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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 28 JUNE 2023

Present: Councillors M Bunday, Noon and Windle

4. **ELECTION OF CHAIR**

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

5. **STATEMENT FROM THE CHAIR**

The hearing was a hybrid hearing, with some of the participants in the room and other parties to the hearing participating online. The Sub-Committee Members had submitted a request for the style of hearing to be a hybrid, which had been agreed by the Chair in consultation with Democratic and Legal Services.

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

RESOLVED that the minutes for the Sub-Committee meetings held on 1st February 2023 and 31st May 2023 be approved and signed as a correct record.

7. **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 and published on the Southampton City Council website page relating to this meeting.

8. **NEW PREMISES APPLICATION - VNG STORES 128 ABOVE BAR STREET, SOUTHAMPTON SO14 7DU**

The hearing was held as a hybrid meeting with Cllr M Bunday and the Clerk in the room and all other parties participating virtually using Microsoft Teams and was streamed live online for the press and public to view via the Live Events platform.

The Sub-Committee considered very carefully the application for a new premises licence at VNG Stores, 128 Above Bar Street, Southampton, SO14 7DU. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. The Human Rights Act 1998, the Crime and Disorder Act 1998 and the Equality Act 2010 were borne in mind whilst making the decision.

The Sub-Committee made its decision on the basis of all the evidence submitted, both in writing and given orally at the Hearing.

The Sub-Committee noted that representation had been made by the Licensing Authority and the Police. No other responsible authority had made representations.

Surendra Panchel (representing the applicant) and Ashishkumar Vasantlal Gajjar with the consent of the Chair addressed the meeting.

The application was for a new premises licence to be open to the public and to supply alcohol from 7am to 11.30 pm from Monday to Friday, from 7am to 12am midnight from Friday to Saturday and from 7am to 11pm on Sunday.

The Sub-Committee received legal advice that the premises was situated within the Above Bar Cumulative Impact Policy Zone 2 area. The Council's Statement of Licensing Policy reverses the presumption for applications within the Cumulative Impact areas so that there is a rebuttable presumption of refusal of a licence. The onus is on the applicant to demonstrate through their Operating Schedule and supporting evidence such as risk assessments, that the operation of the premises will not add to the cumulative impact already being experienced.

The Sub-Committee considered whether it would be justified in departing from its Statement of Licensing Policy as regards its Cumulative Impact Policy, on the basis that the applicant had provided evidence that the premises would not add to the cumulative impact in the area.

Considering all the above, the Sub-Committee

RESOLVED to refuse the application.

REASONS:

The Sub-Committee heard evidence from the applicant and his representative and also from Hampshire Police and the Senior Licensing officer.

The Sub-Committee heard the concerns of Hampshire Constabulary that the applicant had not engaged with responsible authorities and that the application would have an impact on four licensing objectives because of the character of the Above Bar area:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Sub-Committee noted that Hampshire Constabulary would recommend that the application should be refused. Should the application be granted Hampshire Constabulary would recommend a condition that the sale of alcohol and opening hours of the premises to both be no later than 9pm every day along with a number of additional conditions.

The Sub-Committee heard the concerns of Licensing that the application would have an impact on two licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance.

The Sub-Committee noted that Licensing would recommend that should the application be granted then a condition requiring alcohol sales to finish no later than 9pm every day of the week and after that time that alcohol be locked away out of view would be appropriate because of the character of the Above Bar area.

In response the applicant indicated a willingness to reduce the hours requested by half an hour each day. Whilst referring to the applicant's good record at other premises the applicant was not able to produce evidence to the Sub-Committee that the premises would not add to the cumulative impact in the area.

The Sub-Committee was disappointed and surprised that the applicant had not engaged with the responsible authorities prior to making the application and had either not engaged with neighbouring premises intending to do so or had done but did not bring any evidence of that to the Sub-Committee.

The Sub-Committee had been advised that the Statutory Guidance provides that a Cumulative Impact Policy need not be absolute, and Southampton's policy is not in that it provides for a rebuttable presumption. However, in all the circumstances the Sub-Committee did not find sufficient reason to depart from its policy and the application was therefore refused.

There is a right of appeal for any party to the Magistrates' Court. All parties will receive written notification of the decision with reasons which will set out that right in full.

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