

DECISION-MAKER **Licensing (Licensing and Gambling) Sub-Committee**

SUBJECT **Hearing to Consider an Application for Summary Review of
Premises Licence –
Rhino, Waterloo Terrace, Southampton SO15 2AL**

DATE OF HEARING **Thursday 27 March 2014**

REPORT OF **Head of Legal and Democratic Services**

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This report includes details and information that would ordinarily be classed as exempt from publication in accordance with the Council's Constitution and specifically Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules due to the identification of individuals and sensitive details of an ongoing police investigation. Accordingly, the report has not been published at this stage. In accordance with the Licensing Act 2003 (Hearings) Regulations 2005 Members shall be able to determine whether to exclude the public from all or any part of the hearing after consideration of the public interest.

Application Date: 3 March 2014 Application Received: 3 March 2014
Application Valid: 3 March 2014 Reference: 2014/00885/01SSRP



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Representations From Responsible Authorities

Responsible Authority	Satisfactory?
Child Protection Services - Licensing	No Response Received
Hampshire Fire And Rescue - Licensing	Yes
Environmental Health - Licensing	No Response Received
Planning & Sustainability - Building Control - Licensing	No Response Received
Primary Care Trust - Public Health Manager	No Response Received
Police - Licensing	No
Trading Standards - Licensing	No Response Received

Other Representations

Name	Address	Contributor Type
None	None	

Application for Summary Review

1. Hampshire Constabulary has applied for a summary review of the premises licence for Rhino, Waterloo Terrace, Southampton.
2. Superintendent James Fulton of Hampshire Constabulary's Central Police Station has formed the opinion that the premises are associated with serious crime and serious disorder and provided a certificate to that effect to the Licensing Manager at 15:00 on Monday 3 March 2014.
3. The application, the associated certificate from Superintendent Fulton and the representations to the summary review by Hampshire Constabulary are contained in appendix 1 to this report.
4. Rhino is a premises trading as part of the night time economy in Waterloo Terrace, between Bedford Place and London Road. The premises licence permits the use of the premises on every day until 04:00.
5. A copy of the current Licensing Act 2003 premises licence appears as appendix 2 to this report.
6. Immediately following the receipt of the application for summary review from Hampshire Constabulary, a request, under section 41 of the Licensing Act 2003, was received from the Designated Premises Supervisor (DPS) at Rhino to be removed as such. The effect of this request is that, in the absence of a named DPS, alcohol cannot be lawfully sold at the premises.
7. At the date of preparation of this report, no application had been received for the variation of the premises licence to name a new designated premises supervisor.

Actions following receipt of Application for Summary Review

8. In accordance with the legislation, notice of the application for review was displayed on the exterior of the premises and adjacent to the premises, on the Council's web site and in the Civic Centre with effect from Tuesday 4 March 2014 for a period of seven days. A copy of this is attached as appendix 3.

9. In accordance with sections 53A and 53B of the Licensing Act 2003, the sub-committee was required to consider what interim steps should be taken pending the summary review hearing. The sub-committee considered whether or not to take interim steps on Wednesday 5 March 2014 and resolved, on the information available to them, that it was necessary and proportionate to suspend the premises licence pending hearing of the summary review.
10. A note of the decision made by the sub-committee as to interim steps appears in appendix 4 to this report.
11. Notice of the summary review, together with a copy of the application, certificate and the sub-committee's interim steps decision was also given to each of the responsible authorities and, in person, to the premises licence holder on Wednesday 5 March 2014.
12. Representations to the summary review have been received from Hampshire Constabulary. No other representations have been received.
13. At the date of preparation of this report, the premises licence holder had not exercised his right under section 53B (6) to make representations to the sub-committee about the interim steps taken.

Legal Implications

14. Sections 53A, 53B and 53C of the Licensing Act 2003 provide the police with powers of summary review of premises licences in cases of serious crime or serious disorder (or both), where the premises licence authorises the sale by retail of alcohol.
15. Serious crime is defined as an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more.
16. A senior member of the police (of the rank of Superintendent or above) may apply for a summary review of a premises licence if the premises licence authorises the sale by retail of alcohol and that police officer provides a certificate stating that they are of the opinion that the premises are associated with serious crime and/or serious disorder.
17. The Licensing Authority must, within 24 hours (one working day) of receiving the application for summary review, display a prescribed notice of the review on the outside or adjacent the premises; the notice must remain on display for seven days and any person or the responsible authorities may make representations about the summary review in that period.
18. The Licensing Authority is then required, within 48 hours (two working days), to give notice of the review accompanied by the application and the certificate to the premises licence holder and the Responsible Authorities.
19. Within 48 hours of the receipt of the summary review application, the Licensing Authority is required to consider whether to take interim steps pending the determination of the review. The consideration of the interim steps can take place without notice to the premises licence holder
20. The Licensing Authority is required to hold a hearing to consider the summary review application within 28 days of receiving the application.
21. In considering the application for summary review, the sub-committee must have regard to the adopted Statement of Licensing Policy and evidence before it at the hearing.

22. The Licensing Act 2003 provides that, in determining an application for summary review, the sub-committee may take any (or none) of the following steps, as it considers necessary:
 - Modify the conditions of the licence;
 - Exclude a licensable activity from the scope of the licence;
 - Remove the designated premises supervisor;
 - Suspend the licence for a period not exceeding three months
 - Revoke the licence.
23. In considering the application for summary review, the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider applications in accordance with both the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
24. The Licensing Act 2003 makes provision for appeal to the West Hampshire Magistrates' Court against the sub-committee's decision in relation to an application for summary review
25. The sub-committee must also consider whether it is necessary and proportionate for the interim step of suspension of the premises licence to continue pending any appeal against its determination of the summary review.
26. The effect of any determination by the sub-committee in respect of the summary review is suspended pending any appeal to the Magistrates' Court or, if an appeal is made, pending the determination of that appeal.
27. The sub-committee must also have regard to: -
28. *Crime and Disorder Act 1998*

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
29. *Human Rights Act 1998*

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affect another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations

Appendices

1. Application for Summary Review, Certificate and Police representations
2. Premises Licence - Rhino
3. Notice of Summary Review
4. Interim Steps decision notice