

DECISION-MAKER

LICENSING (LICENSING & GAMBLING) SUB COMMITTEE

SUBJECT

HEARING TO CONSIDER AN APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR -

SMOKE AND MIRRORS, 3-4 VERNON WALK, SOUTHAMPTON SO15 2EJ

DATE OF HEARING

30 MARCH 2017

REPORT OF

SERVICE DIRECTOR – TRANSACTIONS & UNIVERSAL SERVICES

E-mail

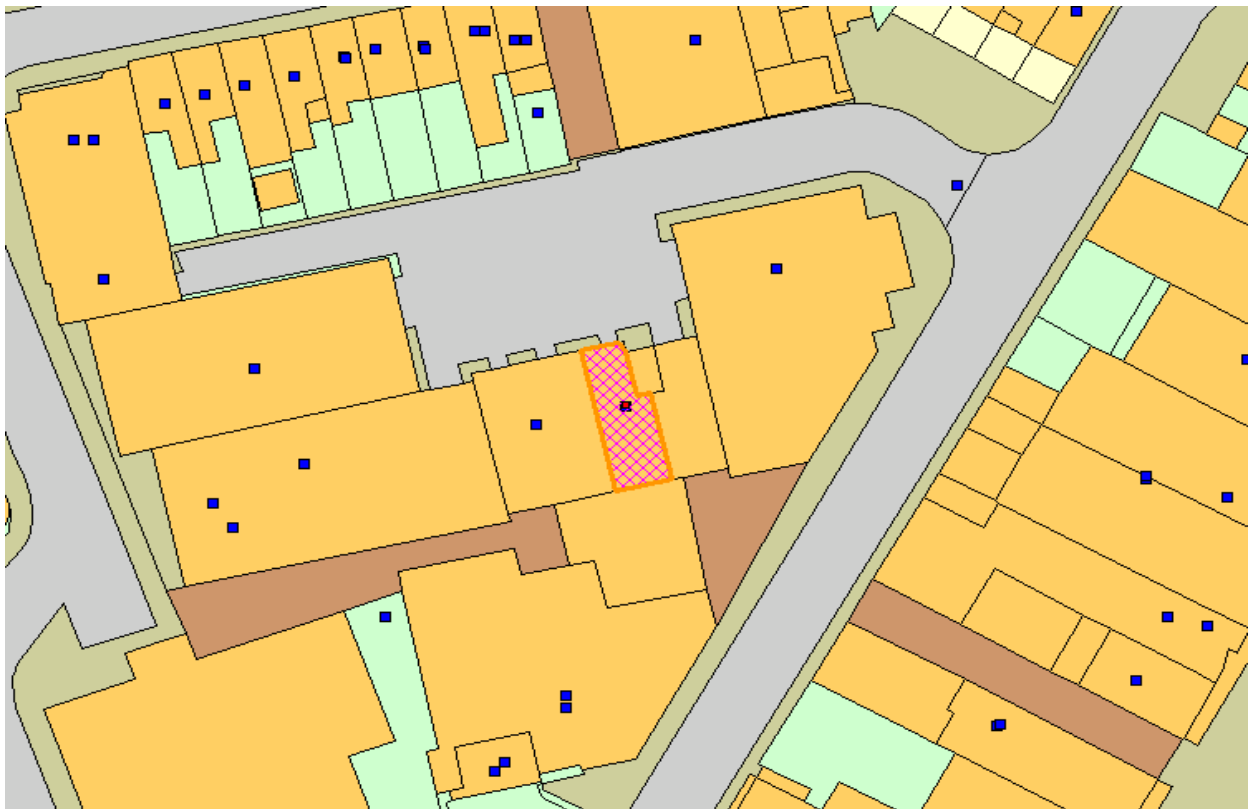
licensing@southampton.gov.uk

Application Date : 28 FEBRUARY 2017

Application Received 28 FEBRUARY 2017

Application Valid : 28 FEBRUARY 2017

Reference : **2017/00636/01SPRD**



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Representations from Responsible Authorities

Responsible Authority	Satisfactory?
Hampshire Constabulary	No

-
1. The legislation provides that the police may object to the variation of a premises licence to designate a new premises supervisor (DPS) where, in exceptional circumstances, they are satisfied that the designation of that person would undermine the crime prevention objective.
 2. The sub-committee must reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so. Matters relating to the other three statutory licensing objectives cannot be considered.
 3. An applicant for variation of a licence to designate a new premises supervisor whose application has been refused may appeal against the decision to the Magistrates' Court.
 4. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider the application in accordance, in particular, with both the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
 5. The sub-committee must also have regard to:
 - *The Crime and Disorder Act 1998*
Section 17 of the Crime and Disorder Act 1998 places the sub-committee under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
 - *The Human Rights Act 1998*
The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the sub-committee to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the sub-committee that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the sub-committee which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.
 6. Copies of the application for variation of designated premises supervisor and the objection to it are annexed to this report.

Application and DPS consent form- Pages 3-7
Hampshire Constabulary Objection- Pages 8-13

Southampton City Council

Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I / we south central leisure ltd

(full name(s) of premises licence holder)

being the premises licence holder, apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003

Premises licence number

2016/01585/01SPRM

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

3-4 Vernon walk
Southampton
SO15 2EJ

Post town

Post code (if known)

Telephone number (if any)

Description of premises (please read guidance note 1)

bar

Part 2

Full name of proposed designated premises supervisor
Karen Louise Walsh

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)
2016/01361/06EPEN

Full name of existing designated premises supervisor (if any)

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it
Licence is currently with a litigation solicitor as we are currently looking into planning representations.

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will give a copy of this form to the existing premises supervisor, if any
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date 28/02/2017

Capacity manager

For joint applicants signature of 2nd applicant 2nd applicant’s solicitor or other authorised agent (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Southampton City Council

Consent of individual to being specified as premises supervisor

Karen Louise Walsh

I

[full name of prospective premises supervisor]

of



[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

Smoke and Mirrors

[type of application]

by

South Central Leisure LTD

[name of applicant]

relating to a premises licence

2016/01585/01SPRM

[number of existing licence, if any]

for

**Smoke and Mirrors
3-4 Vermon Walk
Southampton
SO152EJ**

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Karen Louise Walsh

[name of applicant]

concerning the supply of alcohol at

**Smoke and Mirrors
3-4 Vmon Walk
Southampton
SO152EJ**

[name and address of premises to which application relates]

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

2016/01585/01SPRM

[insert personal licence number, if any]

Personal licence issuing authority

**Eastleigh council
02380833002**

[insert name and address and telephone number of personal licence issuing authority, if any]

Signed



Name (please print)

Karen Louise Walsh

Date

28/02/2017

**FORM FOR OBJECTION FROM RESPONSIBLE AUTHORITIES
AND INTERESTED PARTIES**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

I, **PC 2903 Brian Swallow** wish to make an objection(s)

Regarding the granting of an application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003, for the premises described in Part 1 below.

Part 1 – Premises or Club Premises Details

Smoke and Mirrors
3-4 Vernon Walk
Southampton
SO15 2EJ

Name of Applicant -
South Central Leisure Ltd

Number of premises licence or club premises certificate (if known)

2016/01585/01SPRM

Part 2 – Your Details

I am

Please tick ✓

- | | | |
|----|---|--------------------------|
| 1) | An interested party | |
| | a) A person living in the vicinity of the premises | <input type="checkbox"/> |
| | b) A body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| | c) A person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| | d) A body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |
| 2) | A responsible authority | X |
| 3) | A member of the club to which this application relates | <input type="checkbox"/> |

(A) REPRESENTEE DETAILS (fill in as applicable)

Mr Mrs Miss Ms Other title **PC**

example,

Rev)

Surname

Swallow

First names

Brian

Yes

Are you over 18

**Current address
if different from
premises address**

Alcohol & Entertainment Licensing Officer
Licensing and Alcohol Harm Reduction Team
Southampton Central Neighbourhood Police Office
Southampton City Council
Civic Centre
Southampton

Contact telephone number in working hours

**Email address
(Optional)**

@hampshire.pnn.police.uk

(B) BODY APPLICANT

Name and address

N/A

(C) AUTHORITY APPLICANT

Name and address

Chief Officer of Police
Licensing and Alcohol Harm Reduction Team
Southampton Central Neighbourhood Police Office
Southampton City Council
Civic Centre
Southampton

This application to object relates to the following licensing objective(s)

Please tick one or more boxes ✓

- 1) **The prevention of crime and disorder**
- 2) **Public safety**
- 3) **The prevention of public nuisance**
- 4) **The protection of children from harm**

Please state the ground(s) for objecting (please read guidance note 1)

The applicant has made an application to vary the designated premises supervisor (DPS) under section 37 of the LA 2003

The venue is a busy bar within a busy late night entertainment area, an area that falls within Southampton City Councils cumulative impact area. As such alcohol related crime and disorder and anti social behaviour is a concern to the police and local authority.

The application has proposed a Karen Louise WALSH to be the DPS, of an address of [REDACTED]. WALSH is a personal licence holder which was by issued by Eastleigh Council in 2016

The police have no reason to suspect that WALSH has any relevant convictions and therefore is entitled to be a holder of a personal licence.

The venue has had a problematic period since being under control by the current operator. There have been incidents of unlicensable activities and breaches of planning legislation. The police have also received information that the previous DPS that was installed at the venue was in name only and was not in day to day control. Before any formal action could be taken, she removed herself as DPS.

For several days the venue could not supply alcohol as it had no DPS and in fact remained closed. The police then received an application to vary the DPS to which this objection refers.

From police enquires, WALSH is a company director of a home spray tan company, Sunkissedskin Spray Tan Ltd, the company has been registered for less than 1 year.

The police have attempted to contact WALSH since they received the application (which was on the 28th February). These attempts have included, ringing her mobile phone several times a day, leaving voicemail messages and visiting the venue (which is closed) All attempts have failed.

The police have no records of her being a DPS of any other venue within Hampshire or the Isle of Wight or even working at a venue that benefits from a premises licence in the two counties.

Failure to be able to communicate with a DPS is a concern to the police, especially as it relates to a late night, verticle drinking establishment that has already raised concerns with the management of it.

WALSH has an involvement with another business, added to the failure to communicate with her during the consultation process to allieviate the polices concerns, the police are of the belief that WALSH is not and will not be in day to day control of the venue and therefore exceptional circumstances exist to oject to this application.

The Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective, namely the prevention of crime and disorder. Without a DPS in day to day control of the venue, alcohol may be supplied without authorisation, intoxication levels left unchallenged and criminal activity and anti-social behaviour not only at the venue but in the surrounding area allowed to manifest.

Please provide as much information as possible to support the objection (please read guidance note 2)

Detailed as above

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE [AMOUNT], UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS REPRESENTATION

Part 3 – Signatures (please read guidance note 3)

Signature of representee or representee’s solicitor or other duly authorised agent. (please read guidance note 4). **If signing on behalf of the representee, please state in what capacity.**

Signature...B Swallow.....

Date.....9th March 2017

Capacity...Police Licensing Officer, Representing the Chief Officer of Police. .

Contact name (where not previously given) and address for correspondence associated with this representation (please read guidance note 5)

N/A

Post town

Post code

NOTES FOR GUIDANCE

1. The ground(s) for representation must be based on one of the licensing objectives.
2. Please list any additional information or details, for example dates of problems which are included in the grounds for representation if available.
3. The representation form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

DATA PROTECTION ACT 1998

The personal information you have provided, or which has been obtained from other sources, will only be used for the purpose of the licensing function, and for auditing, monitoring, statistical and other research.

The information may be shared with other council departments and statutory bodies. The licence holder will also be provided with a copy of your representation.