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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 22 March 2012

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Present: Councillors B Harris, Parnell and Thomas

Apologies: Councillor Cunio

101. **ELECTION OF CHAIR**

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

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

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

103. **STATEMENT FROM THE CHAIR**

The Chair informed the Sub-Committee that Councillor Drake had retired due to ill health and members passed a vote of thanks for his co-operation and hard work as a valued member of the Licensing and Gambling Sub-Committee.

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

**RESOLVED** that the minutes of the meeting held on 8<sup>th</sup> March 2012 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

105. **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 reached its decisions.

106. **APPLICATION FOR REVIEW OF CLUB PREMISES CERTIFICATE - WOOLSTON TRADES AND LABOUR CLUB, WINCHESTER HOUSE, 25 LEIGHTON ROAD, SOUTHAMPTON, SO19 2FS**

The Sub-Committee considered the application for review of a premises certificate in respect of Woolston Trades and Labour Club, 5 Leighton Road, SO19 2FS. (Copy of report circulated with the agenda and appended to the signed minutes).

Mrs Haws, President and Mr Morris Manager of Woolston Trades and Labour Club, Mr Edwards, Counsel for Woolston Trades and Labour Club, PC Lindley and PC Harris, Hampshire Constabulary were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee determined that it could continue to hear and determine the application, despite an apparent administrative slip by the police when completing the application.

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

### **RESOLVED**

- (i) that the club premises certificate be suspended for a period of one calendar month. For the avoidance of doubt, the suspension applied only to the sale or supply of alcohol and no other licensable activity; and
- (ii) that the following condition be added to the certificate:-
  - there shall be a registered member of door staff or alternatively, a committee member on the door at all times the premises are open for the sale or supply of alcohol to members or guests, to check membership details, ensure members and guests are signed in as required and to check the age of those being admitted and ensure that details are correctly recorded.

### **REASONS**

The Sub-Committee considered carefully the application for review of the premises certificate at Woolston Trades and Labour Club and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy, Human Rights legislation and representations, both written and given orally today by Hampshire Constabulary and the premises certificate holder.

It was raised by Counsel for the premises certificate holder that in light of the terms of the application, the legislation prevented a determination of the matter. The Sub-Committee considered very carefully all the circumstances of the application, including various correspondence making reference to a "club premises licence" which included a covering letter submitting the application and the body of the application similarly made reference to the "club premises licence". The advertisement / signage placed at the premises did correctly describe the application as one relating to a club premises certificate, as did a letter written by the police dated 29<sup>th</sup> February 2012, confirming the same. In all the circumstances the Sub-Committee determined that there was never any doubt as to which premises were the subject of the review (ie the club) and no party was unduly prejudiced by the administrative error. In addition, no reference was made in the application to the Section of the legislation under which it was made.

In light of all the evidence it was clear that the management of the premises was not to the standard required and that conditions were breached on several occasions and that in their own evidence, the premises certificate holder was unaware of the full extent of

the requirements placed upon them. The Sub-Committee held grave concerns with regards to the under-age sale of alcohol and similarly concerns that conditions were not being adhered to and police advice and assistance had been ignored.

In imposing a suspension for a period of one month it was hoped that this would act both as a deterrent, but also allow sufficient time for the committee to ensure that all the conditions attached to the certificate were brought to the attention of all committee members, staff and members of the club and sufficient measures were put in place to ensure ongoing compliance.

The Sub-Committee were satisfied that the evidence clearly showed a lack of supervision with regards entry to the premises and the consequent sale of alcohol. As a result it was considered necessary and proportionate to require that either an accredited member of door staff or a person of responsibility be present to monitor both aspects at all times the premises were open for the sale or supply of alcohol.

#### 107. **APPLICATION FOR REVIEW OF PREMISES LICENCE**

The Sub-Committee considered the application for review of a premises licence. (Copy of report circulated with the agenda and appended to the signed minutes).

The Premises Licence Holder, Mr Dadds, Counsel for the Premises Licence Holder, Mr Marshall, Trading Standards and PC Lindley and PC Harris, Hampshire Constabulary were present and with the consent of the Chair, addressed the meeting.

At Counsel's request it was agreed by all parties that the Sub-Committee heard the application with the press and public excluded, in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

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 review of the premises licence and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy, Human Rights legislation, representations, both written and given orally today by Hampshire Constabulary, Trading Standards and the premises licence holder and the additional evidence produced at the hearing with the consent of all parties.

The Sub Committee accepted legal advice that matters relating to other premises should not be taken into consideration when determining the review of this premises licence and accordingly they were excluded from consideration.

The Sub-Committee considered the sale of counterfeit alcohol very serious and the potential health implications for consumption of such alcohol by those purchasing alcohol at the premises could not be understated. In this regard the Sub-Committee

considered the argument raised, that it was prevented by the Guidance from considering such, given that it related to public health and not public safety which concerned the physical aspects of the building itself and no more. That argument was rejected given the Guidance stating that public safety “was concerned with the physical safety of the people using the relevant premises”. If a consumer was ill as a result of consuming counterfeit alcohol it was considered that this affected their physical safety no less than a defective building. “Public health” was clearly referring to a wider section of the public and not the potential for harm to an individual as there was in this case.

The Sub-Committee noted the argument that the alcohol had been left behind by previous owners and the conflict in the evidence given as to when this type of counterfeit alcohol had been available. It made no determination on the point as it considered the failure to check on the validity of the alcohol in the first instance to be sufficient to show a lack of regard for the Licensing Objectives, which was emphasised by the fact that the premises had been the subject of a previous review and which therefore should have alerted the premises licence holder to the potential for an issue with the alcohol – irrespective of where it came from or when (and if) it had been purchased.

The Sub-Committee was satisfied that the sale of counterfeit and therefore most likely non-duty paid alcohol in this instance, in light of the previous proceedings and conditions imposed at that time were sufficient grounds for revocation, However, it noted that in addition there were clear breaches of conditions and the fact that the Challenge 25 policy had not been properly implemented had directly led to the sale of alcohol to a 17 year old girl. Underage sales are always taken very seriously.

The argument was raised that these proceedings effectively amounted to a “second bite of the cherry” and therefore fall foul of paragraph 11.13 of the Guidance. This argument was rejected on the basis that the Guidance referred specifically to taking proceedings where the previous had failed and that was not the case in this instance.

Accordingly, and in light of the significant evidence of the Police and Trading Standards relating to the sale of counterfeit alcohol combined with multiple breaches of conditions and an underage sale, the Sub-Committee was satisfied that revocation was the only option of all those available and that this was necessary and proportionate in all the circumstances.