

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 19th March, 2020
at 9.30 am

PLEASE NOTE TIME OF MEETING

Council Chamber - Civic Centre

This meeting is open to the public

Members

Three Members drawn from the Licensing Committee

Contacts

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PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors Mrs Blatchford, G Galton, B Harris, Kataria, McEwing, Noon, Prior, Renyard, Spicer, and Streets.

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: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

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 2019/20

Meetings are scheduled on a weekly basis usually at 4pm 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 19 February 2020 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 2 and 7 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 data protection legislation. 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 APPLICATION FOR REVIEW OF PREMISES LICENCE - MANZIL'S FOOD AND WINE, 36 ONSLOW ROAD, SOUTHAMPTON SO14 0JG (Pages 5 - 56)

Application for review of premises licence in respect of Manzil's Food and Wine 36 Onslow Road, Southampton SO14 0JG

Wednesday, 11 March 2020

Service Director - Transactions and Universal Services

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 19 FEBRUARY 2020

Present: Councillors McEwing, Noon and Prior

44. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 10 February 2020 be approved and signed as a correct record.

46. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

RESOLVED that the Sub-Committee 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 Category 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules, would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced.

47. **OBJECTION BY HAMPSHIRE CONSTABULARY TO TEMPORARY EVENT NOTICE ON 23 FEBRUARY 2020 - O'NEILLS, 130-132 ABOVE BAR STREET, SOUTHAMPTON SO14 7DU**

The Sub-Committee considered the report of the Service Director of Transactions and Universal Services for an application for a Temporary Event Notice in respect of O'Neills, 130-132 Above Bar Street, Southampton SO14 7DU.

Kevin Ashbolt, Applicant, and PC Swallow, Hampshire Constabulary 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 it was not necessary to issue a counter notice under section 105(2)(b) of the Licensing Act 2003 in order to promote the Act's licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance.

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 considered the objection from Hampshire Constabulary to the Temporary Event Notice for 23 February 2020 at O'Neills, 130-132 Above Bar, Southampton SO14 7DU. The Sub-Committee had due regard to The Licensing Act 2003, the Licensing Objectives, the Councils licensing policy, statutory guidance and

regulations. The Sub-Committee also noted that the premises was in a Cumulative Impact Area

Full consideration was given to the notice, the written representation from Hampshire Constabulary and oral evidence heard on the day. The Sub-Committee took into account Hampshire Constabulary's concerns regarding the impact on the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance.

The Sub-Committee heard from PC Swallow who gave evidence that the Hampshire Constabulary licensing team provide regular email updates to the trade which sets out what would be expected in a TEN application. This would include an agreement to continue the license conditions into any extended period and any other measures to meet the licensing objectives. Seven other premises had applied for a TEN for this event and all had provided this information so that Hampshire Constabulary did not object.

The Licence holder, Kevin Ashbolt addressed the Sub-Committee and indicated that he did intend to abide by the usual requirements of the Hampshire Constabulary and specifically stated that he would have an additional door supervisor from midnight making a total of 5; he would close the premises between 1-30 a.m. and 2-00 am and re-entry would be by ticket only.

PC Swallow confirmed to the Sub-Committee that if Mr Ashbolt would give a written undertaking confirming this Hampshire Constabulary would be satisfied.

During discussion it came to light that the application did not include the provision of late night refreshment and the Sub-Committee received legal advice that it was not now possible to amend the application.

DECISION

The Sub-Committee resolved that it was not necessary to issue a counter notice under section 105(2)(b) of the Licensing Act 2003 in order to promote the Act's licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance.

REASON FOR DECISION

The Sub-Committee relied on the undertaking of Mr Ashbolt to confirm in writing to PC Swallow by Noon on Friday 21st February that he would abide by and implement the conditions required by Hampshire Constabulary. This would include the provision of an additional door supervisor from midnight, close the premises between 1-30 a.m. and 2-00 am and that re-entry would be by ticket only.

Therefore, the Sub-Committee declined to uphold the Hampshire Constabulary objection and will allow the temporary event at O'Neills between 03:00 hours and 06:00 hours on 23 February 2020 to take place.

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