
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 12 MAY 2016

Present: Councillors McEwing, Painton and Parnell

53. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meetings held on 20 and 27 April be approved and signed as a correct record.

55. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the parties to the hearing, press and public be excluded at a predetermined point whilst the Sub-Committee reaches its decision.

56. **APPLICATION FOR VARIATION OF A PREMISES LICENCE - BUDDHA LOUNGE, UNIT 3, WINCHESTER STREET, SOUTHAMPTON SO15 2EL**

The Sub-Committee considered the application for variation of a Premises Licence in respect of Buddha Lounge, Unit 3, Winchester Street Southampton SO15 2EL.

David Lee (Solicitor), Sirijul Islam and Sayful Islam (Applicant), Lorraine Barter (also representing Mr Stewart Morris), Denis Bundy (Local Residents) 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 variation for the premises licence be granted subject to an additional condition.

After private deliberation the Sub-Committee reconvened and the Chair read out the following decision:-

All parties will receive formal written confirmation of the decision and reasons.

The Sub-Committee has considered very carefully the application for variation of a premises licence at the Buddha Lounge, Unit 3, Winchester Street, Southampton SO15 2EL. 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 was borne in mind whilst making the decision.

The Sub-Committee considered representations, both written and given orally today.

The Sub-Committee noted that the premises are located within an area identified as suffering from high levels of crime and disorder and labelled as a Cumulative Impact Stress Area. The Sub-Committee considered the Cumulative Impact Policy and particularly paragraph 7.9 and whether the application was a “substantial” variation. Having considered all the facts the Sub-Committee determined that the application did amount to a substantial variation and that the rebuttable presumption would apply in this case. This decision was based on the fact that this licence would be amended to increase hours and a small increase in capacity.

The Committee noted in particular that:-

- one effect of the CIP is that a *rebuttable presumption* applies to applications for premises licences.
- The *rebuttable presumption* is that such applications shall ordinarily be refused
- Licensing Policy CIP2 7.12 provides that the onus is upon applicants to demonstrate through their Operating Schedule and where appropriate supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

Having considered all of the above the Sub-Committee has determined to grant the application subject to an additional condition as follows:

The premises licence holder shall ensure that any SIA registered door staff on duty at the premises, as required by previous condition, shall remain on duty for at least 30 minutes after closing to ensure the dispersal policy is properly implemented and that patrons leave the vicinity in a controlled manner.

Reasons

The Sub-Committee considered very carefully the application and all the representations, particularly those of residents. It was noted that the residential objections raised general concerns in relation to crime and disorder experienced in the area. Indeed, the evidence shown is the very reason behind the specific policy adopted. Two residents are located on Harborough Road and one resident lives particularly close to the premises. Whilst it was noted that the proposed application would result in the premises effectively moving closer to that residential address, the Sub-Committee heard evidence from the applicant to confirm that levels of insulation at the new premises were far greater than those at the old and that double entrance doors providing a lobby would be at each entrance / exit, which is not provided at the old premises.

Having applied the policy the Sub-Committee noted that the applicant was required to establish that the application would not add to or increase issues already experienced in the area. The Sub-Committee considered this point very carefully and has determined that in light of the Police comment that in their view this is not likely, and the lack of representation from Environmental Health that the applicant has on the balance of probabilities established that such an increase is not likely. The Sub-Committee is bound to take into consideration the statutory guidance which stresses at paragraph 2.1 that licensing authorities “should look to the Police as the main source of advice on crime and disorder”.

The Sub-Committee could not ignore the fact that this application runs alongside an additional minor variation application relating to adjoining premises also owned and managed by the Premises Licence Holder. That application will result in a reduction in hours, the overall effect being no actual increase in operating hours (between the two premises) but a very small increase in capacity.

A resident confirmed that he represented other residents also living very close to the premises, however, the Sub-Committee noted that no formal representation had been received from those residents. Whilst the Sub-Committee can consider hearsay evidence it must consider the weight that it attaches to that evidence accordingly.

The Sub-Committee was reassured by the evidence given by the Premises Licence Holder including details of negotiation with the responsible authorities, (including extensive conditions agreed with the police), the level of experience generally and a willingness to engage with residents, if necessary. In particular the Sub-Committee noted that the Premises Licence Holder had previously provided his telephone number to residents.

The Sub-Committee would also stress that there is a review process which can be initiated by residents as well as responsible authorities if appropriate evidence, linked to the premises, is produced.

The Sub-Committee imposed the condition requiring door staff to remain on duty to address concerns raised regarding dispersal from the premises.

There is a right of appeal for all parties to the Magistrates' Court. Formal notification of the decision will set out that right in full.

Recommendations

The Premises Licence Holder and residents are encouraged to engage in discussion and consultation in future to try and resolve any issues.

Residents are encouraged to discuss further issues surrounding use of the highway behind their premises with local Councillors and the highways department.

Residents should report matters as they occur to the Police and / or Environmental Health, as appropriate, so that issues can be properly evidenced in future.