
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 8 JANUARY 2015

Present: Councillors Galton, Parnell and Tucker

35. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 11 December 2014 be approved and signed as a correct record, subject to the following amendment to minute number 34: Application for variation of a premises licence – The Butchers Hook. Second paragraph to read “.... Ms S Jancenoka”.

37. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

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.

38. **APPLICATION FOR VARIATION OF A PREMISES LICENCE - PIZZA CHICKEN KEBAB HOT 2 YOU, 1A BEDFORD PLACE, SOUTHAMPTON SO14 0JZ**

The Sub-Committee considered an application for a variation of a premises licence in respect of Pizza Chicken Kebab Hot 2 You, 1A Bedford Place, Southampton SO14 0JZ.

Mr F Mozooni (on behalf of the applicant), Mr A Ghezal, (Applicant), PC Boucouvalas and PC Cherry (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 the Licensing Act (Hearings) Regulations 2005.

RESOLVED that the application to vary a premises licence be refused.

After private deliberation the Sub-Committee reconvened and the Chair read 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 a variation of a premises licence at Pizza Chicken Hot 2 You, 1A Bedford Place. 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 whether the application amounted to a substantial variation in accordance with the adopted statement of policy (CIP 2). It was decided

that the application did amount to a substantial variation despite a possible technical argument otherwise. This was due to the potential impact of the variation in practical terms, effectively amounting to an extension of the period during which licensable activities may take place and the effect this would have in the area. Accordingly, the Sub-Committee proceeded to apply the cumulative impact policy.

The Licensing and Gambling Sub-Committee considered 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.

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 16.9 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

The Sub-Committee was not satisfied, on the balance of probabilities, that the application would not lead to an increase in the issues of crime and disorder and associated nuisance, if granted.

As a result the application to vary the licence is refused.

Reasons

The Sub-Committee noted carefully the points raised by the applicant, including, but not limited to,:

- that the premises does not serve alcohol;
- that safety measures will address the potential for crime and disorder (including security staff and CCTV);
- that issues with CCTV have now been resolved;
- that the issues with the premises were in the main historic and with previous owners;
- that other premises nearby currently have longer trading hours.

The Sub-Committee, despite careful consideration of the above, was not satisfied that the proposed application would not add to those issues already experienced. The Sub-Committee noted legal advice provided during the hearing that it should not ordinarily consider the quality of management, the character or experience of the applicant, issues with regards whether the application is substantial and that the applicant has a good understanding of how to reduce crime as exceptions to the stress area policies or warrant departure therefrom.

The Sub-Committee was not persuaded by the application, nor reassured by the applicant during the course of the hearing. It is accepted that many issues at the premises are historic and that the existing conditions were imposed following review whilst a different premises licence holder had control. However, police evidence clearly showed that issues of concern continue, particularly in regard to trading beyond hours and the operation of CCTV at 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.

39. **APPLICATION FOR A PREMISES LICENCE - TESCO STORES LTD. TESCO EXPRESS, 278 BURGESS ROAD, SOUTHAMPTON SO16 3BE**

The Sub-Committee considered an application for a premises licence in respect of Tesco Stores Ltd. Tesco Express, 278 Burgess Road, Southampton SO16 3BE.

In accordance with Regulation 20 of the Licensing Act 2003 (Hearings) Regulations 2005 the Sub-Committee determined to proceed in the absence of the residential objector who had indicated that she was unable to attend the hearing.

Mr C Rees-Gay (Woods Whur on behalf of Tesco) and Mr C Diplock (DPS/Store Manager, Tesco) 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 application for a premises licence be approved, and in accordance with conditions agreed with Hampshire Constabulary.

After private deliberation the Sub-Committee reconvened and the Chair read 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 a premises licence at Tesco Express, 278 Burgess Road. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy.

The Sub-Committee considered representations, both written and given orally today, by all parties. Human rights legislation has been borne in mind whilst making the decision.

The Sub-Committee noted that the one residential objector was not able to attend the hearing but determined that the hearing should continue in their absence. The written representation was carefully considered and taken into account and it was noted that this raised issues in relation to commercial need and young people congregating in the area.

The Sub-Committee has determined that the application should be approved, as applied for and in accordance with conditions agreed with Hampshire Constabulary.

Reasons

The Sub-Committee noted that no other representation had been received including, in particular, from any of the responsible authorities. The police had agreed extensive conditions to be added to the operating schedule and in turn the premises licence, if granted. Those additional conditions relating to CCTV, incident log, Challenge 25 policy, identification, posters at the premises, training, training records, the sale of single cans and the sale of beers, ciders or lager above 5.5% ABV being prohibited.

The Sub-Committee also heard from the applicant that security staff would be on duty until closing at midnight, a minimum of three staff would be on duty, including a manager and that no evidence was presented of actual incidents of concern at the premises.

The Sub-Committee accepted legal advice that demand or commercial need are not factors that can be taken into consideration in accordance with the statutory guidance and policy.

Local residents can be reassured that in the event that the grant of the licence does in fact lead to issues of concern, relevant to the licensing objectives, a review may be initiated where evidence of the same can be considered and may result in appropriate steps being taken to address them.

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.

40. **EXCLUSION OF THE PRESS AND PUBLIC - CONFIDENTIAL REPORT**

RESOLVED that the press and public would not be excluded from the hearing after consideration of the public interest on the basis that the hearing could take place without the need to refer publicly, or otherwise disclose the confidential images contained within the report which identified individuals, other than to the parties.

41. **APPLICATION FOR REVIEW OF A PREMISES LICENCE - BEST ONE, 66-67 ST. MARY STREET, SOUTHAMPTON SO14 1NW**

The Sub-Committee considered an application for a review of a premises licence in respect of Best One, 66-67 St. Mary Street, Southampton SO14 1NW.

Mr J Wallsgrove (on behalf of the Premises Licensing Holder), Mr A Khushdil (PLH), Mr L Marshall (Trading Standards), PC Boucouvalas and PC Cherry (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 the Licensing Act (Hearings) Regulations 2005.

RESOLVED that the premises licence be suspended for a period of six weeks.

After private deliberation the Sub-Committee reconvened and the Chair read 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 review of a premises licence at Best One, 66-67 St Mary Street. 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 has been borne in mind whilst making this decision.

All the evidence presented both written and given orally today, has been carefully considered and taken into account. The Sub-Committee particularly addressed itself to the licensing objectives for the prevention of crime and disorder, the prevention of children from harm and the prevention of public nuisance.

In light of all of the above, the Sub-Committee has determined that the conditions outlined in the report and proposed by Trading Standards and Hampshire Constabulary, and agreed in the main by the Premises Licence holder during the course of the hearing be attached to the premises licence. In addition, the Sub-Committee has determined that the premises licence shall be suspended for a period of six weeks, commencing on the first Saturday following the expiration of the appeal period at 00.01 hours.

Reasons

The Sub-Committee considered very carefully all the evidence and held very grave concerns in relation to the premises licence holder's ability to properly manage a premises of this type in this area. It was noted that the premises had previously been the subject of review proceedings and that warnings had been issued at that time. It was also noted that repeated visits, correspondence and warnings had been given by Trading Standards, Hampshire Constabulary and the Licensing Authority. The Sub-Committee accepted that the statutory guidance identifies criminal activity which should be taken particularly seriously, including the sale or storage of smuggled alcohol or tobacco and that revocation of the licence should be seriously considered – even in the first instance. In this case an extremely large amount of alcohol (some 121 litres of alcohol, 97.5 litres of wine and 450 grams of shisha tobacco) were seized due to not bearing duty stamps and being non duty paid.

In addition, the Sub-Committee heard evidence relating to an underage sale at the premises as well as Polish goods not being properly labelled for sale in the UK. In the circumstances the Sub-Committee determined that the premises licence should be suspended for a period of three months but reduced that period of time to six weeks on the basis of evidence it had heard in relation to the detrimental financial impact that suspension would bear upon the premises licence holder. However, it was also noted that the guidance states that where premises are found to be trading irresponsibly (and the Sub-Committee has no doubt that this is such a case) the Licensing Authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises. As a result a suspension of six weeks was felt to be an appropriate and proportionate response and deterrent to both the premises licence holder and other premises licence holders.

The Sub-Committee must reiterate how close it has come to revoking the premises licence on this occasion and must clearly stress that any further issues of concern will place the premises licence in extreme jeopardy in the event of further review.

The Sub-Committee has determined not to amend the suggested CCTV condition. It noted the representation of the premises licence holder with regard to temporary staff not being provided access to allow potential tampering of the system but such measures should not in the view of the Sub-Committee necessarily prevent the ability to perform a download from the system onto disc or other material, without amendment.

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.

Note: No reference was made to the images contained within the report any point during the hearing.