
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 13 December 2012

Present: Councillors Mrs Blatchford, Cunio and Laming

66. **ELECTION OF CHAIR**

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

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

RESOLVED that the Minutes of the meeting held on 9th November 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

68. **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.

69. **APPLICATION TO VARY A PREMISES LICENCE - PIZZA CHICKEN KEBAB HOT 2 YOU, 1A BEDFORD PLACE, POLYGON, SO15 2BY**

The Sub-Committee considered the application for a premises licence in respect of Pizza Chicken Kebab Hot 2 You, 1A Bedford Place, Polygon, Southampton, SO15 2BY. (Copy of report circulated with the agenda and appended to the signed minutes).

PC Harris, PC Wood and PC Conway, Hampshire Constabulary, Mr Mohammed, Applicant (Owner), and Ms Sharma, Counsel for Applicant 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 to vary the premises licence be refused.

REASONS

The Sub-Committee considered the application to vary a premises licence at Pizza Chicken Kebab Hot 2 You 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.

The Sub-Committee particularly noted the following points raised by the applicant:-

- 1 breaches regarding trading outside the hours permitted dated back to December 2010;
- 2 despite two previous reviews and concerns raised there might have been difficulty with regards to language and understanding the licence;
- 3 SIA security guards assisted the police in preventing crime and disorder;
- 4 the number of incidents in the immediate vicinity of the premises, specifically relating to Bedford Place and the premises in particular;
- 5 extension of SIA staff hours would maintain the current position or reduce the impact of the premises;
- 6 an increase in hours was not to target those leaving the area but to bring the premises in line with others trading later, without door staff or CCTV conditions;
- 7 there was a considerable difference between Friday and Saturday and Tuesday nights (being a student night);
- 8 that as of today the applicant had installed an upgraded CCTV system to enable better compliance with conditions; and
- 9 the financial impact.

In considering the above, the Sub-Committee balanced evidence presented by the police confirming that despite two previous reviews of the premises, the latest being in April 2011, the premises continued to fail to comply with conditions attached to the licence, specifically relating to the maintenance and inspection of CCTV and the production of CCTV when required. It was also noted that police evidence showed that the conditions attached to the licence had been provided in writing and in the applicant's first language.

Whilst it was accepted that other premises might have longer trading hours and no requirement for door staff or CCTV, the Sub-Committee considered it a relevant factor that those specific requirements had been placed upon the premises due to specific issues previously identified relating to the premises. The Sub-Committee concluded that the fact that the conditions had resulted in a lower number of incidents at this particular premises, showed that the conditions imposed were having a positive effect on the prevention of crime and disorder at the premises and in the immediate vicinity. It was felt that on the balance of probabilities, any reduction in those requirements would lead to an increase of those issues.

Whilst it was noted that other premises did not have a formal requirement or condition requiring the use of CCTV, police evidence indicated that they all had functioning CCTV systems in place.

The Sub-Committee considered the difference between Friday and Saturday nights and Tuesday (student night) and noted that the figures did show a difference between the two, but nonetheless felt that Tuesday remained a significantly busy period to warrant retention of door staff.

The Sub-Committee considered the figures relating to incidents in the area and noted that only one incident was directly linked to the premises in question. However, it considered the nature and severity of that incident to be such that it raised considerable concern. More importantly, the Sub-Committee considered the response of staff at the premises, both in failing to report and log the incident and the subsequent inadequacies regarding the provision of CCTV to be of very serious concern.

The Sub-Committee accepted legal advice given in public session relating to the Cumulative Impact Policy (CIP) which created a rebuttable presumption that applications of this type should be refused unless the applicant was able to establish that the proposed licensable activities would not, on the balance of probabilities, lead to an increase in or add to the issues already experienced within the designated area.

Accordingly, and in light of all the above, the Sub-Committee was not satisfied that the applicant had, on the balance of probabilities, established that the variation application or any part of it, would not lead to an increase in the issues in the area.

70. **APPLICATION FOR PREMISES LICENCE - HOLLYOAK STORES, 25-33 HOLLY OAK ROAD, SOUTHAMPTON, SO16 5GB**

The Sub-Committee considered the application for a premises licence in respect of Hollyoak Stores, 25-33 Holly Oak Road, Southampton, SO16 5GB. (Copy of report circulated with the agenda and appended to the signed minutes).

PC Harris and PC Conway, Hampshire Constabulary, Mr and Mrs Bhakar, Applicants, Mr Spink, Counsel for Applicant, Mrs Brazil, Mrs Castle and Miss Martinez, Residents, and Councillor Thomas, Ward Councillor, 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 in the terms sought and subject to:

- i) Agreed conditions relating to CCTV, Training, Challenge 25, Refusals Log, Till System, Incident Book, Storage and Staffing - as detailed on pages 25-27 of the Report, and;
- ii) Subject to the following conditions where they differ to those set out within the report on pages 26 and 27 of the bundle. All those other conditions set out as listed above shall be applied to the licence as indicated in the report.
 - Staffing – two members of staff will be in the premises at all times during the licensed hours when alcohol is being sold. One person in the premises during licensed hours will always be a personal licence holder. An SIA registered member of door staff will be at the premises between 17h30 hours and closing on Friday – Saturday and 18h00 to closing on Sunday to Thursday. Whilst door staff are on duty Sunday to Thursday there shall, as a minimum, be in addition one member of staff on duty within the store and Friday – Saturday two additional staff.
 - The premises licence holder shall participate in any bottle-marking scheme organised by the police or trading standards when so required.

- Signage approved by the police shall be placed on the entrance door to the premises and at the point of sale advising that it is a criminal offence to purchase alcohol on behalf of any person under the age of 18.

iii) no sales of alcohol shall take place in accordance with the licence hereby granted until all the conditions have been fully implemented and approval of the signage is obtained in writing.

REASONS

The Sub-Committee considered the application for a premises licence at Hollyoak Store, 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 by Hampshire Constabulary, residents and the applicant.

The Sub-Committee also considered evidence submitted late, but none the less in advance of the hearing.

It was noted that the Police held no objection in relation to the applicant who had been willing to provide extensive conditions. The Sub-Committee also noted that in this case, residents were both supportive as well as objecting to the grant of the premises licence.

In considering the evidence of the police and residents relating to the licensing objectives and the potential for problems caused by the sale of alcohol in this location and the concerns of residents relating to anti-social behaviour, the Sub-Committee were satisfied that the agreed conditions along with additional conditions relating to bottle-marking and signage would, on balance, be sufficient to address the issues and concerns raised by the police and residents.

The Sub-Committee carefully evaluated the potential risk based on historic evidence and balanced that against the current representations which suggested a change in the nature of the locality. The Sub-Committee felt that the issues of anti-social behaviour of which the most serious evidence dated back to 2005, would not likely recur if the premises had the above conditions attached to the licence. However, the Sub-Committee continued to hold concerns in relation to the location of this premises and the mainly historic evidence showing crime and anti-social behaviour.

Careful analysis of the evidence presented, did not sufficiently show on balance that it was appropriate and proportionate to refuse a licence. Whilst considering this the Sub-Committee took into account the significant steps that the applicant had proposed. In particular, the Sub-Committee noted:-

- the fact that the premises had the benefit of extensive CCTV, which the police noted in their own evidence was now at a satisfactory level, covering areas including the grassy area opposite;
- that the premises would only open until 7.30 pm (the majority of issues occurred after that time);
- that the premises would employ security staff every day of the week; and
- that alcohol would be stored in a locked container behind the counter.

Residents could be reassured by the fact that the Licensing Act 2003 did allow for significant steps to be taken in the event that a premises caused issues and undermined the licensing objectives. Any evidence showing a clear causal link to the premises would be taken extremely seriously and both the police and local residents would be able to initiate a review in the event that any issues arose.

RECOMMENDATION

The Sub-Committee recommended that the premises licence holder made every effort to restore positive relationships with residents and attended any agency meeting relevant to the area.