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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 1 November 2012

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Present: Councillors Cunio, B Harris and Lewzey

51. **ELECTION OF CHAIR**

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

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

**RESOLVED** that the Minutes of the Meeting held on 4<sup>th</sup> October 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

53. **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.

54. **APPLICATION FOR PREMISES LICENCE - DONYA LIMITED, 50 OXFORD STREET, SOUTHAMPTON, SO14 3DL**

The Sub-Committee considered the application for a premises licence in respect of Donya Limited, 50 Oxford Street, Southampton, SO14 3DL. (Copy of the report circulated with the agenda and appended to the signed minutes).

Mr Morris, Solicitor for the applicant, Mr Panjgani, Designated Premises Supervisor and Mr Wainwright, 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 2003 (Hearings) Regulations 2005.

**RESOLVED** that the application for a premises licence be granted, subject to:-

- (i) the following conditions, agreed with the police as detailed on pages 24 and 25 of the bundle:-
  - CCTV
  - Training
  - Challenge 25
  - Refusals Book
  - Incident Book;

- (ii) that the roof terrace shall not be utilised by patrons of the licensed premises; and
- (iii) an acoustic report, the terms of instruction to be agreed by Environmental Health in advance, would be prepared by an independent acoustic engineer, likewise so approved. The recommendations of that report would be implemented at the premises and their satisfactory implementation confirmed by Environmental Health in writing, prior to the commencement of any licensable activities. A copy of the proposed terms of instruction and any report prepared would be provided to Environmental Health to enable enforcement of this condition. Any works detailed, approved and implemented, would be maintained at the premises.

## **REASONS**

The Sub-Committee considered very carefully the application for a premises licence at Donya and gave due regard to the Licensing Act 2003, the licensing objectives, statutory guidance, the adopted statement of licensing policy, human rights legislation as well as the evidence submitted by all parties, both written and given orally today and in particular, considered which steps, if any, were necessary and appropriate in accordance with the legislation and the terms of guidance.

The Sub-Committee noted that the application had been adjourned from 23<sup>rd</sup> August 2012 and during that time the applicant had been in contact with the Environmental Health Department and had accepted their recommendations regarding the undertaking of an acoustic report (independent acoustic engineers). In this regard an agreed draft condition was presented to the Sub-Committee for its consideration requiring the same and compliance with any recommendation of that report. Environmental Health confirmed that this would address their concerns regarding the potential for noise nuisance, if they were provided with a copy of the report to enable checking the proposed measures were in fact implemented. The acoustic report would consider external acoustics and internal specifications (including glazing, extraction and the lobby) to address the potential for noise transfer from commercial to residential. Environmental Health confirmed that their considerations not only considered existing residents in the area, but also future residents created by the development of the premises itself.

It was also noted that the applicant had negotiated with the police and agreed substantial conditions to be attached to the licence, including that the roof terrace would not be open to the public, nor used by the premises (ie limited to residential use associated with the flats only).

The Sub-Committee noted the extent of co-operation shown by the premises with the police and Environmental Health and the fact that the agreed conditions and recommended noise attenuation works would be put in place, by way of and in accordance with the proposed agreed condition.

The Sub-Committee considered very carefully residential concerns and gave due weight to their representations in relation to public nuisance and noise. However, it

was felt that the above agreed conditions would be sufficient and appropriate measures, if properly implemented, to address those issues.

The Sub-Committee did have concerns regarding the potential for noise nuisance generated by those leaving the premises late at night and gave very careful consideration to limiting the hours of operation. However, in light of the extent of the agreed conditions and the nature of the proposed premises (being food-led/restaurant), it was not considered appropriate or proportionate in the absence of evidence, to restrict the hours of operation at this stage. It was also noted that the premises were not intending to make full use of the hours detailed in the application, but made the application to enable flexibility in their operation.

The Sub-Committee, whilst making this decision, took into account the ability of residents to make representation in the future where evidence showed the premises were the cause of additional noise nuisance or associated nuisance, which would lead to a review hearing where further steps could be taken to address those issues. Accordingly, residents should be reassured that the licensing authority had significant powers, if appropriate and proportionate, when dealing with a premises on review.

55. **APPLICATION FOR VARIATION OF PREMISES LICENCE - DPS VARIATION - AMURG, 5 CANUTE ROAD, SOUTHAMPTON, SO14 3FH**

The Sub-Committee noted that the application for variation of a premises licence – DPS variation, in respect of Amurg, 5 Canute Road, Southampton, SO14 3FH had been withdrawn. (Copy of the report circulated with the agenda and appended to the signed minutes).