
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 26 July 2012

Present: Councillors B Harris, Lloyd and Vassiliou

21. **ELECTION OF CHAIR**

RESOLVED that Councillor Harris be appointed Chair for the purposes of this meeting.

22. **DISCLOSURE OF INTERESTS**

Councillor Lloyd stated that she lived in the vicinity of the premises and had shopped there in the past but not for some years. She confirmed she had not discussed the particular application with any party. No objection was raised by any party to her continuing to hear the matter.

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

RESOLVED that the minutes of the meeting held on 12th July 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

24. **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 decisions.

25. **APPLICATION FOR PREMISES LICENCE - GEORGIE'S, 6A ATHELSTAN ROAD, SOUTHAMPTON, SO19 4DD**

The Sub-Committee considered the application for a premises licence in respect of Georgie's, 6 Athelstan Road, Bitterne, Southampton, SO19 4DD. (Copy of report circulated with the agenda and appended to the signed minutes).

Mr O Ekinci, Applicant, Mr Dadds, Counsel for Applicant, Mr Kilic, Licensing Agent, Mr Marshall, Trading Standards, PC Wood and PC Harris, 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 2003 (Hearings) Regulations 2005.

RESOLVED that the application for a premises licence be refused.

REASONS

The Sub-Committee considered the application for a premises licence at Georgie's 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 all parties, including additional evidence/conditions produced at the hearing with the consent of all parties.

It was noted that the premises had previously been the subject of review proceedings on two occasions including a previous suspension of the premises licence and subsequently revocation.

It was argued on behalf of the applicant that the application be considered on its own merits and separate and distinct to those previous proceedings and the licence already in place at the premises.

Whilst the Sub-Committee accepted that the application must be considered on its own merits in accordance with the legislation and guidance, it determined that the history of the premises was a relevant consideration as it related to the likely effect of the grant of the licence on the promotion of the licensing objectives, notably the prevention of crime and disorder (although disorder is not an issue in this case), public safety and the protection of children from harm.

The Sub-Committee heard evidence relating to the applicant's skills, experience and qualifications. It was noted that no issue was raised with regards to the integrity of the applicant personally and no evidence relating to any offence or breach of condition was presented in relation to him personally. However, considerable concern remained in relation to the age and experience of the applicant, including the potential for the distraction of part-time study (if pursued). As a point of clarification the Sub-Committee were of the opinion that if the father and brother were genuinely excluded from the business the applicant would be alone in dealing with the business and the issues it faced. The fact that the applicant might begin part-time study was considered as an additional factor, but of less significance than his age and experience.

In light of the very serious issues at the premises relating to the repeated sale of counterfeit (likely non-duty paid) alcohol when twinned with the sale of alcohol to persons under the legal age, the Sub-Committee was not satisfied on the balance of probabilities that the applicant had the experience or confidence to address such significant issues at the premises. The history of non-compliance, in what all parties confirmed to be a family-run business, presented a very real concern to the Sub-Committee, particularly when twinned with an applicant lacking experience and ability to show an independence of mind and strength of character, sufficient to establish a clean break from the previous management of the premises, with whom he had strong family ties and an on-going business relationship.

The Sub-Committee, after having considered all of the evidence very carefully, was not satisfied that the transfer of the business amounted to a bone fide arms-length transaction and that in particular, the applicant's father would cease to have an involvement with the running of the business. It was put to the Sub-Committee that a condition excluding the father from the premises would ensure a clear separation.

The Sub-Committee very carefully considered imposing such a condition, but were not satisfied that given the history of non-compliance, any such condition would be complied with. Further, that given the applicant's lack of experience, he would be unable to exert sufficient control over what extensively appeared to be a family concern.

In reaching this decision, the Sub-Committee considered very carefully evidence presented in support of the applicant, including reference to a recently formed company of which the applicant was a Director and shareholder. However, it was confirmed that the company currently held no assets relevant to the premises or the business and that the lease would be transferred only on the grant of a licence, with payments to be paid to the father. The Sub-Committee were concerned over the father's continued involvement with the business even if he was excluded from the premises itself - no evidence was presented to confirm the terms of any agreement reached i.e. no contract, pre-contract correspondence or formal negotiation were supplied to support the assertions of the applicant with regard to the transfer of the business.

The Sub-Committee did consider very carefully whether the conditions supplied could be imposed or any other measure or condition would be appropriate. However, it was determined that given the history of non-compliance and the potential for ongoing involvement of those responsible, further conditions were not an appropriate measure. Accordingly, refusal was the only option of those available which was considered appropriate and proportionate.