
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 17 OCTOBER 2013

Present: Councillors Mrs Blatchford, Pope and Spicer

Apologies: Councillor Cunio

23. **ELECTION OF CHAIR**

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

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

The Sub-Committee noted that apologies had been received from Councillor Cunio and that Councillor Mrs Blatchford was in attendance as a nominated substitute in accordance with Procedure Rule 4.3.

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

RESOLVED that the minutes of the meeting held on 19 September 2013 be approved and signed as a correct record.

26. **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 reach its decisions.

27. **APPLICATION FOR PREMISES LICENCE - DEVON STORE, 127 OBELISK ROAD, SOUTHAMPTON, SO19 9DN**

RESOLVED that the application be adjourned to 31 October 2013.

28. **APPLICATION TO VARY A PREMISES LICENCE - JUNK CLUB, 55 LONDON ROAD, SOUTHAMPTON, SO15 2AD**

RESOLVED that the application be adjourned to 7 November 2013.

29. **APPLICATION FOR PREMISES LICENCE - SHELL UK OIL PRODUCTS LTD, BASSETT AVENUE, SOUTHAMPTON, SO16 7LQ**

The Sub-Committee considered the application for a premises licence in respect of Shell UK Oil Products Ltd, Bassett Avenue, Southampton SO16 7LQ. (Copy of report circulated with the agenda and appended to the signed minutes)

Mr Charalambides (Counsel for applicant), Mr Lockett (Agent for applicant), Mr and Mrs Nicholson (local residents), PC Norris and PC Smith, 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 the application for a premises licence be granted subject to the conditions agreed with police and the conditions agreed at the meeting.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons (subject to discussion regarding conditions):-

The Sub-Committee has considered very carefully the application for a premises licence at Shell Bassett Avenue. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights legislation has been borne in mind.

It has considered very carefully all the evidence submitted by all parties, both written and given orally today, including the additional information supplied by the applicant.

The Sub-Committee heard an initial application by the applicant to consider the effect of the European Services Directive and in particular Regulation 19 relating to authorisation procedures and the time for dealing with applications. The Sub-Committee considered (i) the fact that notice had not been given to the applicant with the hearing notice, (ii) the fact that the hearing and consideration of the application had taken in excess of a year and (iii) that the matter had already been adjourned on two occasions. These factors, the applicant asserted, meant that the application could not now be heard and that the application should be deemed to have been granted in accordance with subsection 5. The Sub-Committee determined that the process was, however, justified by overriding reasons relating to the public interest, including a legitimate interest of third parties. It arrived at this conclusion on the basis that third parties, in this case, the police and residential objectors, were entitled to a fair hearing and an expectation that their objection would properly and fully be heard, accordingly to fail to hear the application in full could be a contravention of their Human Rights amounting to an overriding reason.

The Sub-Committee after careful consideration of all the factors has determined to grant the application subject to the following conditions:

- 1) The premises licence holder shall ensure that figures enabling the comparison of total turnover (excluding VAT) at the premises for fuel with convenience store goods are produced to the Licensing Authority at six-monthly intervals and covering the same period.
- 2) A minimum of two litter bins shall be placed on the forecourt of the premises. A minimum of two litter picks will take place per day to cover the forecourt area and the immediate vicinity of the premises.
- 3) The premises shall not be permitted to sell individual cans or bottles of lager, beer, cider or spirit mixer drinks and shall not sell, in any case, high strength lager, beer, cider or spirit mixer (in this instance "high strength" means drinks above 6.0% ABV).

In addition, the Sub Committee confirmed and imposed conditions that had been agreed between the applicant and the Police relating to CCTV, Incident book, Refusals book, Challenge 25 and training.

Reasons

The Sub-Committee listened carefully to the representations of residents and heard evidence presented by the applicant, including an explanation of figures produced. In addition the Sub-Committee heard evidence from the Police primarily in relation to the primary use of the premises as a garage.

It is noted that the applicant has on two previous occasions been required to produce figures relating to transactions by way of number with regards fuel purchases only, fuel and convenience purchases and convenience purchases only as well as comparison of turnover excluding VAT. It is further noted that the applicant has failed to produce that information despite on the last occasion, the Sub-Committee requesting only two weeks of figures. The Sub-Committee is extremely disappointed to be in the same position and without the information it has requested in accordance with the hearings regulations.

The Sub-Committee is, however, no longer willing to adjourn the application any further and has determined to make a decision based on the evidence that it has before it. On the basis of the statistics presented the Sub-Committee has no option other than to conclude that the primary use of the premises is not that of a garage. The statistics show that the highest proportion of turnover at the premises, excluding VAT relates to convenience store items and there is no evidence presented to the Sub-Committee to warrant an alternative determination at this time.

There is a right of appeal for all parties to the Magistrates' Court. All parties will receive written notification of the decision with reasons and that notification will set out the right of appeal in full.

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

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

Mr Charalambides (Counsel for applicant), Mr Lockett (Agent for applicant), PC Norris and PC Smith, 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.

The issue being precisely the same (save for the lack of residential objection) as that determined in the previous agenda item, the Sub-Committee indicated it was minded to make a similar determination and invited representations. Both parties accepted the similarity and no objection was raised other than noting minor differences.

RESOLVED that the application for a premises licence be granted subject to the conditions agreed with police and the conditions agreed at the meeting. Further, that a similar decision to the former be imposed save for minor amendment as follows:

The Sub-Committee has considered very carefully the application for a premises licence at Shell Hampton Park. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights legislation has been borne in mind.

It has considered very carefully all the evidence submitted by all parties, both written and given orally today, including the additional information supplied by the applicant.

The Sub-Committee heard an initial application by the applicant to consider the effect of the European Services Directive and in particular Regulation 19 relating to authorisation procedures and the time for dealing with applications. The Sub-Committee considered (i) the fact that notice had not been given to the applicant with the hearing notice, (ii) the fact that the hearing and consideration of the application had taken in excess of a year and (iii) that the matter had already been adjourned on two occasions. These factors, the applicant asserted, meant that the application could not now be heard and that the application should be deemed to have been granted in accordance with subsection 5. The Sub-Committee determined that the process was, however, justified by overriding reasons relating to the public interest, including a legitimate interest of third parties. It arrived at this conclusion on the basis that third parties, in this case, the police were entitled to a fair hearing and an expectation that their objection would properly and fully be heard, accordingly to fail to hear the application in full could be a contravention of their interests amounting to an overriding reason.

The Sub-Committee after careful consideration of all the factors has determined to grant the application subject to the following conditions:

- 4) The premises licence holder shall ensure that figures enabling the comparison of total turnover (excluding VAT) at the premises for fuel with convenience store goods are produced to the Licensing Authority at six-monthly intervals and covering the same period.
- 5) A minimum of two litter bins shall be placed on the forecourt of the premises. A minimum of two litter picks will take place per day to cover the forecourt area and the immediate vicinity of the premises.
- 6) The premises shall not be permitted to sell individual cans or bottles of lager, beer, cider or spirit mixer drinks and shall not sell, in any case, high strength lager, beer, cider or spirit mixer (in this instance "high strength" means drinks above 6.0% ABV).

In addition, the Sub Committee confirmed and imposed conditions that had been agreed between the applicant and the Police relating to CCTV, Incident book, Refusals book, Challenge 25 and training.

Reasons

The Sub-Committee listened carefully to the representations of residents and heard evidence presented by the applicant, including an explanation of figures produced. In addition the Sub-Committee heard evidence from the Police primarily in relation to the primary use of the premises as a garage.

It is noted that the applicant has on two previous occasions been required to produce figures relating to transactions by way of number with regards fuel purchases only, fuel and convenience purchases and convenience purchases only as well as comparison of

turnover excluding VAT. It is further noted that the applicant has failed to produce that information despite on the last occasion, the Sub-Committee requesting only two weeks of figures. The Sub-Committee is extremely disappointed to be in the same position and without the information it has requested in accordance with the hearings regulations.

The Sub-Committee is, however, no longer willing to adjourn the application any further and has determined to make a decision based on the evidence that it has before it. On the basis of the statistics presented the Sub-Committee has no option other than to conclude that the primary use of the premises is not that of a garage. The statistics show that the highest proportion of turnover at the premises, excluding VAT relates to convenience store items and there is no evidence presented to the Sub-Committee to warrant an alternative determination at this time.

There is a right of appeal for all parties to the Magistrates' Court. All parties will receive written notification of the decision with reasons and that notification will set out the right of appeal in full.