
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 1 December 2011

Present: Councillors Cunio, Parnell and Vassiliou

Apologies:

55. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 17th November 2011 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

57. **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.

58. **APPLICATION FOR A PREMISES LICENCE - THE ROCKSTONE, 63 ONSLOW ROAD, SOUTHAMPTON, SO14 OJL**

The Sub-Committee considered the application for a premises licence in respect of The Rockstone, 63 Onslow Road, Southampton, SO14 OJL. (Copy of the report circulated with the agenda and appended to signed minutes).

Mr Greenwood, Owner, Mr Currie (Counsel), PC Harris, PC Wood and Miss Kingston, Hampshire Constabulary, Mr Wainwright, Environmental Health Officer, Mrs Griffiths and Ms Parry Davies, Objectors, were present and with the consent of the Chair, addressed the meeting.

Legal advice was accepted by the Sub-Committee in relation to the Cumulative Impact Policy. It was noted that the premises was located within the boundary of a previously identified stress area, and was subject to the provisions of the formally adopted Cumulative Impact Policy "CIP" (adopted 13 May 2009, confirmed upon review 17 November 2010) that applied to that area.

The Committee noted in particular that:-

- one effect of the CIP was that a *rebuttable presumption* applied to applications for premises licences;
- the *rebuttable presumption* was that such applications should ordinarily be refused;
- the standard of proof for the consideration by the Committee of any matter relating to cumulative impact should be on the balance of probabilities; and
- Licensing Policy CIP2 16.9 provides that the onus was upon applicants to demonstrate through their Operating Schedule and where appropriate supporting evidence that the operation of the premises would not add to the cumulative impact already being experienced.

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, subject to:-

- (i) the conditions proposed by the police (relating to CCTV, Incident Book, Challenge 25, Training, Dispersal Policy and Authorisation of Supply of Alcohol) agreed by the applicant during the course of the hearing;
- (ii) the premises employing at least one member of door staff during any hours the premises were open on a Friday or Saturday after 20h00; and
- (iii) the hours for licensable activities as applied for, subject to the following amendments:-

- | | | |
|------------|--------------------------|----------------------|
| • F | Recorded Music | |
| | Sunday – Thursday | shall cease at 23h30 |
| | Friday and Saturday | shall cease at 0h30 |
| • M | Supply of Alcohol | |
| | Sunday – Thursday | shall cease at 23h30 |
| | Friday and Saturday | shall cease at 0h30 |
| • O | Opening Hours | |
| | Sunday – Thursday | close at 00h00 |
| | Friday and Saturday | close at 01h00 |

REASONS

The Sub-Committee considered very carefully the application for a premises licence at the Rockstone. Due regard was given to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy and in particular the Cumulative Impact Policy. Human rights legislation was also borne in mind whilst making the decision. The Sub-Committee considered all the evidence submitted by all parties, both written and given orally today.

The Sub-Committee noted that following consultation with residents, Environmental Health and the police, the applicant had amended the application by way of reducing the terminal hour for recorded music, the supply of alcohol and opening hours of the premises.

The applicant also confirmed that no application would be made in respect of films, live music, anything of a similar description to that falling within parts E, F or G of the application, provision of facilities for making music, and provision of facilities for dancing, despite forming part of the original application.

The Licensing Sub-Committee considered very carefully the location of the premises and in particular the fact that it was located within an area identified as suffering from issues of crime, disorder and public nuisance - designated as a stress area in accordance with the licensing policy and accepted that a rebuttable presumption did apply.

On the balance of probabilities, the Sub-Committee determined that the premises as applied for today, following significant amendment, would not likely lead to an increase in the problem issues experienced within the area.

The following factors were persuasive when reaching this conclusion:-

- the fact that the application had been amended to very clearly establish that this was a food-led business and not one making any provision for dancing or recorded music other than background music; and
- the hours that the premises were open did not fit the pattern of existing businesses in the locality and did not lend themselves to a late night drinking establishment.

It was clear that the application had been amended over a period of time and that the applicant had not made the position as clear as it could have been from the outset. Nonetheless, the Sub-Committee was bound to consider the application as placed before it today on its own merits.

In light of the sensitive nature of the area where the premises were located and the strength of the representations, the Sub-Committee did not grant the full extent of the hours applied for and felt that those applied were a fair balance between residents and the applicant.

The Sub-Committee considered very carefully attaching a condition with regards to recorded music/amplified sound, but accepted advice from the Environmental Health Officer during the hearing that this might be problematic in practice. Accordingly, the applicant should be warned that any complaint or issue resulting from the increase in volume of recorded music would be considered seriously by any future Sub-Committee, in the event of a further hearing initiated by a review of the premises licence, particularly as the premises location was within a stress area.