

# Licensing (Licensing and Gambling) Sub-Committee

Thursday, 26th May, 2016  
at 9.30 am

**PLEASE NOTE TIME OF MEETING**

Committee Room 1 -  
Civic Centre

This meeting is open to the public

## **Members**

Three Members drawn from the Licensing Committee

## **Contacts**

Democratic Support Officer  
Karen Wardle  
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## **PUBLIC INFORMATION**

The Members of the Licensing Committee are to be appointed at the Annual General Meeting 18 May 2016.

### **Terms of Reference**

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act 2003 and Gambling Act 2005, including:-

- Determination of applications for review of premises licences and club premises certificates;
- Determination of representations to applications for premises licences and club premises certificates, variations and various permits;
- Determination of police objections to applications for:
  - Variation of designated premises supervisors
  - Transfer of premises licences
  - Personal licences for the sale of alcohol
- Determination of objections to temporary event notices.

### **Relevant Representations**

Those who have made relevant representations may address the meeting about the matter in which they have an interest. New matters, not raised within a written representation, can not be relied upon at the hearing.

**When dealing with Licensing Act matters the Sub-Committee must only take into account the following statutory Licensing Objectives:-**

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

**Likewise, when dealing with Gambling Act matters the Sub Committee must only take into account the statutory Licensing Objectives below:-**

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

### **Southampton City Council's Priorities**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

**Fire Procedure:-** In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access:-** Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

**Smoking policy:-** The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

### **Dates of Potential Meetings Municipal Year 2016/17**

Meetings are scheduled on a weekly basis usually at 6pm on a Wednesday evening.

## CONDUCT OF MEETING

### **Terms of Reference**

The terms of reference are contained in the Council's Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Rules of Procedure**

The meeting is governed by the Licensing Act 2003 (Hearings) Regulations 2005 and the Council Procedure Rules as set out in Part 4 of the Constitution, so far as it is applicable.

### **Quorum 3**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

Agendas and papers are available via the Council's website.

### **1 ELECTION OF CHAIR**

To appoint a Chair for the purposes of this meeting.

### **2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

### **3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **4 STATEMENT FROM THE CHAIR**

### **5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

(Pages 1 - 10)

To approve and sign as a correct record the Minutes of the meetings held on 4 May 2016 and 12 May 2016 and to deal with any matters arising, attached.

### **6 EXCLUSION OF THE PRESS AND PUBLIC**

This report includes details and information that is classed as exempt from publication in accordance with the Council's Constitution and specifically Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules due to the identification of individuals and sensitive details of an ongoing police investigation. Accordingly, the report has not been published at this stage. In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, members shall be able to determine whether to exclude the public from all or any part of the hearing after consideration of the public interest.

### **7 EXCLUSION OF THE PRESS AND PUBLIC**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

**8 APPLICATION FOR SUMMARY REVIEW OF A PREMISES LICENCE - SHIELD AND DAGGER, STRATTON ROAD, SHIRLEY, SOUTHAMPTON SO15 5QZ**  
(Pages 11 - 36)

Application for Summary Review of a Premises Licence in respect of Shield and Dagger, Stratton Road, Shirley, Southampton SO15 5QZ, attached.

Wednesday, 18 May 2016

SERVICE DIRECTOR, TRANSACTIONS AND  
UNIVERSAL SERVICES

# Agenda Item 5

Minutes of Licensing (Licensing and Gambling) Sub-Committee meetings:

- 4 May 2016
- 12 May 2016

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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 4 MAY 2016

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Present: Councillors Jordan, Painton and Tucker

50. **ELECTION OF CHAIR**

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

51. **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;
- (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.

52. **APPLICATION FOR SUMMARY REVIEW OF PREMISES LICENCE, INTERIM STEPS HEARING - SHIELD AND DAGGER, STRATTON ROAD, SHIRLEY, SOUTHAMPTON SO15 5QZ**

The Sub-Committee considered interim steps pending summary review of premises licence – Shield and Dagger, Stratton Road, Shirley, Southampton SO15 5QZ.

PC Conway and PC Boucouvalas (Hampshire Constabulary), Mr Peter Cookson (Premises Licence Holder) and Jon Wallsgrove (Solicitor) 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 premises licence be suspended under section 53B of the Licensing Act 2003 pending a full review of the premises licence.

Note: This rest of this minute is confidential in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

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# Agenda Item 5

Appendix 2

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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 12 MAY 2016

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Present: Councillors McEwing, Painton and Parnell

53. **ELECTION OF CHAIR**

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

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

**RESOLVED** that the minutes of the meetings held on 20 and 27 April be approved and signed as a correct record.

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

**RESOLVED** 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.

56. **APPLICATION FOR VARIATION OF A PREMISES LICENCE - BUDDHA LOUNGE, UNIT 3, WINCHESTER STREET, SOUTHAMPTON SO15 2EL**

The Sub-Committee considered the application for variation of a Premises Licence in respect of Buddha Lounge, Unit 3, Winchester Street Southampton SO15 2EL.

David Lee (Solicitor), Sirijul Islam and Sayful Islam (Applicant), Lorraine Barter (also representing Mr Stewart Morris), Denis Bundy (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 the premises licence be granted subject to an additional condition.

After private deliberation the Sub-Committee reconvened and the Chair read out 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 variation of a premises licence at the Buddha Lounge, Unit 3, Winchester Street, Southampton SO15 2EL. 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 considered representations, both written and given orally today.

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 7.9 and whether the application was a “substantial” variation. Having considered all the facts the Sub-Committee determined that the application did amount to a substantial variation and that the rebuttable presumption would apply in this case. This decision was based on the fact that this licence would be amended to increase hours and a small increase in capacity.

The Committee noted in particular that:-

- one effect of the CIP is that a *rebuttable presumption* applies to applications for premises licences.
- The *rebuttable presumption* is that such applications shall ordinarily be refused
- Licensing Policy CIP2 7.12 provides that the onus is upon applicants to demonstrate through their Operating Schedule and where appropriate supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

Having considered all of the above the Sub-Committee has determined to grant the application subject to an additional condition as follows:

The premises licence holder shall ensure that any SIA registered door staff on duty at the premises, as required by previous condition, shall remain on duty for at least 30 minutes after closing to ensure the dispersal policy is properly implemented and that patrons leave the vicinity in a controlled manner.

### Reasons

The Sub-Committee considered very carefully the application and all the representations, particularly those of residents. It was noted that the residential objections raised general concerns in relation to crime and disorder experienced in the area. Indeed, the evidence shown is the very reason behind the specific policy adopted. Two residents are located on Harborough Road and one resident lives particularly close to the premises. Whilst it was noted that the proposed application would result in the premises effectively moving closer to that residential address, the Sub-Committee heard evidence from the applicant to confirm that levels of insulation at the new premises were far greater than those at the old and that double entrance doors providing a lobby would be at each entrance / exit, which is not provided at the old premises.

Having applied the policy the Sub-Committee noted that the applicant was required to establish that the application would not add to or increase issues already experienced in the area. The Sub-Committee considered this point very carefully and has determined that in light of the Police comment that in their view this is not likely, and the lack of representation from Environmental Health that the applicant has on the balance of probabilities established that such an increase is not likely. The Sub-Committee is bound to take into consideration the statutory guidance which stresses at paragraph 2.1 that licensing authorities “should look to the Police as the main source of advice on crime and disorder”.

The Sub-Committee could not ignore the fact that this application runs alongside an additional minor variation application relating to adjoining premises also owned and managed by the Premises Licence Holder. That application will result in a reduction in hours, the overall effect being no actual increase in operating hours (between the two premises) but a very small increase in capacity.

A resident confirmed that he represented other residents also living very close to the premises, however, the Sub-Committee noted that no formal representation had been received from those residents. Whilst the Sub-Committee can consider hearsay evidence it must consider the weight that it attaches to that evidence accordingly.

The Sub-Committee was reassured by the evidence given by the Premises Licence Holder including details of negotiation with the responsible authorities, (including extensive conditions agreed with the police), the level of experience generally and a willingness to engage with residents, if necessary. In particular the Sub-Committee noted that the Premises Licence Holder had previously provided his telephone number to residents.

The Sub-Committee would also stress that there is a review process which can be initiated by residents as well as responsible authorities if appropriate evidence, linked to the premises, is produced.

The Sub-Committee imposed the condition requiring door staff to remain on duty to address concerns raised regarding dispersal from the premises.

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.

### Recommendations

The Premises Licence Holder and residents are encouraged to engage in discussion and consultation in future to try and resolve any issues.

Residents are encouraged to discuss further issues surrounding use of the highway behind their premises with local Councillors and the highways department.

Residents should report matters as they occur to the Police and / or Environmental Health, as appropriate, so that issues can be properly evidenced in future.

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