
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 22 August 2013

Present: Councillors Mrs Blatchford, Parnell and Vassiliou

Apologies: Councillor Cunio

12. **ELECTION OF CHAIR**

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

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

The Sub-Committee noted the apologies of Councillor Cunio and that Councillor Mrs Blatchford was in attendance as a nominated substitute in accordance with Procedure Rule 4.3.

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

RESOLVED that the minutes of the meeting held on 11th July 2013 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

15. **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 decision.

16. **APPLICATION TO VARY A PREMISES LICENCE - ISIS, 188 ABOVE BAR STREET, SOUTHAMPTON, SO14 7DW**

The Sub-Committee considered the application to vary a premises licence in respect of Isis, 188 Above Bar Street, Southampton, SO14 7DW. (Copy of report circulated with the agenda and appended to the signed minutes).

Mr Powell, Counsel for Applicant, Mr Gill and Mrs Gill, Applicants, PC Harris and PS Wood, 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 2003 (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 with reasons:-

All parties will receive written confirmation of the decision and reasons.

The Sub-Committee considered very carefully the application to vary a premises licence in respect of Isis and gave due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy and in particular the Cumulative Impact Policy.

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

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

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 have determined to refuse the application.

REASONS

The Sub-Committee were of the opinion that the application was for a significant variation to the existing premises licence in that it requested an extension of the licensable activities and opening hours by 3 hours Monday – Saturday and 4.5 hours on a Sunday with the exception of alcohol which was an extension of 2.5 hours Monday – Saturday and 4 hours Sunday.

The Sub-Committee has considered very carefully all of the evidence, including the additional information containing an amended operating schedule.

The Sub-Committee focused its consideration upon whether, in light of the policy, the proposed extension in hours would, on the balance of probabilities, not add to the cumulative impact already being experienced in the area.

The Sub-Committee considered carefully the following points raised by the applicant:-

- the updated operating schedule including the additional conditions;

- the fact that the sale of alcohol was not the primary business of the establishment;
- the premises had operated on a limited number of occasions under cover of a Temporary Event Notice;
- that issues with CCTV were now addressed;
- that the clientele were not primarily seeking alcohol and that no drinks promotions would be undertaken at the premises; and
- a door charge is in place

The Sub-Committee noted legal advice provided during the hearing that the policy states that :-

- quality of management of the premises;
- character or experience of the applicant;
- capacity, size, hours or any increase therein applied for, is not substantial; and
- the applicant has a good understanding of how to reduce the potential for crime on the premises,

shall not ordinarily be considered as an exception to the policy or justification for departure.

All of the issues raised by the applicant were very carefully considered but not felt to be sufficient to justify a departure from the policy in this case.

Whilst good practice is not ordinarily considered in these circumstances, the Sub-Committee might have been more inclined to consider such, where an extended period of good practice and co-operation with responsible authorities could be shown.

Despite late improvements, the Sub-Committee remained concerned in relation to the strength of the application and an apparent lack of understanding on the part of the applicant personally in relation to the licensing objectives. This was borne out by the brevity of the original application.

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.