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Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 21st October 2015
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3
- Civic Centre

This meeting is open to the public

Members

Three Members drawn from the Licensing
Committee

Contacts

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PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors Furnell, Galton, Jordan, Painton, Parnell, Spicer, Thomas, Tucker, Vassiliou and Whitbread.

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

Southampton City Council's Priorities

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

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.

Dates of Potential Meetings Municipal Year 2015/16

Meetings are scheduled on a weekly basis usually at 6pm 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

Agendas and papers are available via the Council's website.

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 1st October 2015 and to deal with any matters arising, attached.

6 EXCLUSION OF THE PRESS AND PUBLIC

- (i) 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 the following item based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules.

This report includes details and information that is classed as exempt from publication in accordance with the Council's Constitution and specifically Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules due to the identification of individuals and sensitive details of an ongoing police investigation. Accordingly, the report has not been published at this stage.

- (ii) 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.

7 **APPLICATION FOR A SUMMARY REVIEW OF PREMISES LICENCE - SNA SUPERMARKET, 11 MANOR FARM ROAD, SOUTHAMPTON SO18 1NN**
(Pages 5 - 48)

Report of the Head of Legal and Democratic Services, detailing an application for a summary review of the premises licence in respect of SNA Supermarket, 11 Manor Farm Road, Southampton SO18 1NN, attached.

Tuesday, 13 October 2015

HEAD OF LEGAL AND DEMOCRATIC SERVICES

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 1 OCTOBER 2015

Present: Councillors Galton, Parnell and Tucker

9. **ELECTION OF CHAIR**

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

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

RESOLVED: that the Minutes of the meeting held on 24th June 2015 be approved and signed as a correct record.

11. **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 decision.

12. **APPLICATION FOR VARIATION OF A PREMISES LICENCE - CRICKETERS ARMS, 34 CARLTON PLACE, SO 15 2DX**

The Sub-Committee considered an application for a variation of a premises licence in respect of the Cricketers Arms, 34 Carlton Place, SO15 2DX.

Spencer Harrison (applicant), Cliff Morris (agent), Jackie Cherry and Alex Boucouvalas (Hants Constabulary), Gavin Derrick (Environmental Health – SCC) and Lorraine Barter and Steve Eddy (residential objectors) 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 variation of 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 Cricketers Arms, 34 Carlton Place, Southampton SO15 2DX. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy, in particular the Cumulative Impact Policy. Human Rights legislation was borne in mind whilst making the decision.

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 noted that the applicant had agreed conditions with the Police but the following remained in dispute:

Conditions relating to:

- additional training requirements
- Polycarbonate glassware
- The Last Entry time at the premises
- ID Scanning

Despite agreeing certain conditions and proposing further conditions the Police in their evidence made it clear that their view remained that the application should be refused.

The Sub-Committee noted representations made by residents, Environmental Health and the Police in relation to the application and evidence was heard from all of the parties at the hearing.

In consideration of all of the above the Sub-Committee has determined to refuse the application.

Reasons

The Sub-Committee considered very carefully the application including but not limited to the following points:

- The premises has a, relatively speaking, small capacity.
- The clientele at the premises is mature and is a niche market.
- The premises is very different to those around it being a small pub rather than a large nightclub, the clientele at the premises do not feed into local nightclubs.
- That no entry or re-entry to the premises shall be permitted after 12:50 hours.
- That a later terminal hour would mean that patrons leave the premises over a longer period, dispersing gradually.
- That patrons currently leave the premises at a time that has been identified as a peak period for crime and disorder in the area.
- That the premises are well-run and has a low incidence of crime and disorder and noise nuisance complaint at or from the premises itself.
- That at the later proposed terminal hour there is nowhere else for their patrons to go other than return home.

The Sub-Committee fully accepted that the premises are well run and that management is of a high standard at the premises. However, Police evidence showed concerns that a later terminal hour and longer hours of drinking would lead to the patrons being more susceptible to being the victims of crime, the Sub-Committee also had concerns that having consumed more alcohol over a longer period customers of the premises may

also be more likely to commit crime or create disorder and nuisance. The Police view was strongly voiced that a later terminal hour would lead to an increase in crime and disorder within the stress area. The strongest concern was that there may be a shift in the timings during which crime and disorder is experienced. The applicant referred to a graph showing incidents over a year which showed a considerable drop at the later hour. However, the Sub-Committee noted that at other times (i.e. other graphs) that drop was less significant (probably due to seasonal factors e.g. student term times etc).

Whilst deliberating the Sub-Committee was referred to paragraph 16.14 of the Licensing Authority's policy, which states:

"Whilst making any decision the Sub-Committee shall not ordinarily consider the following as an exception to the policies applying to stress areas or as justification for departure from those policies:

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

Accordingly, whilst the Sub-Committee accepts that the premises are well run, notwithstanding the recent failed test purchase, it has had to pay due regard to the statement of licensing policy and in particular the rebuttable presumption created by the Cumulative Impact Policy.

On the balance of probabilities, the Sub-Committee is not satisfied that the application will not add to the cumulative impact already being experienced.

The potential for patrons leaving the premises over a longer period is likely, in the Sub-Committee's view, to add to the stress issues in the area. In addition, patrons leaving the premises are more likely to be under the influence due to the longer hours that alcohol is served making them more vulnerable.

The Sub-Committee also considered the representations from residents and Environmental Health and accepted that an increase in hours of trading was likely to lead to an increase in the potential for noise nuisance and crime and disorder.

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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