instance, despite holding very grave concerns about the nature of the incidents at this premises. The Sub-Committee has determined to impose the following conditions:

All the conditions that were previously imposed at the interim steps hearings, save for the amendment of hours, DPS and SIA door supervisors conditions (for the avoidance of any doubt the provision for suspension is also removed). This means that the following conditions shall remain on the premises licence; CCTV, incident book, refusals log, Challenge 25 and training.

In addition, the Sub-Committee has determined to impose the following conditions:

1. Customers are at no time to be permitted behind the bar at the premises whilst the premises licence is in force.
2. Staff are not to consume alcohol or be under the influence of alcohol whilst on duty at the premises.
3. Off duty staff must not go behind the bar or serve customers. Staff shall also be trained on the distinction between being on and off duty and that whilst off duty they should not assume responsibility for serving or managing the premises. That training shall be included with the other training required by condition attached to this licence and shall be subject to the same requirements regards refresher training and testing.
4. On every occasion that: i) a private function or hiring of the premises occurs or; ii) on occasions when live music (excluding karaoke) is provided at the premises, there shall be a minimum of two SIA registered door supervisors at the premises from 21:00 hours until the premises have closed and all customers and staff have left the premises and dispersed from the immediate vicinity.

Reasons:

The Sub-Committee heard evidence from Hampshire Constabulary that was of particular and very grave concern. A history of lack of cooperation was described, particularly in relation to due diligence at the premises generally and in relation to

CCTV provision. It is disappointing that Police intervention did not see these matters addressed at an earlier stage and that an unfortunate turn of events coupled with the issues raised by Hampshire Constabulary have led to today's hearing. This lack of due diligence is reinforced and reiterated by issues raised by Hampshire Fire and Rescue. The Sub-Committee accepts Police evidence indicating that complaints have been received but also notes evidence for the Premises Licence Holder that complaints may have been made maliciously.

The Sub-Committee considered very carefully all of the options available to it in accordance with Section 52 of the Act, including revocation of the premises licence.

Despite the very serious nature of recent incidents at the premises the Sub-Committee has determined not to revoke the premises licence at this time. The additional conditions combined with those already imposed are considered to be the appropriate and proportionate response to deal with the specific issues raised by Hampshire Constabulary and other parties. It was also noted that the Premises Licence Holder has managed the premises for a considerable period and that the most serious incidents of concern have occurred within a short and recent period of time. The Sub-Committee is aware that the premises has in effect already been subject to a period of seven days suspension of the licence whilst remedial measures were put in place.

The Sub-Committee was asked during the hearing to express its view with regards the Duty Manager who is no longer employed at the premises. The Sub-Committee advises the Premises Licence Holder, in light of the evidence that has been shown, not to reinstate the Duty Manager at the premises. This decision was made on the basis that it will enable a clean break from those events. Further, the actions displayed were not what the Sub-Committee would condone, nor encourage. It is clear that the premises require strong management and the most strict due diligence measures to cope with particular points of stress. The Sub-Committee has determined to reinstate the hours at the premises as stated on the premises licence.

The Sub-Committee has determined that the Committee report and papers should be made public, however officers shall be given sufficient time as necessary to redact the report as may be required. In addition the police shall be consulted before publication and in the event of any objection to any part being made public, that part shall remain confidential.

It should also be noted that the above decision is in relation to the summary review application. The Sub-Committee has at the same time determined the ordinary review application and decided to take no (separate) action with regard to that application (which the parties had agreed should be heard and considered at the same time).

Interim steps imposed previously are revoked and shall not remain in force pending any appeal, save for the terms of this decision.

There is a right of appeal for any party at this stage to the Magistrates' Court. All parties will receive written notification of the decision with reasons which will set out the right of appeal.

If any party has any representation to make in relation to the conditions that have been imposed that should be raised now and the Sub-Committee will reconsider the wording if appropriate.

45. **APPLICATION FOR A VARIATION OF A PREMISES LICENCE - MARTIN MCCOLLS, 71 BEDFORD PLACE, SOUTHAMPTON SO15 2DS**

The Sub-Committee considered an application for a variation of a premises licence in respect of McColls, 71 Bedford Place, Southampton SO15 2DS.

Professor Roy Light (Barrister), Simon Elliott (DPS / Branch Manager - McColls), Neil Graydon (Area Manager - McColls), Lorraine Barter and Mrs Barratt (Local 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 (Hearings) Regulations 2005.

RESOLVED that the variation for a premises licence be granted as amended in agreement with the Police and subject to conditions.

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

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

The Sub-Committee has considered very carefully the application for a variation of a premises licence at Martin McColls, 71 Bedford Place, Southampton SO15 2DS. 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 was borne in mind whilst making the decision.

The Sub-Committee noted that the premises are located within an area identified as suffering from high levels of crime and disorder and labelled as a Cumulative Impact Stress Area. The Sub-Committee considered the Cumulative Impact Policy and particularly paragraph 16.7 and whether the application was a “substantial” variation. Having very carefully considered the nature of this particular application and the fact that the application, if granted, would result in less licensable activity taking place overall, the Sub-Committee has determined that the application is not a substantial variation and accordingly that the rebuttable presumption does not apply.

The Sub-Committee considered representations, both written and given orally today. It was noted that as a result of correspondence sent by the applicant, two representations had been withdrawn.

In light of the above the Sub-Committee has determined to approve the application as amended in agreement with the police (in relation to hours amendment to the CCTV condition regarding the memory stick etc. and the sale of single cans condition) and subject to conditions as set out in the report – namely, refusals book, Challenge 25, training, CCTV and location of spirits.

Reasons

The Sub-Committee noted very carefully the residential objections and the concerns raised in relation to crime and disorder experienced in the area. Indeed, the evidence shown is the very reason behind the specific policy adopted. However, it could not be ignored that the application would result in one less premises and an overall reduction in the hours during which the sale of alcohol is permitted. Accordingly, it would appear perverse to refuse the application or impose further restrictions on the basis of the evidence of residents in the area. It is suspected that this accounts for two of the residential objections having been withdrawn.

It is noted that the applicant had worked with the police and had presented a comprehensive set of very detailed conditions to be attached to the licence. Further, it was noted that there had been no representations from any of the responsible authorities as a result.

In all the circumstances the Sub-Committee has determined that the appropriate and proportionate action in this application is to grant the licence.

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.