

Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 28th February,
2018
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic
Centre

This meeting is open to the public

Members

Three Members drawn from the Licensing
Committee

Contacts

Democratic Support Officer
Pat Wood
Tel: 023 8083 2302
Email: pat.wood@southampton.gov.uk

Service Director - Transactions & Universal
Services

Mitch Sanders
Tel: 023 8083 3613
Email: mitch.sanders@southampton.gov.uk

PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors J Baillie, Blatchford, Bogle, Furnell, B Harris, McEwing, Letts, Lewzey, Painton, and Parnell.

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

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

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 2017/18

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

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 - 4)

To approve and sign as a correct record the Minutes of the meeting held on 9 January 2018 and to deal with any matters arising.

6 EXCLUSION OF THE PRESS AND PUBLIC

Chair to move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of item 8 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially exempt as it relates to individual personal details and information held under the Data Protection Act 1998. Having applied the public interest test it is not appropriate to disclose this information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

7 EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE

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 PERSONAL LICENCE HOLDER (Pages 5 - 22)

Report of the Services Director – Transactions and Universal Services seeking determination of suitability of a specific individual to continue to be licensed as a personal licence holder following relevant convictions being disclosed to the Licensing Authority.

Tuesday, 20 February 2018

SERVICE DIRECTOR, LEGAL AND GOVERNANCE

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 9 JANUARY 2018

Present: Councillors Mrs Blatchford, Furnell and Painton

23. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 23 November 2017 be approved and signed as a correct record.

25. **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.

26. **APPLICATION FOR A NEW PREMISES LICENCE - POP WORLD, LOWER BANISTER STREET, SOUTHAMPTON, SO15 2EH**

The Sub-Committee considered the report, and additional information submitted in advance of the hearing detailing an application for a premises licence in respect of Pop World, Lower Banister Street, Southampton SO15 2EH.

Claire Eames (Applicant's Solicitor), Aaron Findlator (Designated Premises Supervisor), Mark Molton (Area Manager, Stonegate Pub Company) and Elaine Jeffery (Environmental Health Officer) 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 granted, subject to the Conditions set out within the operating schedule (amendments agreed during the course of the hearing) as well as the condition agreed with the Environmental Health officer and subject to retention of the existing last entry time.

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 a premises licence for Pop World, Lower Banister Street, Southampton SO15 2EH.

It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy.

The Sub-Committee considered the representations, both written and given orally today, by all parties. Human rights legislation has been borne in mind whilst making the decision.

It was noted that representations had been received from four residents living in close proximity to the premises. In addition, a representation had been received from environmental health but it was confirmed during the course of the hearing that a condition had been agreed requiring external doors at the front of the premises to remain closed, save for access and egress. The applicant had agreed conditions with the police as set out within the report and relating to CCTV, the use of SIA door staff, the use of body worn video, ID scanning, training and details of records to be kept on the premises (amongst others).

Having considered all the above evidence and after having heard from those present, the Sub-Committee has determined to grant the Premises Licence as applied for, subject to the Conditions set out within the operating schedule (amendments agreed during the course of the hearing) as well as the condition agreed with environmental health as follows:

“The internal and external lobby doors to the front entrance of the premises will be closed at all times except for access and egress”.

The Sub-Committee has also determined that the last entry time should remain at 0130 hours on any day, save for customers who have stepped out to smoke, in line with the existing premises licence.

Reasons

The Sub-Committee carefully considered written evidence from residents raising concern including (but not limited to) the following points:

- That additional hours will lead to an increase in customers on the street later in the evening/early morning;
- That vandalism will increase;
- That door staff cannot cope with existing hours and fail to manage dispersal properly; and
- That noise and antisocial behaviour generally will increase.

The premises is located within an area identified as suffering from high levels of antisocial behaviour, crime and disorder and, as a result, the Licensing Authority's Licensing Policy creates a rebuttable presumption that applications of this nature will ordinarily be refused. The impact of the policy means that applicants must demonstrate that their application will not lead to an increase in those issues.

The applicant presented evidence demonstrating a significant number of occasions when the hours now applied for have been implemented by way of Temporary Event Notice (TENs). The applicant stressed that no adverse issues arose as a result of this previous experience of trading to the hours applied for. In support of this assertion the applicant relied upon the evidence of Hampshire Constabulary who have not objected

to the application and are, indeed, supportive as a result of the additional steps the applicant proposes.

In particular the Sub-Committee noted as persuasive the intended use of body worn video by door staff, that dispersal policies will be robust and that sufficient numbers of door staff will be provided and will remain for at least 15 minutes after closure of the premises to assist with dispersal from the area. In addition, conditions agreed with the police will require all customers to scan ID on entry and the applicant's extensive experience in managing premises of this nature elsewhere as well as the premises in question was relied upon. The Sub-Committee was surprised to see such clear support from Hampshire Constabulary for the premises, given the location of the premises, and notes that the conclusion that the additional proposed measures will mitigate the cumulative impact is exceptional.

It was argued by the applicant that the premises will become an "end destination" and an extension in hours will mean that their patrons will not leave their premises, causing disturbance as they go, to later opening venues. The applicant was asked during the course of the hearing why, if they were primarily seeking to retain existing customers, the application included a later last entry time. The Sub-Committee was concerned that allowing a later last entry time would lead to migration from other premises to this premises, later in the evening, and therefore potentially undermine the effect sought to be achieved by increasing opening hours. The Sub-Committee was not convinced by the argument that having operated under the provision of TENs was persuasive enough to allow a permanent shift going forward - given the nature of the area and the CIP designation. Once customers become aware of the new hours, which will be available on a permanent basis going forward, the Sub-Committee feels there is a real risk to the Licensing Objectives in allowing a later last entry time as well as a later opening time.

The Sub-Committee did consider the residents' evidence very carefully as well as the CIP Policy in particular but felt that on the balance of probabilities it was appropriate to grant the licence subject to the conditions agreed with environmental health and the police. Amendments to the conditions set out within the report were agreed with the applicant during the course of the hearing and a copy of the agreed amendment was provided to the applicant at the conclusion of the hearing.

Residents can be reassured that there is a power to instigate a review in the event that the licensable activities at the premises do lead to issues undermining the licensing objectives.

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.

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Document is Confidential

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