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LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 15 December 2011

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Present: Councillors Cunio, Parnell and Willacy

59. **ELECTION OF CHAIR**

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

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

**RESOLVED** that the minutes of the meeting held on 1<sup>st</sup> December 2011 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes.

61. **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.

62. **APPLICATION FOR A PREMISES LICENCE - SAINSBURY'S SUPERMARKET, 202-224 PORTSWOOD ROAD, SOUTHAMPTON**

The Sub-Committee considered the application for a premises licence in respect of Sainsbury's Supermarket, 202-224 Portswood Road, Southampton. (Copy of the report circulated with the agenda and appended to signed minutes).

Mr Harriman, Manager, Mr Botkai (Solicitor for Sainsbury's Supermarket), PC Wood and PC Harris (Hampshire Constabulary), Mr Reed (Resident) and Councillor Vinson (Ward Councillor) Objectors, 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 2003 (Hearings) Regulations 2005.

**RESOLVED** that the application for a premises licence be granted, subject to:-

- (i) the hours for the sale of alcohol reduced to 08h00 – 23h00;
- (ii) the withdrawal of the application for late night refreshment; and
- (iii) the amendments to the operating schedule detailed in the original application as agreed with the police, relating to CCTV, Training, Incident

Book and Public Safety; further the word “minimum” to be removed from the final paragraph of the amended training condition.

## **REASONS**

The Sub-Committee considered carefully the application for a premises licence at Sainsbury’s Supermarket and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of licensing policy, human rights legislation and evidence submitted by all parties, both written and given orally today.

The Sub-Committee considered the potential for problems caused by the premises in this location, but were cognisant that the police were now satisfied with the application and had withdrawn their representation.

The Sub-Committee considered the evidence of the residents and the Ward Councillor relating to the licensing objectives, but were satisfied that the steps proposed by the amended operating schedule would be sufficient to address the four licensing objectives.

The Sub-Committee considered the academic argument regarding opening hours raised by the applicant. It was not accepted that a relevant condition restricting opening hours could not be imposed, where the evidence showed that this was necessary and proportionate. However, the circumstances of this particular application had been considered and in light of the relevance of opening hours with regard to the licensable activity and other activities taking place at the premises, it was not considered necessary or proportionate to restrict the opening hours of the premises based on any potential issues caused by these activities.

Clarification was sought from the parties regarding the basis of the conditions agreed between the police and the applicant and both confirmed this was the operating schedule of the applicant contained within the application as amended by the single sheet submitted at the hearing.

63. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE - CK’S FOOD, WINE AND SPIRITS, 92 ST MARY’S ROAD, SOUTHAMPTON, SO14 OAH**

The Sub-Committee considered the application for a review of a premises licence in respect of CK’s Food, Wine and Spirits, 92 St Mary’s Road, SO14 OAH. (Copy of the report circulated with the agenda and appended to signed minutes).

Mr R Singh, Premises Licence Holder, Mr H Singh, Designated Premises Supervisor, Mr D Milne (Counsel for CK’s Food, Wine and Spirits), PC Wood and PC Harris, Hampshire Constabulary and Mr L Marshall, Trading Standards 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 2003 (Hearings) Regulations 2005.

**RESOLVED** that the premises licence be revoked.

## **REASONS**

The Sub-Committee considered carefully the application for a review of a premises licence by Hampshire Constabulary and Trading Standards at CK's Food, Wine and Spirits and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of licensing policy, human rights legislation and evidence submitted by all parties, both written and given orally today.

The Sub-Committee listened carefully to the evidence of the premises licence holder, including suggested steps to be undertaken, enforced by way of conditions. However, in light of the strength of the evidence presented by both the Police, in relation to under-age sales and Trading Standards, in relation to counterfeit and non-duty paid alcohol seized, the Sub-Committee was not satisfied that the proposed steps or conditions would prevent the issues from recurring .

The Sub-Committee considered all the options available in accordance with the legislation (Section 52 of the Licensing Act 2003), but was satisfied that nothing short of revocation would be appropriate in this instance.

In reaching this view the Sub-Committee noted the fact that enforcement action dated back to 2007 with regards to this particular premises. Also, that there was a level of involvement with other premises, likewise the subject of a review and revocation of the licence in similar circumstances. Irrespective of the extent of that involvement, the Sub-Committee felt the premises licence holder ought to have learned from those proceedings. Accordingly, the Sub-Committee was not satisfied that any condition or alternative step would prevent the licensing objectives being undermined by such serious breaches.

The combination of under-age sales and counterfeit and non-duty paid alcohol was taken extremely seriously and the guidance as referred to during the course of the hearing (11.26 and 11.27) made it clear that the Sub-Committee should take such matters seriously and should seriously consider revocation, even in the first instance.