
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 27 MARCH 2014

Present: Councillors Cunio, Lloyd and Parnell

71. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 27 February 2014 be approved and signed as a correct record.

73. **EXCLUSION OF THE PRESS AND PUBLIC**

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 decisions.

74. **APPLICATION FOR REVIEW OF PREMISES LICENCE - SHIP INN, 107 VICTORIA ROAD, SOUTHAMPTON SO19 9DZ**

The Sub-Committee considered the application to review a premises licence in respect of Ship Inn, 107 Victoria Road, Southampton, SO19 9DZ.

Mr Harding, Managing Director, Havenbrae Limited, freehold owner of the building and Mrs Knight, 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 modified by the addition of three conditions.

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 the Ship Inn, 107 Victoria Road by a local resident. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance, the adopted statement of Licensing Policy and all evidence presented both written and given orally today. Human Rights Legislation has been borne in mind whilst making this decision.

The Sub-Committee has determined that the premises licence should be modified by the addition of the following conditions:-

- The premises licence holder shall install and maintain acoustic double doors at the exit leading to the smoking area.
- The premises licence holder shall ensure that all external windows and doors at the premises shall remain closed whilst live music is performed, whether amplified or unamplified, or recorded music is played at the premises.
- The premises licence holder shall ensure that prominent signage is displayed at all exits, used by patrons, asking that patrons respect neighbours and keep noise to a minimum, whilst leaving the premises or whilst using any area designated for smoking.

The Sub-Committee took note that Section 177A did not apply to the additional condition now imposed in relation to live music and accordingly that condition relates to live music as if the live music were regulated entertainment and the licence licensed the live music. The condition when attached to the licence shall confirm the same.

Reasons

The Sub-Committee considered very carefully the application for review and all of the options available in accordance with the legislation and as advised during the hearing.

It noted that the premises licence holder had a technical difficulty given it was not directly operating nor conducting licensable activities itself and was not notified of issues now raised. The Sub-Committee however, accepted legal advice that as premises licence holder, the company concerned nonetheless remained responsible. This technical situation may be resolved in the future by the adoption of a shadow licence, however, the Sub-Committee accepted that it must consider the current position. The Sub-Committee considered what steps would be appropriate, if any, to address the risk to the licensing objectives and a reoccurrence of previous issues.

The Sub-Committee considered whether the single residential objection could amount to public nuisance and were referred to paragraphs 2.18 to 2.19 in particular during deliberation. Accordingly it was found that in this case the representation did validly raise the public nuisance objective.

The Sub-Committee considered revocation of the licence, however determined that in light of all the circumstances this was not appropriate. This was due to several factors including the change of premises licence holder approximately 18 months ago and that the tenant responsible has vacated and that new tenants may be appointed.

There was still felt to be some risk of potential noise escape at the premises and accordingly the Sub-Committee did consider it appropriate to impose conditions to limit the potential risk in the future. The implications, including the financial implications, were considered by the Sub-Committee when making this decision. The imposition of conditions requiring double doors and the closure of all doors and windows only at times that may pose a higher risk (ie when live music is performed and recorded music is played at the premises) were a fair balance and therefore proportionate and appropriate steps.

The Sub-Committee reluctantly accepted legal advice that it was not able to hear the evidence of Environmental Health, including asking questions or seeking guidance, in light of a lack of formal representation. It was further accepted that there is a technical legal distinction between witnessing a nuisance and witnessing a statutory noise nuisance.

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.