

Licensing (Licensing and Gambling) Sub-Committee

Tuesday, 26th January, 2021
at 10.00 am

PLEASE NOTE TIME OF MEETING

Virtual Meeting

This meeting is open to the public

Members

Three Members drawn from the Licensing Committee

Contacts

Democratic Support Officer
Maria McKay
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Executive Director Communities, Culture & Homes
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PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors Bunday, G Galton, B Harris, Kataria, Laurent, McEwing, Noon, 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

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

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 2020/21

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 6 January 2021, and to deal with any matters arising, attached.

6 **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.

7 **APPLICATION FOR REVIEW OF PREMISES LICENCE - CENO BAR AND RESTAURANT, 119 HIGHFIELD LANE, SOUTHAMPTON SO17 1AQ** (Pages 5 - 40)

Monday, 18 January 2021

Executive Director Communities, Culture & Homes

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 6 JANUARY 2021

Present: Councillors G Galton, McEwing and Noon

29. **ELECTION OF CHAIR**

In accordance with S.14 (2) of the Licensing Act 2003 (Hearings) Regulations 2005, the hearing was held using video conferencing and the public were able to view a live stream of the proceedings using a web link published on the council website. This was in the interest of public safety given the isolation restrictions imposed by the Prime Minister as a result of the public health risks due to the Coronavirus or Covid-19. As a result, the Council offices were closed to the public and this licensing sub-committee was held remotely with parties to the hearing participating by way of conference call.

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

30. **DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

RESOLVED that none were noted.

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

RESOLVED that the minutes of the meeting held on 16 December 2020 be approved and signed as a correct record.

32. **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. Following that private session, at which time the matter would be determined, written confirmation of the decision of the Sub-Committee would be distributed to all parties to the hearing.

33. **APPLICATION FOR A PREMISES LICENCE – ONE OXFORD, 1 OXFORD STREET, SOUTHAMPTON SO14 3DJ**

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

The hearing was held as a virtual meeting using Microsoft Teams and was streamed live online for the press and public to view via the Live Events platform.

The Sub-Committee has considered very carefully the application for a premises licence at ONE OXFORD, 1 OXFORD STREET, SOUTHAMPTON SO14 3DJ. 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 considered the representations, both written and given orally today, by all parties. Human rights and equality legislation has been borne in mind whilst making the decision.

The Sub-Committee noted that conditions to be imposed on any licence granted had been agreed between the applicant and the police prior to the hearing. It was also noted that 7 objections had been received from local residents. All of these objections were considered, and the objectors attended and addressed the meeting.

The Sub-Committee noted that no further representations or comment had been received from the any of the other Responsible Authorities.

The applicant, Mr Kumar attended the hearing and addressed the Sub-Committee, no Responsible Authorities attended the hearing.

The Sub-Committee having considered all of the above has determined to grant the application subject to the conditions agreed between the applicant and the police but with limited hours as follows:

Live Music	12:00 to 23:00
Recorded Music	12:00 to 00:00
Performances of Dance	12:00 to 23:00
Late Night Refreshment	23:00 to 00:00
Supply of alcohol	12:00 to 00:00
Premises open to the public	12:00 to 00:00

Reasons

The Sub-Committee heard evidence from local residents regarding concerns as to noise disturbance from the premises including, but not limited to, recorded music within the premises and from smokers outside the premises. Concerns were also raised about public nuisance and safety late at night.

The Sub-Committee considered the Applicant's representations as to the type of establishment he intended should be run from the premises and took this into account.

The Sub-Committee noted that the premises are in a primarily residential area and surrounded immediately by residences. The Sub-Committee does not consider it would be appropriate or proportionate to refuse the application in whole on the basis of these objections but feel it would be proportionate to limit the hours as set out above.

This is a proportionate means of meeting the licensing objectives of prevention of public nuisance and public safety.

Residents can be assured that where the grant of any application leads to an adverse impact upon the licensing objectives a review of the licence can be brought by them, 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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Agenda Item 7

DECISION-MAKER LICENSING (LICENSING & GAMBLING) SUB COMMITTEE

SUBJECT HEARING TO CONSIDER AN APPLICATION FOR REVIEW OF A PREMISES LICENCE – **Ceno Bar and Restaurant 119 Highfield Lane Southampton SO17 1AQ**

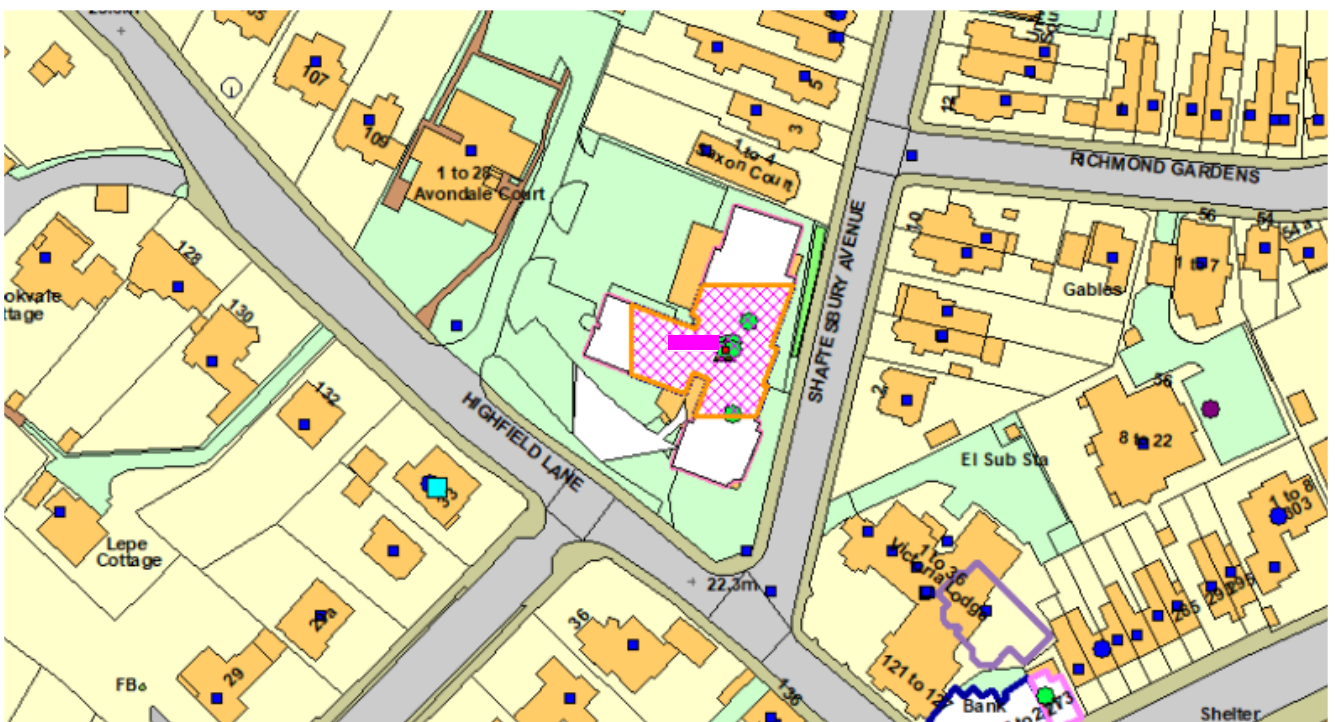
DATE OF HEARING Tuesday 26th January 2021 at 10.00hrs (Online)

REPORT OF SERVICE DIRECTOR – COMMUNITIES, CULTURE AND HOMES

E-mail licensing@southampton.gov.uk

Application Date : 3rd December 2020 Application Received 3rd December 2020

Application Valid : 3rd December 2020 Reference : **2020/04098/01SRAP**



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Representations from Responsible Authorities

Responsible Authority	Satisfactory?
Safeguarding Children	No Response
Home Office	Yes

Licensing Authority	Supporting Review	
Public Health Manager	Supporting Review	
Planning & Sustainability - Development Control - Licensing	No Response	
Police - Licensing	Applicant	
Trading Standards	No Response	
Environmental Health	No Response	
Other Representations		
Name	Address	Contributor Type

Legal Implications

1. Part 3 of the Licensing Act 2003 provides that a responsible authority or any other person may apply for review of a premises licence.
2. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the licensing authority and each of the responsible authorities.
3. On receipt of an application for review, officers will consider its validity under delegated powers. Reasons for rejection, in whole or in part, include:
 - that the grounds for review are not relevant to one of more of the licensing objectives and;
 - that the application is frivolous, vexatious or repetitious, unless it is made by a responsible authority.
4. The licensing authority must display a prescribed notice of the review application on the outside or adjacent the premises, on the authority's website and at the Civic Centre; the notice must remain on display for 28 days and any interested party or the responsible authorities may make representations in that period.
5. The licensing authority is then required to hold a hearing to consider the review.
6. In doing so the sub-committee must give appropriate weight to:
 - the steps that are appropriate to promote the licensing objectives; the representations (including supporting information) presented by all the parties;
 - its own statement of licensing policy
 - the Statutory Guidance
7. In determining an application for review, the legislation provides that the sub-committee may take any (or none) of the following steps, as it considers necessary:
 - modify the conditions of the licence;
 - exclude a licensable activity from the scope of the licence

- remove the designated premises supervisor;
 - suspend the licence for a period not exceeding three months
 - revoke the licence.
8. The Licensing Act 2003 provides for appeal to the Magistrates' Court against the sub-committee's decision in relation to an application for review by the premises licence holder and any other party who made a representation to the application.
9. In considering this application the sub-committee is 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.
10. 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.
11. Copies of the application for review and the representations to it are annexed to this report.

12. Equality Act 2010

Section 149 of the Equality Act 2010 requires the Council to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act. It also requires the Council to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This means having due regard to the need to removing or minimising disadvantages suffered, taking steps to meet the needs of persons, encouraging persons to participate in public life, tackling prejudice and promoting understanding. The relevant protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

SUMMARY

Premises Licence Holder	James Campbell Darby
Designated Premises Supervisor	James Campbell Darby

This premises is a restaurant. Mr James Campbell Darby is the premises licence holder and is stated as the designated premises supervisor, following the licence conversion from the previous justices licence in 2005 when the Licensing Act 2003 came into force.

Licensable Activities

Recorded music	
Monday	10:00 - 01:30
Tuesday	10:00 - 01:30
Wednesday	10:00 - 01:30
Thursday	10:00 - 01:30
Friday	10:00 - 01:30
Saturday	10:00 - 01:30
Sunday	12:00 - 00:00
Provision of late night refreshment	
Monday	23:00 - 01:30
Tuesday	23:00 - 01:30
Wednesday	23:00 - 01:30
Thursday	23:00 - 01:30
Friday	23:00 - 01:30
Saturday	23:00 - 01:30
Sunday	23:00 - 00:00
Supply by retail of alcohol	
Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 00:00
Saturday	10:00 - 00:00
Sunday	12:00 - 23:30

Conditions attached to current licence – excluding mandatory conditions.

Annex 2 – Conditions consistent with the operating Schedule

1 On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December.

2 EMBEDDED CONDITIONS FROM CHILDREN AND YOUNG PERSONS ACT 1933

It is a condition of your licence that you comply with the extant provisions of the Children and Young Persons Act 1933, as amended.

The application for review relates to a breach of the Health Protection (Coronavirus, Restrictions) Regulations 2020. On 27th November 2020 the premises had around 15 people sat the length of the bar with glasses on the bar and in the hands of the people present. The offences were being committed and facilitated by Mr James Darby who was present at the venue. The Director of Public Health and the Licensing Authority are Supporting the review.

Hampshire Constabulary have provided video evidence of the event.

Hampshire Constabulary request the committee consider suspension of the premises licence for a period of 4 weeks matching the length of the lockdown, as it cannot be determined how many times this may have occurred at the premises.

Hampshire Constabulary seek the removal of Mr James Darby as the DPS of the premises and a new DPS to be appointed.

Hampshire Constabulary have also proposed the following conditions to be added to the premises licence.

Challenge 25

The premises licence holder shall ensure that a system is in place to ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produce acceptable means of identification and age confirmation. Acceptable identification shall be a passport, photo driving licence or PASS accredited photo ID. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs to be fitted in public places.

The CCTV system must be operating at all times whilst the premises licence is valid. All equipment shall have a constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 31 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly, and that data is being securely retained.

The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.

There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a format that can be viewed on readily available equipment without the need for specialist software.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Hampshire Police Licensing Unit within 48 hours, and arrangements made to repair the fault without delay.

A competent trained person in the use of the CCTV system must be in attendance at the premises at all times when any licensable activities take place and there must be a person present, nominated by the data controller, who is able to fully operate the CCTV system to be able to download at the times of the visit onto a CD/DVD/USB stick

Incident Book

An incident book shall be maintained to record any activity of a violent, criminal or anti-social nature.

The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. This record shall be produced to a police officer or an authorised officer of the local authority on reasonable request. This record shall be retained for a period of 12 months.

Refusal Book

A written record shall be made of every refusal to sell alcohol to a person who is drunk or apparently aged under 18 years. Each entry shall be signed and dated by the person making it. The record shall be checked, and counter signed by the DPS on at least a weekly basis and shall be produced to a police officer or authorised officer of the local authority on reasonable request. This record shall be retained for a period of 12 months.

Training

The premises licence holder shall ensure that a training package is in place in order for all staff involved with the sale or supply of alcohol to be sufficiently trained in licensing matters proportionate to their role and aware of their responsibilities. Records shall be kept of this training, dated and signed by the staff member and trainer. Refresher training shall be completed at least every 12 months with documented records made and available for inspection by Police and other Responsible Authorities.

A written record shall be retained at each bar to show the staff that have been authorised to sell alcohol. This shall be made available to the Police and other responsible authorities on request

Application Form – Pages 1-6

Additional Evidence

1. Statement PC Lee Scott – Pages 7-12
2. Images of 4 posters displayed in the windows at the premises – Pages 16-19
3. Police sought conditions – Pages 20-21

Existing Premises Licence – Pages 22-27

Public Health Supporting Review – Pages 28-29

Licensing Authority Supporting Review – Pages 30-31

Hearing Procedure Notes – Pages 32-35



Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I PC Lee Scott, on behalf of the Chief Officer of Hampshire Constabulary,
(Insert name of applicant)

- Apply for the review of a premises licence.
- Apply for the review of a club premises certificate.
(Select as applicable)
- Make a representation about a premises licence/club premises certificate

Premises or Club Premises details

Postal address of premises:	Ceno 119 Highfield Lane Portswood, Southampton
Postcode (if known):	SO17 1AQ

Name of premises licence holder or club holding club premises certificate (if known) James DARBY

Number of premises licence or club premises certificate (if known) 2005/00712/02SPEC

Details of responsible authority applicant

Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank:
Surname: Scott First Names: Lee
Current postal address : Southampton Neighbourhood police office Southampton City Council Southampton Civic Centre
Postcode: SO14 7LY
Daytime telephone number: [REDACTED]
E-mail address: (optional) [REDACTED]

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003



Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003

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

Select 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 grounds for review which must be based on one or more of the licensing objectives together with supporting information:

At 1800 hours on Friday 27th November 2020 I attended the licenced premises to check to see if the premises was open or not. This was to ensure compliance with the Health Protection (coronavirus, restrictions) (no.4)(England) regulations more commonly known as the rules governing the 4 week national lockdown in England between 5th November - 2nd December 2020. There was information that the premises was holding a lock in, earlier in the lockdown a report was made to police that the venue was trading during lockdown, therefore it was on my list for checking.

On approach the premises was in darkness and from walking past on the street it would appear shut to any passer by.

However as I approached the doors of the premises having crossed the open decking area to the front I found a door to be ajar. On assessing the security of the door it opened and as it did, much to my amazement there were about 15 people along the length of the bar all laughing and talking. As the premises was in darkness I asked for anybody who was in charge and I got no response I said a bit more loudly that I was a police officer and again asked who was in charge. The group were surrounded by drinks. Some were held in hands and some were on the bar as well as some empties. It was very clear that this was a social gathering and the premises had the appearance of a fully functioning pub, albeit in the dark. On my announcement of being a police officer everyone fell rather silent.

As nobody made themselves known to me I went to go round to the back of the bar in the hope this might prompt a comment from someone who may have been a member of staff. As I crossed the threshold of the bar a male appeared from a side door next to the bar (a back bar area).

He intially told me he was the DPS at the premises and so I engaged with him as to why there were 15 or so people in his bar drinking.

I was told they had finished work and were having a drink before leaving and asked if this was allowed. The DPS later identified himself as James DARBY and he is the licence holder and DPS at the premises.

He refused to empty out the premises of those present arguing they were working and having a drink before leaving.

I asked him if we could look at his staff training and employment records then to determine that everyone present was an employee of his at the premises. I also asked if we could have a look at the payroll to again verify this.



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

This was declined although viewing CCTV was offered but DARBY refused to turn the lights on. He said the premises was not open and when I indicated to the door that it was I was told someone had just left. This was not the case as nobody left as I entered and this was a few minutes later, I believe this to be a lie.

I declined to attend the office at this time to view CCTV as I wanted to clear the premises of those drinking beforehand as they were all breaching the lockdown regulations by sitting at the bar drinking.

I offered to take the name and address of everybody present again to verify who if any of them work at the premises otherwise I would then consider reporting them all individually for breaching the lockdown.

I was then told not everybody had been working at the premises all day.

I was told by DARBY that he was not taking money however I did not believe him. It is my opinion that due to his attitude and demeanour that it was clear that he had been caught selling alcohol.

It was only at the point I called up for further units to assist with the clearing of the premises and to consider prosecuting others that DARBY thanked everyone and this was a clear indication to them, from him that it was now time to leave and they began to do so. DARBY by thanking everybody for their help created a charade as the customers reciprocated with rather exaggerated thanks and thumbs up, and a 'we'll be back in for work tomorrow'. If this situation we found ourselves in wasn't so serious it would have been comical.

As people were leaving I had to use my mobile phone torch light to show all the drinks and glasses across the bar top. I also saw an order type note pad which appeared to have 175ml or similar on it. This is a measure of wine so I looked at the pad, as I put it back on the bar a disgruntled gentleman came over and took it away proclaiming it to be private property and was then abusive to me being petulant and childish suggesting I should get a job.

After everyone had left the premises I was then told that I had effectively kicked out the investors in the business.

Therefore those present were employees, employees and helpers, not employees and now they were investors in the business and I believe referred to as friends too. I believe the appropriate word for them all would be - customers.

Now everyone had left I asked if we could review the CCTV for the last couple of hours for the bar area as this would clearly show them working and then having a quick drink before leaving. However I will add this was not the appearance given off as I entered.

I went to follow DARBY to look at the footage and he stopped and said 'No' he didn't want to show me the footage. If his account so far was accurate the footage would have surely shown them all working and mitigated the appearance of the social gathering and also that he was not taking money. This only heightened my belief that he was unlawfully selling alcohol.

At this point I took DARBY's name and address and the request at turning a light on was rejected once more so I made notes whilst using my phone torch light once again.

DARBY stated that he did not want to turn the lights on even at my request because he did



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

not want to draw attention to himself. I would argue that this was because he did not want to appear open but was having a private gathering with either local customers or friends. He made comment also whilst I was present about those present being investors. I am not a business expert but arguably it is not common place to sit your investors/ financiers in the dark.

Likewise with the lights being off, arguably if the 15+ persons had all been working in the premises during the daytime this would have captured attention anyway, or it may have helped because they would have been visible to the public as working. Also it had been dark for about an hour and I was told they had just finished work so did they work in the dark. The account given does not add up. The number of inconsistencies was growing.

DARBY made comment that he had only received £2000 in aid with regards to the lockdown but was not taking money from those present. He is trying to survive, how then does it make economical sense to then be giving stock away, yet another inconsistency.

DARBY was determined to show me around the premises to show that preparations had been made for the re-opening post lockdown. I initially declined but followed him round and the restaurant was clean. It was clear still that DARBY had no regard at all for breaching the regulations and was still trying to justify those drinking at his bar.

Given that there were people who drinking and being jovial at his bar, it was evident to me that he was blatantly breaching the regulations and allowing all his patrons to be offending as well.

DARBY made comments and changed his story on who the persons were a few times whilst I was present. He made comments about the lockdown, re-opening and financial assistance issues.

As the licence holder and DPS DARBY has full responsibility to know and adhere to the restrictions in place at the time of my visit and when I discovered my findings. Therefore I can only argue that this was a clear and blatant breach of regulations.

DARBY made comments about how he was struggling which is unfortunate but failed to accept comment from me that it is a level playing field sadly during these difficult times for everyone in the trade and fails therefore to see how he is viewed as gaining an advantage by allowing customers to drink in his premises where others are complying with the lockdown.

Of note and it was a concern too that he later asked what a DPS is when I mentioned this again.

This lockdown was nationwide. People are becoming ill and people are dying as a result of the coronavirus. DARBY has no regard for this it seems and nor do the customers who were frequenting his premises at the time of my visit. Nobody was wearing any face masks either it must be added nor was there any consideration to being socially distant.

Not only this the visit was after the media announcements of the return to the tier system post lockdown and given the infection rate and pressure on the NHS, the city of

MG11 WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B

Occurrence Number:	44200459710	URN:	
Statement of:	SCOTT, LEE		
Age:	Over 18	Occupation:	Emergency Services: Police service Empl. stat: Employed
This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.			

I am Police Constable 25597 Lee Scott of Hampshire Constabulary currently attached to the Licensing and alcohol harm reduction team.

This statement detail my dealings at a licenced premises called Ceno on Highfield Lane Southampton and I dealt with a male who I know to be James DARBY, I shall refer to him as DPS throughout the bulk of this statement.

On Friday 27th November 2020 I was on duty in plain clothes however in possession of personal protective equipment and also my warrant card was on display on a lanyard.

At approximately 1800 hours I attended CENO, Highfield Lane, Southampton with a view to see if the premises was open. The premises should be closed under the Health protection (coronavirus, restrictions) (no.4)(England) Regulations 2020 more commonly referred to as the national lockdown running between 5th November 2020- 2nd December 2020 in which licenced premises are not permitted to provide food or drink for consumption on the premises.

On getting out of my vehicle I turned on my body worn video camera, as I approached the premises it was in darkness however I approached the doors using the raised outside decking area out the front. As I got to a door I noticed that one of the doors was ajar.

I went to open the doors to ensure they were safely secured however one opened and as I opened it I saw what I would describe as a functioning pub albeit in the dark.

As a result I entered the premises utilising section 179 of the Licensing Act 2003 to check the premises as I believed it was undertaking licensable activity.

I would estimate that there was about 15 people all sat against the length of the bar and laughing was then heard. I could see even in the low light that there were glasses on the bar and in the hands of the people present.

I asked a few people at one end of the bar who was in charge and when I announced I was a police officer and asked again loudly if anyone was in charge everyone fell quiet. I moved back round to go behind the bar to attempt to find staff or perhaps for someone to identify themselves to me as a member of staff but nobody did. As I crossed the threshold of the bar at the end a male appeared from a doorway off to the side.

The male I spoke to told me that everyone was having a beer having finished work. I asked him to empty the premises but he declined to do so initially saying they have not finished work however everyone was drinking.

The male confirmed to me he was the DPS (designated premises supervisor). He told me everyone present had been working there all day. I asked if we could look at the staff training records or the payroll to verify all the persons were staff but then I was told they were not employees.

The DPS refused to clear the premises out and said this is why the lights were off. I challenged this asking why the door was open and I was told someone had left but nobody left as I approached the premises.

I suggested I take the names and addresses of everyone present and I can then verify who works there or not and those that did not would also be considered for offences because they were also breaching the lockdown regulations.

The DPS then told me that not everybody had working all day.

The DPS then advised that he was not taking money and he asked if he cannot say thank you by giving those present a drink.

I was offered to review CCTV in the office, however everyone drinking was still present and so I wanted to clear those persons out first before discussing with the matter further with the DPS.

I asked for a further unit and in the process of doing so the DPS said thank you to everyone and they started to clear out.

After they all left I used my light on my mobile phone and captured the glasses empty, full and anywhere in between across the bar. I also saw an order type note pad which appeared to have a measure written on it. I believe it said 175ml which is a size used for glasses of wine but as I looked at it a male came over and swept it away and took it with him.

After this I was then told I had just made all the investors in the business were those who I had effectively told to leave. This now is the third time those present had been categorised differently.

I asked again to look at the CCTV and the screen was pointed to. I asked for the camera that covered the bar area and I went to follow the DPS. However he very quickly turned and said to me that he did not wish to show me any footage. I then asked for a light to be turned on and this was rejected too.

I took the details of the DPS and he identified himself to me as James DARBY 31/01/76 and I noted his home address.

After this DARBY was adamant to show me round to see how clean the restaurant is after finally turning the lights on. Despite it making no difference to the offence I followed him round and he explained everyone had earlier been cleaning.

As I had seen multiple persons drinking alcoholic beverages inside the premises and them being allowed to by DARBY who is the DPS and also the premises licence holder I explained to him that I would be reporting him for breaching the aforementioned regulations at the top of this statement. He made comments throughout that he is aware of the lockdown but also that he was more than happy to allow those present to be drinking on his premises and the fact he initially refused to assist in asking them to leave, I firmly believe the offence was made out and therefore decided to report DARBY there and then for the offence.

I cautioned DARBY at 1818 hours and advised it would be dealt with by way of a £1,000.00 fine.



I used the Now caution and asked DARBY if he had any specific reply he wished to make. As I cautioned him I followed him outside onto the front decking area. I began to write his comments in my PNB however as I paused him to keep up writing his comment he told me he did not care went back inside and shut the door.

I switched off my camera and left the area.

I must also add that none of the patrons of the pub were wearing face masks and neither was DARBY and it seems as though there was a collective disregard for the lockdown regulations.

I exhibit a copy of my body worn video footage relating to this matter as:-

LS/CHL/01

Signature of Witness		Signature Witnessed By	
Name:		Name:	
Signed Time:		Signed Time:	

The Latest BS.

Tier 2: High alert

This is for areas with a higher or rapidly rising level of infections, where some additional restrictions need to be in place.

In tier 2:

- you must not socialise with anyone you do not live with or who is not in your support bubble in any indoor setting, whether at home or in a public place
- you must not socialise in a group of more than 6 people outside, including in a garden or a public space – this is called the 'rule of 6'
- businesses and venues can continue to operate, in a COVID-Secure manner, other than those which remain closed by law, such as nightclubs
- pubs and bars must close, unless operating as restaurants. Hospitality venues can only serve alcohol with substantial meals
- hospitality businesses selling food or drink for consumption on their premises are required to
 - provide table service only, in premises which sell alcohol

The Latest BS

- close between 11pm and 5am (hospitality venues in airports, ports, transport services and motorway service areas are exempt)
- stop taking orders after 10pm
- hospitality businesses and venues selling food and drink for consumption off the premises can continue to do so after 10pm as long as this is through delivery service, click-and-collect or drive-through
- early closure (11pm) applies to casinos, cinemas, theatres, museums, bowling alleys, amusement arcades, funfairs, theme parks, adventure parks and activities, and bingo halls. Cinemas, theatres and concert halls can stay open beyond 11pm in order to conclude performances that start before 10pm
- public attendance at outdoor and indoor events (performances and shows) is permitted, limited to whichever is lower: 50% capacity, or either 2,000 people outdoors or 1,000 people indoors
- public attendance at spectator sport and business events can resume inside and outside, subject to social contact rules and limited to whichever is lower: 50% capacity, or either 2,000 people outdoors

The Latest BS.

or 1,000 people indoors.

- places of worship remain open but you must not socialise with people from outside of your household or support bubble while you are indoors there, unless a legal exemption applies
- weddings and funerals can go ahead with restrictions on numbers of attendees – 15 people can attend wedding ceremonies and receptions. 30 people can attend funeral ceremonies, and 15 people can attend linked commemorative events such as wakes or stonesettings
- organised outdoor sport, and physical activity and exercise classes can continue
- organised indoor sport, physical activity and exercise classes will only be permitted if it is possible for people to avoid mixing with people they do not live with (or share a support bubble with). There are exceptions for indoor disability sport, sport for educational purposes and supervised sport and physical activity for under-18s, which can take place with larger groups mixing

The Latest BS.

- you can continue to travel to venues or amenities which are open, but should aim to reduce the number of journeys you make where possible
- if you live in a tier 2 area, you must continue to follow tier 2 rules when you travel to a tier 1 area. Avoid travel to or overnight stays in tier 3 areas other than where necessary, such as for work, education, youth services, to receive medical treatment, or because of caring responsibilities. You can travel through a tier 3 area as a part of a longer journey

THANKS !!



FOOD HYGIENE RATING



From:
To:
Subject: Ceno Review material
Date: 17 December 2020 09:41:15
Attachments: [Ceno conditions sought.docx](#)

Apologies,

Further to my last e-mail please see the attached document which contains the list of conditions sought to be added to the licence at the hearing.

Regards

PC 25597

Lee Scott

Hampshire Constabulary currently use the Microsoft Office 2013 suite of applications. Please be aware of this if you intend to include an attachment with your email. This communication contains information which is confidential and may also be privileged. Any views or opinions expressed are those of the originator and not necessarily those of Hampshire Constabulary. It is for the exclusive use of the addressee(s). If you are not the intended recipient(s) please note that any form of distribution, copying or use of this communication or the information in it is strictly prohibited and may be unlawful. If you have received this communication in error please forward a copy to: informationsecurity@thamesvalley.pnn.police.uk and to the sender. Please then delete the e-mail and destroy any copies of it. DO NOT use this email address for other enquiries as the message will not be responded to or any action taken upon it. If you have a non-urgent enquiry, please call the police non-emergency number '101'. If it is an emergency, please call 999. Thank you.

The premises licence holder shall ensure that a system is in place to ensure that every individual who appears to be under 25 years of age seeking to purchase or be supplied with alcohol at or from the premises, shall produce acceptable means of identification and age confirmation. Acceptable identification shall be a passport, photo driving licence or PASS accredited photo ID. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs to be fitted in public places.

The CCTV system must be operating at all times whilst the premises licence is valid. All equipment shall have a constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 31 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.

The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.

There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a format that can be viewed on readily available equipment without the need for specialist software.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Hampshire Police Licensing Unit within 48 hours, and arrangements made to repair the fault without delay.

A competent trained person in the use of and operation of the CCTV must be in attendance at the premises at all times that licensable activities take place and there must be a person present, nominated by the data controller, who is able to fully operate the CCTV system to be able to download at the times of the visit onto a CD/DVD/USB stick any information lawfully requested by any Responsible Authority.

An incident book shall be maintained to record any activity of a violent, criminal or anti-social nature.

The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. This record shall be produced to a police officer or an authorised officer of the local authority on reasonable request. This record shall be retained for a period of 12 months.

A written record shall be made of every refusal to sell alcohol to a person who is drunk or apparently aged under 18 years. Each entry shall be signed and dated by the person making it. The record shall be checked and counter signed by the DPS on at least a weekly basis and shall be produced to a police officer or authorised officer of the local authority on reasonable request. This record shall be retained for a period of 12 months.

The premises licence holder shall ensure that a training package is in place in order for all staff involved with the sale or supply of alcohol to be sufficiently trained in licensing matters proportionate to their role and aware of their responsibilities. Records shall be kept of this training, dated and signed by the staff member and trainer. Refresher training shall be completed at least every 12 months with documented records made and available for inspection by Police and other Responsible Authorities.

A written record shall be retained at each bar to show the staff that have been authorised to sell alcohol. This shall be made available to the Police and other responsible authorities on request



**Schedule 12
Part A
Premises Licence**

Regulation 33,34

Premises licence number	2016/03535/01SPRM
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Part 1 – Premises details

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

Ceno Bar And Restaurant

119 Highfield Lane
Southampton
SO17 1AQ

Telephone number	023 8055 4400
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Where the licence is time limited the dates
Not applicable

Licensable activities authorised by the licence
Recorded music Provision of late night refreshment Supply by retail of alcohol

The times the licence authorises the carrying out of licensable activities	
Recorded music	
Monday	10:00 - 01:30
Tuesday	10:00 - 01:30
Wednesday	10:00 - 01:30
Thursday	10:00 - 01:30
Friday	10:00 - 01:30
Saturday	10:00 - 01:30
Sunday	12:00 - 00:00
Provision of late night refreshment	
Monday	23:00 - 01:30
Tuesday	23:00 - 01:30
Wednesday	23:00 - 01:30
Thursday	23:00 - 01:30
Friday	23:00 - 01:30
Saturday	23:00 - 01:30
Sunday	23:00 - 00:00

Supply by retail of alcohol

Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 00:00
Saturday	10:00 - 00:00
Sunday	12:00 - 23:30

The opening hours of the premises

Monday	10:00 - 01:30
Tuesday	10:00 - 01:30
Wednesday	10:00 - 01:30
Thursday	10:00 - 01:30
Friday	10:00 - 01:30
Saturday	10:00 - 01:30
Sunday	12:00 - 00:00



Where the licence authorises supplies of alcohol whether these are on and / or off supplies

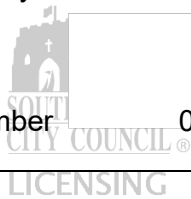
Alcohol is supplied for consumption both on and off the premises



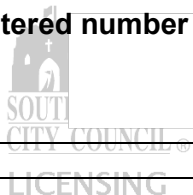
Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

James Campbell Darby
119 Highfield Lane
Southampton
SO17 1AQ
Business Phone Number 023 8055 4400



Registered number of holder, for example company number, charity number (where applicable)



Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

James Cambell Darby



Daytime Telephone Number [Redacted]

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence Number: 2005/00712/02SPEC

Licensing Authority: Southampton City Council

This premises licence is issued by Southampton City Council as licensing authority under part 3 of the Licensing Act 2003 and regulations made thereunder

Dated this 8th day of December 2016;



Licensing Manager

Southampton & Eastleigh Licensing Partnership

PO Box 1767

Southampton

SO18 9LA



Annex 1 – Mandatory Conditions

1 No supply of alcohol shall be made under the premises licence:

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor for the premises does not hold a personal licence or his personal licence is suspended.

2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

4 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

6 The responsible person must ensure that

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

7 1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition set out in paragraph 1 —

(a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) 'permitted price' is the price found by applying the formula —

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence —

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating Schedule

1 EMBEDDED CONDITIONS FROM CHILDREN AND YOUNG PERSONS ACT 1933

It is a condition of your licence that you comply with the extant provisions of the Children and Young Persons Act 1933, as amended.

2 On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December.

Annex 3 – Conditions attached after a hearing by the licensing authority

1 None

Direct dial: [REDACTED]
Email: [REDACTED] cc [REDACTED]
Please ask for: Debbie Chase

Date: 9th December 2020

Licensing Department
Southampton City Council
Civic Centre
Southampton
SO14 7LS

To Whom It May Concern,

Re: CENO: Premises License Review

This representation is made by the Interim Director for Public Health at Southampton City Council as a responsible authority under the Licensing Act 2003, in support of Hampshire Constabulary's application to review the above premises license on the following grounds:

1. The Prevention of Crime and Disorder

Prevention of Crime and Disorder

I am concerned about the report of the event that took place at the CENO bar on the 27th November 2020 in the context of the Licensing Objective of "the promotion of the prevention of crime and disorder."

I believe the use of the premises for a social gathering as described by the Police report was not in a manner that would meet the requirements of the 'national lockdown' required by the Health Protection (coronavirus, restrictions) (no.4) (England) and associated regulations, the Licensing Act 2003, or the UK government's guidance on protecting the public during the Coronavirus pandemic.

Firstly, the gathering was too large and not socially distanced. Schedule 22 of the Coronavirus Act 2020 permits the Secretary of State to make a declaration imposing prohibition, restrictions or requirements regarding the number of persons in the premises, the size of the premises, the purpose for which a person is in the premises, the facilities in the premises, and/or a period of time.

Restrictions on numbers at gatherings have been in place for a significant period, and strengthened from the 5th of November as part of a 'national lockdown' which prevented pubs and bars from operating¹. It was clear that licensed premises were not to operate On License services, and should only provide as an Off License through deliveries and take-aways. The police report makes clear that the officer was satisfied that the event at CENO not a 'quick, post-work drink before going home' as stated by James DARBY, but an attempt to host a social gathering without anyone else noticing.

¹ The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) Regulations 2020

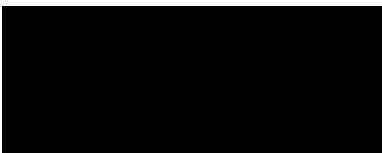
The Police report states that the event CENO on the 27th November 2020 had 15 people in attendance, a fact that speaks for itself. In addition to hosting a social gathering during lockdown those present were not socially distant from other people in the room, and were not wearing face coverings or masks, showing further non-compliance with guidance designed to keep people safe by reducing the spread of disease.

Secondly, under “the contact details regulations”² it is mandatory for businesses to collect Track and Trace information from all visitors to be used in the event of a coronavirus outbreak to spread of the disease. It is reported that CENO did not record sufficient contact details of attendees. Guidance relating to test and trace is available on the gov.uk website detailing the requirements of restaurants, pubs, bars and takeaway services. Section 2.1 of this guidance provides examples of the information that must be collected.

As the Interim Director of Public Health I am concerned that the Licensing Objective of the Prevention of Crime and Disorder has not been promoted, in fact the direct opposite, by this conduct together with the potential impact it may have had in spreading coronavirus. Hosting events, especially during a period of ‘lockdown’, increases the risk of an outbreak, and not collecting test and trace information undermines the ability to respond to one, should it occur.

I therefore support the Police in their call for a review under the Licensing Act 2003 on the grounds of the licensing objective of the Prevention of Crime and Disorder and support their call to remove James DARBY as the Designated Premises Supervisor, to request a suspension of the premises license for a period of 4 weeks (the length of the lockdown that was avoided). Further we support the Police in their recommendation that a comprehensive CCTV system condition and a staff training record condition be added to the license to prevent events like the 27th November happening again.

Yours sincerely



Debbie Chase
Interim Director of Public Health

Guidance for Test and Trace

<https://www.gov.uk/guidance/maintaining-records-of-staff-customers-and-visitors-to-support-nhs-test-and-trace>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery#takeaways-2-1>

² Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements Regulations 2020

**Licensing Team
Southampton and Eastleigh Licensing Partnership**



Southampton City Council
Civic Centre,
Southampton

Please address all correspondence to:
**Licensing – Southampton City Council,
PO Box 1767, Southampton SO18 9LA**

Direct dial: 023 8083 3002
Our ref: 2020/04098/01SRAP

E-mail: licensing@southampton.gov.uk
Please ask for: Mr. Bates

Licensing Team,
Southampton and Eastleigh Licensing Partnership,
Southampton City Council,
PO Box 1767,
Southampton.
SO18 9LA

29th December 2020

Dear Sir or Madam,

Review of Ceno Bar and Restaurant, Highfield Lane, Southampton.

As a result of the review application and a report from a member of my staff how the licence holder reacted to the notices being placed at his premises I looked at Ceno's as I drove by about 1915 hours on Friday 18th December 2020. I noticed the premises appeared quite busy inside and two or three persons stood outside. I therefore stopped my journey and approached the premises on foot.

I could see the statutory notice was still in place in Shakespeare Avenue. I then went to Highfield Lane and on the lamp post by the south west boundary of the premises I could see the notice had been cut down. The notices are fixed using cable ties. The cable tie and the top half an inch or so of the notice was still in place. The edge of the part of the notice that remained was very straight, making me believe it had been deliberately cut down.

I then walked towards the premises and looked in through the windows. I could see the bar had approximately 30 persons inside, all were sat down but the vast majority were sat in groups of at least 4 but mainly groups of 6. Only about half of the tables had any evidence of food such as empty plates. I did not see anyone actually eating.

One particular group was a group of 6 mature men. All had drinks in front of them, some were full pints others were mainly consumed, there were no plates or sign of food at all.

Another mixed group of 6 mature adults were at another table near to the entrance and a further group sat on sofas around a table. None of the groups looked like they were from the same household. I did note one family group with a small child but apart from this group all the others looked like mixed households.

I spent approximately 5 minutes looking into the premises and at no point did I see food being served to any of the tables. As this was not a planned visit and was done in my own time I did not have any identification with me. I waited looking at the premises as I tried to contact PC Lee Scott to report my observations. I was unable to make direct contact so left a message for him. I then left the area and returned home.

I did return to the premises, at 1410 on Tuesday 29th December 2020 and noticed both notices were now properly displayed.

I request this letter is added to the report for the review hearing. I am prepared to attend any hearing in relation to this matter.




Phil Bates
Licensing Manager

Procedure – Applications etc. under the Licensing Act 2003 or Gambling Act 2005

1. A hearing will be held to decide applications, etc., under the Licensing Act 2003, where there have been relevant representations from one or more of the responsible authorities or other persons. The parties to the hearing will have the chance to be heard. They are also entitled to be helped or represented by another person if due written notice is given in advance.
2. Hearings will take place before a Sub-Committee comprising three members of the Licensing Committee. One of these members will be elected Chair of the Sub-Committee for that hearing.
3. Please note that for day time hearings the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

Preliminary matters

4. The Chair will introduce those present.
5. The Chair will check whether any of the Sub-Committee members has a “disclosable pecuniary”, “personal” or “pecuniary” interest.
6. The Chair will check whether all the parties are present at the hearing, and if any are not, whether they have told the Council that they do not wish to attend or be represented. If any party who was expected to attend has not done so, the Sub-Committee will decide whether to hold the hearing in that party’s absence, or to adjourn it to another date. Hearings will be adjourned if the Sub-Committee considers this necessary in the public interest, if that is possible. If the Sub-Committee decides to hold the hearing in a party’s absence, they will still consider any written information received.
7. In the case of an application for variation or a new licence, the Sub-Committee’s legal advisor will ask the applicant or their advisor for confirmation that the required public notices have been displayed where they can conveniently be read from the exterior of the premises and that notice was given in a local newspaper within eleven working days of the day on which the application was received by the licensing authority.
8. Normally, hearings will be open to the public. However, the Sub-Committee may exclude the public from the hearing (or part of it) if they think the public interest in doing so outweighs the public interest in having the hearing in public. If the public are excluded, any of the parties to the hearing, and/or anyone helping or representing them, may also be excluded.
9. The Chair will propose a motion that the public and the press be excluded from the hearing while the Sub-Committee considers the matter. Ordinarily the legal advisor and democratic support officer will remain (see paragraph 30 (b) below).
10. The Openness of Local Government Bodies Regulations 2014 provide an entitlement for the public to film, photograph and audibly record (“record”) public meetings. However, by virtue of Schedule 6, paragraph 58 of the Licensing Act 2003 and section 101 (15) of the Local Government Act 1972, Licensing Act 2003 hearings are not covered by the entitlement to film as of right. The Council’s general approach is to encourage openness and transparency in all its dealings and the general presumption is that filming or recording of hearings shall generally be permitted where due notice has been provided in advance of the hearing. Nonetheless the following shall apply:

- i) Filming / recording / photographing hearings shall only be permitted with the express permission of the Chair. Such permission may include restrictions to protect children, vulnerable persons or others that object to being filmed / photographed / recorded.
 - ii) Requests to film / record / photograph should be made with sufficient notice in advance of the hearing. Late requests may not be granted if there shall be a delay to proceedings as a result.
 - iii) Every party to the hearing and any witnesses shall have the opportunity to object and those representations shall be considered by the Sub-Committee.
 - iv) No filming, photography or sound recording shall be permitted of any person under 18 years of age.
 - v) No person shall be put under any pressure to consent to such and no payment for such consent shall be given.
 - vi) The Chair shall have the final say as to whether any filming, photography or recording is allowed (including the extent to which permission is granted e.g. the parts of the meeting, the individuals concerned or the arrangement of the recording equipment).
 - vii) All directions given by the Chair shall be fully complied with and the Chair shall have the absolute discretion to withdraw permission to film, photograph or record in the event the same causes an obstruction or interferes with the general conduct of the hearing, including the impeding of the giving of proper evidence.
11. A party may have asked for someone else to appear at the hearing to make a point or points that may help the Sub-Committee reach a decision. It is up to the Sub-Committee to decide whether that person should be heard, although permission will not be refused unreasonably. Such a person is referred to as a “witness” in this procedure.
12. Where application has been made, in advance of the hearing, that it should be conducted in private (e.g. by the Police in review or summary review proceedings) reports shall be prepared and presented as confidential so that the Committee can make a meaningful determination in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005 to exclude the press and public. It is important to note that reports presenting Licensing Act 2003 matters are not required to be published in advance. However, certain limited information must be published in accordance with the Licensing Act 2003 (Licensing Authority’s Register) (Other Information) Regulations 2005 and section 8 of the Licensing Act 2003.
13. The Chair will then explain the procedure that will follow.

General information on the conduct of the hearing

14. Each party is entitled to:
- (a) Give further information in response to any point that the Council told them before the hearing they would like clarified;
 - (b) With the permission of the Chair, seek clarification on any point by any other party;
 - (c) Address the Sub-Committee.
15. Members of the Sub-Committee may also seek clarification of any party or witness.
16. At the Chair’s discretion, the Sub-Committee’s legal advisor may ask any questions he or she thinks are relevant.

17. Unless the Council has requested in advance that a particular point be clarified, new documentary or other evidence may not be submitted for the first time at the hearing, unless all the other parties agree.
18. Members of the Sub-Committee will have read all the papers included in the agenda for the hearing before the hearing starts. The parties are requested not to spend unnecessary time repeating evidence which is already in the papers and which is not disputed.
19. Evidence that is not relevant to the case, or to the promotion of the four licensing objectives, will be disregarded.

Hearing Procedure

20. If any party has asked permission for a witness or witnesses to appear, the Sub-Committee will decide whether they should be heard (see paragraph 10 above).
21. All parties will be allowed a similar (and maximum) amount of time to put their case, and ask questions of other parties, subject to the Chair's discretion to not hear repetitive matters or questions.

The applicant

22. The applicant for the licence (or their representative) or the applicant in review proceedings, may present their case.
23. If the Sub-Committee permits, the applicant may call those witnesses whose names have been provided in advance to support their application.
24. Where a group of witnesses wish to speak in support of the application for similar reasons, one person should, where possible, act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if their evidence simply repeats points already made.
25. The Chair will invite those making representations to seek clarification on any point made by the applicant. The Chair will decide in which order those making representations will be invited to put their questions.
26. Members of the Sub-Committee or the Legal Advisor, if so permitted by the Chair, may also seek clarification of the applicant or any of their witnesses.

The representations

27. Where there is more than one person making a representation, the Chair will decide the order in which they may put their case. If there is a representation from one or more of the responsible authorities, their representatives will normally be invited to put their case first.
28. The following procedure will apply to each person making a representation in turn:-
 - (a) The person making a representation (or their representative) may present their case.
 - (b) If the Sub-Committee permits, the person making a representation may call those witnesses whose names have been provided in advance to support their objection.
 - (c) Where a group of witnesses wish to speak in support of the objection for similar reasons, where possible, one person should act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if their evidence simply repeats points already made.

- (d) The Chair will invite the applicant to seek clarification on any points made by those making representations.
- (e) Members of the Sub-Committee or the Legal Advisor, if so permitted by the Chair, may seek clarification of those making representations or any witnesses.

Summing up

29. The Chair will invite each person making a representation to make a final statement or sum up their case.

30. The Chair will invite the applicant to make a final statement or sum up their case.

Sub-Committee's decision

31.

- (a) At the end of the hearing the Sub-Committee will move to private session whilst it considers the matter.
- (b) The Sub-Committee's legal advisor will remain to provide legal advice and the democratic services officer will remain to record the decision. Details of any legal advice will be recorded and referenced in the decision and reasons.
- (c) The parties will be invited to wait to be informed of the outcome.
- (d) As soon as the decision is reached, the public and press will be invited to return to the room in which the hearing took place, and the Chair will announce the decision and the reasons for it.
- (e) If a room is available, the Committee may retire to deliberate and make its decision
- (f) All parties will be formally notified in writing of the decision and reasons as soon as possible.

In most cases the Sub-Committee will announce the decision at the conclusion of the hearing. In certain cases where this is not possible due to time constraints (and the Hearings Regulations permit – Regulation 26 (1) sets out those hearings where delay is not possible) the decision shall be made within 5 working days beginning with the day of the hearing or the last day of the hearing.

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