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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 9 November 2012

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Present: Councillors Cunio, Lloyd and Tucker

Apologies: Councillor Councillor Paul Lewzey

56. **ELECTION OF CHAIR**

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

57. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Sub-Committee noted that Councillor Tucker was in attendance as a nominated substitute for Councillor Lewzey in accordance with Council Procedure Rule 4.3.

58. **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.

59. **APPLICATION TO VARY A PREMISES LICENCE - PIG IN THE WALL, WESTERN ESPLANADE, SOUTHAMPTON, SO14 2AZ**

The Sub-Committee noted that the application to vary a premises licence in respect of Pig in the Wall, Western Esplanade, Southampton, SO14 2AZ no longer required a hearing as conditions had been agreed between the parties and the objectors had withdrawn their representations.

60. **APPLICATION FOR PREMISES LICENCE - SHELL HAMPTON PARK, 197 BURGESS ROAD, SOUTHAMPTON, SO17 1TU**

The Sub-Committee considered the application for a premises licence in respect of Shell Hampton Park, 197 Burgess Road, Southampton, SO17 1TU. (Copy of report circulated with the agenda and appended to the signed minutes).

PS Wood and PC Norris, Hampshire Constabulary, Mr Phillips, Counsel for Applicant, Mr Hunt, Designated Premises Supervisor and Mr Lockett, Applicant's Agent 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:-

- (i) in accordance with Regulation 17 of The Licensing Act 2003 (Hearings) Regulations 2005, further statistical evidence be supplied showing not only the value of sales of fuel and other items, but also the number of sales relating to fuel transactions only, fuel and convenience store transactions combined and convenience store transactions only;
- (ii) given new systems would need to be implemented in order to record, analyse and present the data required, the hearing be adjourned to 25<sup>th</sup> April 2013; and
- (iii) in the event that the applicant was able to retrospectively analyse its sales data in such a way to present the information requested for a minimum period of 4 months, post the changes made to the premises, application may be made for an earlier hearing than that stated above, convenient to all parties.

**REASONS FOR ADJOURNEMENT**

The Sub-Committee considered very carefully the application for a premises licence at Shell Hampton Park and gave due regard to the Licensing Act 2003, the licensing objectives, statutory guidance, the adopted statement of licensing policy, human rights legislation and the evidence submitted by all parties, both written and given orally today, including the additional information supplied by the applicant (agreed conditions and additional statistical evidence provided to the police in advance of the hearing).

It was noted that the sole issue raised by the police representation was that of primary use of the premises as a garage and in making a representation had requested specific information from the applicant to satisfy them that the use was not primarily that of a garage. As a result the Sub-Committee acknowledged the conditions presented and agreed but focused its mind on the sole issue of primary use.

The Sub-Committee considered the police request and the evidence supplied in response as presented and explained at the hearing. However, it did not feel able to make a determination on the basis of the evidence gathered and supplied.

The evidence presented showed retail sales exclusive of VAT and separated fuel-based sales from other convenience store sales. The police representation had asked for figures relating to number of transactions with regards fuel purchases only, fuel and convenience purchases combined and convenience purchases only. The applicant stated that systems currently in place did not enable the production of data in this manner.

The Sub-Committee noted that there were generally two methods of analysing the proportion of sales so as to determine the primary use of the premises. One being the number of sales and the other being comparison of turnover excluding VAT. The Sub-Committee, in considering the matter, requested that the applicant provide evidence relating to both approaches so that it had a full understanding of the position before making a determination.

The Sub-Committee felt that in order to properly determine the intensity of use it must be able to understand the relationship between petrol and other sales at the premises and it was not able to do so unless separate figures for each were provided over a substantial period. In this regard the evidence showed that the premises had recently undergone significant changes and as a result the Sub-Committee would attach more weight to figures relating to the period after those changes had been made.