
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON 2 June 2011

Present: Councillors Drake, Parnell and Osmond

Apologies: Councillor Carol Cunio

6. **ELECTION OF CHAIR**

RESOLVED that Councillor Parnell be appointed Chair for the purposes of the meeting.

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

The Panel noted that Councillor Osmond was in attendance as a nominated substitute for Councillor Cunio in accordance with Council Procedure Rule 4.3.

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

RESOLVED that the minutes of the meetings held on 21 April 2011 and 19th May 2011 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

9. **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 pre-determined point whilst the Sub-Committee reach its decisions.

10. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE - GUAVA BAR (PREVIOUSLY KNOWN AS HAMPTONS), 180-182 ABOVE BAR STREET, SOUTHAMPTON, SO14 7DW**

The Sub-Committee considered the application by Hampshire Constabulary for a review of a premises licence in respect of Guava Bar (previously known as Hamptons), 180-182 Above Bar Street, Bargate, Southampton, SO14 7DW. (Copy of report circulated with agenda and appended to signed minutes).

Mr N Stone, Proprietor, PC N Prior and PC H Channel, 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 Licensing Act 2003 (Hearings) Regulations 2005.

RESOLVED

- (i) that the current DPS be changed within 6 months of the date of this decision and the new DPS shall have completed a nationally recognised Level 2 DPS course and shall only manage these premises; and
- (ii) that the following additional conditions as set out below be attached to the licence:-

1. **CCTV**

- The premises shall have sufficient CCTV cameras located within the premises to cover all public areas and additionally cameras shall be located outside covering the entrance and exit areas of the premises.
- The CCTV system installed must be able to operate satisfactorily when strobe lighting is used, and in any level of illumination, throughout the premises and in the area outside the premises as above.
- The CCTV system shall be in operation at all times whilst the premises are open for any licensable activity.
- All CCTV equipment shall have a constant and accurate time and generation.
- All CCTV recordings must be kept for a minimum of 28 days.
- Records must be made on a weekly basis and kept for inspection to show that the CCTV system is functioning correctly and that data is being securely retained.
- There shall be sufficient members of trained staff available during the operating hours of the premises to be able to provide viewable copies of the CCTV recording at the request of the Police or authorised officer.
- Any images recovered must be in a format that can be readily taken away and viewed on any computer operating on any windows based program acceptable to the Police, or upon a DVD player, without the requirement for additional software to be installed.

- CCTV warning signs shall be fitted and maintained in all public areas.
- The DPS or premises manager must be able to demonstrate upon request by the police or authorised officer that the CCTV system has measures in place to prevent recordings being tampered with i.e. is password protected.
- All CCTV systems, signage, hardware and procedures are to be installed and implemented to the reasonable satisfaction of Hampshire Constabulary and approved in writing.

2. **INCIDENT BOOK**

- An incident book will be provided and maintained at the premises and there will be a daily debrief of door staff by the premises management at the close of business to the reasonable satisfaction of Hampshire Constabulary and approved in writing.

3. **LICENCE LINK/PUB WATCH**

- The premises licence holder or his nominated representative will maintain membership of any existing Barwatch scheme or join any future scheme that is approved/supported by the police.
S/he will ensure co-operation on the part of the premises with the relevant scheme, abide by any rules and ensure that the meetings are regularly attended on behalf of the premises.

4 **POLYCARBONATE**

- From 22h00 until close of business every day, all “glasses” used at the premises will be of polycarbonate, and the contents of all glass bottles will be decanted into polycarbonate glasses with the exception of the contents of wine and champagne bottles consumed in the seating area within the premises, and the wine and champagne glasses used in that area. The contents of all bottles of beer, lager and alcohol pops that are not made of PET or aluminium will always be decanted into polycarbonate glasses.

5 CHALLENGE 25

- There will be a Challenge 25 policy operated at the premises. Challenge 25 meaning that the holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the licensing authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol is to be made to or for that person.

6 TRAINING

- All Staff must be adequately trained regarding appropriate precautions to be taken to prevent the sale of alcohol to persons under the age of 18, including full training on the Challenge 25 Policy and Procedure.
- All staff must receive refresher training of such precautions every six months as a minimum
- Records must be made and kept of all such training and shall be signed and dated by the member of staff who has received the training.
- Records must be available for inspection by Hampshire Constabulary and the Licensing Authority upon request and within 24 hours.

REASONS FOR THE DECISION

The Sub-Committee considered the application for the review of the premises licence and gave regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted Statement of Licensing Policy and representations made, both written and given orally by all parties

The Sub-Committee accepted that the incident referred to in the police evidence and the lack of proper managerial control evidenced by it was serious.

However, in the light of the specific circumstances of the premises and the work already undertaken to rectify the situation as detailed on behalf of the premises and the police, the Sub-Committee felt that the problems could be dealt with satisfactorily by the imposition of appropriate conditions and the change to the DPS requested by the Police and agreed by the current DPS/Premises Management.

The Sub-Committee determined on the weight of the evidence that it was necessary to impose conditions rather than allowing a voluntary arrangement because of the seriousness of the incident and to ensure rigorous future management of the premises.

RECOMMENDATION

For the avoidance of doubt the following is not a condition. The Sub-Committee recommends that until the new DPS is in post on every band night at the premises, the current DPS should be present.

11. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE - OLD FAT CAT, 166 ABOVE BAR STREET, BARGATE, SO14 7DU**

The Sub-Committee considered the application by Hampshire Constabulary for a review of a premises licence in respect of Old Fat Cat, 166 Above Bar Street, Bargate, Southampton, SO14 7DU. (Copy of report circulated with the agenda and appended to signed minutes.

Mr B Bagwall, Operations Director, Greene King Brewing and Retailing Limited, Mr J Walton, Area Manager, Mr A Flett, Designated Premises Supervisor, Mr A Woods, Solicitor for Old Fat Cat, PC H Channell and PC N Prior were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with Licensing Act 2003 (Hearings) Regulations 2005.

RESOLVED

- (i) that the request for a suspension of 48 hours be refused; and
- (ii) that the following additional conditions agreed between the parties as set out below be attached to the licence:-

1. **CHALLENGE 25**

- There will be a Challenge 25 policy operated at the premises. Challenge 25 meaning that the holder of the premises licence shall ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the licensing authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol is to be made to or for that person.

2. **STAFF TRAINING**

- All staff who sell alcohol at the premises shall be trained to APLH (Award for Personal Licence Holder) level. All sales of alcohol must be directly supervised by a personal licence holder until such staff have achieved training to APLH level.
- All Staff must be trained regarding appropriate precautions to be taken to prevent the sale of alcohol to persons under the age of 18.
- Records must be kept of such training which are signed and dated by the member of staff who has received the training. All staff must receive refresher training of such precautions every six months as a minimum and records of the training signed and dated by the member of staff must be kept. Records must be retained and be available for inspection by Hampshire Constabulary and the Licensing Authority upon request .
- The DPS (designated premises supervisor) must be trained to BIIAB Level 2.

3. **LICENCELINK/PUB WATCH**

- The premises licence holder or his nominated representative will maintain membership of any existing Barwatch scheme or join any future scheme that is approved/supported by the police. S/he will ensure co-operation on the part of the premises with the relevant scheme, abide by any rules and ensure that the meetings are regularly attended on behalf of the premises.

4 **INCIDENT BOOK**

- An incident book will be provided and maintained at the premises and The incident book must remain on the premises at all times and must be made available to the police for inspection upon request and there will be a daily debrief of door staff at the close of business to the reasonable satisfaction of Hampshire Constabulary and approved in writing.

5. **CCTV (To replace point 5, Annex 2 currently on the premises licence**

- The premises shall have sufficient CCTV cameras located within the premises to cover all public areas including outside of the premises covering the entrance/exit.
- The CCTV system must be able to cope with all levels of illumination throughout the premises as well as outside areas.

- The CCTV system must be operating at all times whilst the premises are open for any licensable activity.
 - All CCTV equipment shall have a constant and accurate time and date generation.
 - There shall be sufficient members of trained staff available during operating hours to be able to provide viewable copies at the request of the Police or authorised officer.
 - Any images recovered must be in a format that can be readily taken away and viewed on any computer operating on any windows based programme acceptable to the police, or DVD player. This must be without the requirement for additional software to be installed.
 - Records must be made on a weekly basis and kept for inspection to show that the CCTV system is functioning correctly and that data is being securely retained.
 - CCTV warning signs shall be fitted in public places.
 - Recordings shall be kept for a minimum of 28 days..
 - The DPS or Premises Manager must be able to demonstrate the CCTV system has measures to prevent recordings being tampered with ie password protected.
6. A written record shall be kept at the premises of any persons that the DPS has authorised to supply alcohol. Further when the DPS is absent from the premises a list will be made available for inspection, stating who will be managing the venue.
7. To clarify point 3 (a) in Annex 2 on the current premises licence with regards to what is meant by “external background music” – to state: **“For the avoidance of doubt no music to be played outside the premises after 21:00 hours.”**

REASONS FOR DECISION

The Sub-Committee considered the application for the review of the premises licence and gave regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted Statement of Licensing Policy and representations made, both written and given orally by all parties.

The Sub-Committee noted that the facts of the two failed test purchases and the circumstances pertaining thereto were not disputed between the police and the premises licence holder. It viewed these failures very seriously as the protection of children from harm was of paramount importance.

The Sub-Committee also noted the agreement between the police and the premises licence holder on the additional conditions that were to be imposed to promote this licensing objective and was pleased to include those conditions upon the licence as necessary and proportionate in the furtherance of the licensing objective of the protection of children from harm. Nonetheless, the sub-committee was very concerned that these matters were not satisfactorily in place so as to have prevented both failures, more especially the second failure.

The Sub-Committee considered very carefully the representation by the police that a short (48 hours) period of suspension of the premises licence should be imposed as a deterrent .

Whilst the Committee considered the representation on behalf of the premises licence holder that such a suspension would be in the nature of a punishment and not a deterrent, the Committee was satisfied that in appropriate circumstances it could impose a period of suspension as a deterrent.

The Sub-Committee determined that in all the particular circumstances of this case, especially that all the required additional training and additional controls requested by the police were in place and had been completed, thereby reducing the likely risk of issues reoccurring as far as possible, the suspension of the licence would be disproportionate.