

# Licensing (Licensing and Gambling) Sub-Committee

Monday, 10th February, 2020  
at 9.30 am

**PLEASE NOTE TIME OF MEETING**

Council Chamber - Civic Centre

This meeting is open to the public

## **Members**

Three Members drawn from the Licensing Committee

## **Contacts**

Democratic Support Officer  
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## **PUBLIC INFORMATION**

The Members of the Licensing Committee are Councillors Mrs Blatchford, G Galton, B Harris, Kataria, McEwing, Noon, Prior, Renyard, Spicer, and Streets.

### **Terms of Reference**

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act 2003 and Gambling Act 2005, including:-

- Determination of applications for review of premises licences and club premises certificates;
- Determination of representations to applications for premises licences and club premises certificates, variations and various permits;
- Determination of police objections to applications for:
  - Variation of designated premises supervisors
  - Transfer of premises licences
  - Personal licences for the sale of alcohol
- Determination of objections to temporary event notices.

### **Relevant Representations**

Those who have made relevant representations may address the meeting about the matter in which they have an interest. New matters, not raised within a written representation, can not be relied upon at the hearing.

**When dealing with Licensing Act matters the Sub-Committee must only take into account the following statutory Licensing Objectives:-**

- prevention of crime and disorder
- public safety
- prevention of public nuisance
- protection of children from harm

**Likewise, when dealing with Gambling Act matters the Sub Committee must only take into account the statutory Licensing Objectives below:-**

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

**Fire Procedure:-** In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access:-** Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

**Smoking policy:-** The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

### **Dates of Potential Meetings Municipal Year 2019/20**

Meetings are scheduled on a weekly basis usually at 4pm on a Wednesday evening.

## CONDUCT OF MEETING

### **Terms of Reference**

The terms of reference are contained in the Council's Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Rules of Procedure**

The meeting is governed by the Licensing Act 2003 (Hearings) Regulations 2005 and the Council Procedure Rules as set out in Part 4 of the Constitution, so far as it is applicable.

### **Quorum 3**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

- (i) Any employment, office, trade, profession or vocation carried on for profit or gain.
- (ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

### 1 **ELECTION OF CHAIR**

To appoint a Chair for the purposes of this meeting.

### 2 **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

### 3 **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### 4 **STATEMENT FROM THE CHAIR**

### 5 **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 4)

To approve and sign as a correct record the Minutes of the meeting held on 22 January 2020 and to deal with any matters arising.

### 6 **EXCLUSION OF THE PRESS AND PUBLIC**

Chair to move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of item 8 based on Category 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially exempt due to the identification of individuals and sensitive details of an ongoing police investigation. Having applied the public interest test it is not appropriate to disclose this information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

### 7 **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

### 8 **APPLICATION FOR SUMMARY REVIEW OF PREMISES LICENCE** (Pages 5 - 54)

Application for summary review of premises licence.

Friday, 31 January 2020

Service Director - Transactions and Universal  
Services

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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 22 JANUARY 2020

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Present: Councillors Mrs Blatchford, B Harris and Spicer

35. **ELECTION OF CHAIR**

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

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

**RESOLVED** that minutes of the meeting held on 18 December 2019 be approved and signed as a correct record.

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

**RESOLVED** that the Sub-Committee move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by Category 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules, would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced.

38. **APPLICATION FOR GRANT OF A PREMISES LICENCE - DHALIWAL STORE, 123 DERBY ROAD, SOUTHAMPTON SO14 0DT**

The Sub-Committee considered the report of the Service Director of Transactions and Universal Services for an application for a premises licence in respect of Dhaliwal Store, 123 Derby Road, Southampton SO14 0DT.

Nick Semper, applicant's representative, Councillor Barnes-Andrews, Councillor Kataria and Gulzar Sharif, local resident, 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 granted subject to amended and additional conditions.

After private deliberation the Sub-Committee reconvened and the Chair read out 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 Dhaliwal Store, 123 Derby Road, Southampton SO14 0DT. 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 heard representations from the applicant's representative, Nick Semper, together with objections from Ward Councillors, Councillor Barnes-Andrews and Councillor Kataria, and local resident, Gulzar Sharif.

The Sub-Committee considered the representations, both written and given orally today, by all parties. The Human Rights Act 1998, The Equality Act 2010 and The Crime and Disorder Act 1998 Section 17 have been considered whilst making the decision.

It was noted that the application was amended by the provision and agreement by Hampshire Constabulary of proposed conditions and amendment of opening hours for the operation of the premises to between 07:00 and 00:00 hours and for the sale of alcohol to between 07:00 and 00:00 hours, Monday to Sunday.

In light of all the above the Sub-Committee has determined that the application should be granted, subject to the amended conditions agreed with Hampshire Constabulary as set out in the report and the additional conditions offered at the hearing on behalf of the applicant as set out below.

Incident Log – add extra clause:

“Any refusal to sell alcohol to any person as being deemed intoxicated.”

Additional Conditions

“No deliveries to be made to the premises after 22:00 hours.”

“No more than 20% of floor space in the premises to be used for the stocking and sale of alcoholic products.”

### Reasons

The Sub-Committee considered very carefully all the representations objecting to the application. It noted the strength of feeling and the concerns in respect of all four licensing objectives that were raised. It took into account also the petition signed by a significant number of persons.

The Sub-Committee also carefully considered the representations made on behalf of the applicant. In particular it noted the fact that Hampshire Constabulary had agreed conditions with the applicant's representative and did not attend the hearing.

Weighing up all of the above, the Sub-Committee does not consider it would be appropriate or proportionate to refuse the application in whole or in part at this time on the basis of the evidence presented. The Sub-Committee concluded that, on balance, the applicant had fulfilled the requirements of the legislation in respect of the licensing objectives and the application should be granted but with the additional conditions as set out.

Residents and local businesses can be reassured that where the grant of any application leads to an adverse impact upon the licensing objectives a review of the licence can be brought and appropriate steps taken at that time.



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.

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Document is Confidential

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