

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 23rd November, 2017
at 9.30 am

PLEASE NOTE TIME OF MEETING

Committee Room 1 - 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 J Baillie, Blatchford, Bogle, Furnell, B Harris, McEwing, Letts, Lewzey, Painton, and Parnell.

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

The Southampton City Council Strategy (2016-2020) is a key document and sets out the four key outcomes that make up our vision.

- Southampton has strong and sustainable economic growth
- Children and young people get a good start in life
- People in Southampton live safe, healthy, independent lives
- Southampton is an attractive modern City, where people are proud to live and work

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 2017/18

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

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 PREVIOUS MEETINGS (INCLUDING MATTERS ARISING) (Pages 1 - 8)

To approve and sign as a correct record the Minutes of the meetings held on 27 September 2017 and 11 October 2017 and to deal with any matters arising.

6 EXCLUSION OF THE PRESS AND PUBLIC

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. In accordance with the Licensing Act 2003 (Hearings) Regulations 2005, members shall be able to determine whether to exclude the public from all or any part of the hearing after consideration of the public interest.

7 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.

8 APPLICATION FOR REVIEW OF PREMISES LICENCE - BUDDHA LOUNGE, 3 WINCHESTER STREET, SOUTHAMPTON, HAMPSHIRE, SO15 2EL (Pages 9 - 66)

Application for a review of the premises licence in respect of Buddha Lounge, 3

Winchester Street, Southampton, Hampshire, SO15 2EL.

Wednesday, 15 November 2017

SERVICE DIRECTOR, LEGAL AND GOVERNANCE

Agenda Item 5

Minutes of Licensing (Licensing and Gambling) Sub-Committee Meetings:

- 27 September 2017
- 11 October 2017

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 27 SEPTEMBER 2017

Present: Councillors Mrs Blatchford, Painton and Parnell

12. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 30 August 2017 be approved and signed as a correct record.

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

RESOLVED

- (i) that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005, the press and public be excluded from the meeting; and
- (ii) 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.

15. **APPLICATION FOR SUMMARY REVIEW OF PREMISES LICENCE**

The Sub-Committee considered the confidential report for an application for summary review of a premises licence. The press and public were excluded from the hearing in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005. In this instance the Sub-Committee determined that the decision should not be published for the same reasons, i.e. that the public interest in the hearing was outweighed by the public interest in excluding the public from the hearing (including the decision).

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 11 OCTOBER 2017

Present: Councillors Mrs Blatchford, Bogle and Parnell

16. **ELECTION OF CHAIR**

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

17. **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.

18. **APPLICATION FOR A VARIATION OF PREMISES LICENCE - SAINSBURY'S SUPERMARKET, 202-224 PORTSWOOD ROAD, SOUTHAMPTON SO17 2BE**

The Sub-Committee considered the application for variation of a premises licence in respect of Sainsbury's Supermarket, 202-224 Portswood Road, Southampton SO17 2BE.

Ms Surguy (Applicant's Agent), Mr Botkai (Applicant's solicitor), Ms Coleman (Local Resident), Mrs Jameson (Portswood Residents Gardens Conservation Area), Mr Duke (Local Resident), Councillor Claisse (Ward Councillor) 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 variation of premises licence be granted, subject to the agreement reached with the Police and as amended during the course of the hearing.

After private deliberation the Sub-Committee reconvened and the Chair read out 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 variation of a premises licence at Sainsbury's Supermarket, 202-224 Portswood Road, Southampton SO17 2BE. It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human Rights legislation was borne in mind whilst making the decision.

The Sub-Committee noted that representation had been made by the Police but was withdrawn following negotiation with the applicant and subsequent amendment to the application. Initially the application sought 24 hour licensing at the store but this had been reduced to the hours of 0600 to 2400 for 14 days before Christmas Day,

Christmas Day and 7 days after Christmas Day. It was further confirmed by the applicant that extended hours sought during the Easter period were withdrawn. The application did, however, continue to seek 24 hour licensing solely in relation to the allocation of alcohol to orders relating to on-line sales (i.e. the ability to pack on-line orders, including alcohol, throughout the night).

Following withdrawal of the Police representation, no representations were received from Responsible Authorities. Numerous representations had been received from residents and on behalf of residents.

In light of all the above, the Sub-Committee has determined to grant the application subject to the agreement reached with the Police and as amended during the course of the hearing.

Reasons

The Sub-Committee heard considerable evidence from residents both orally at the hearing and in written representations relating to general issues of crime and disorder and nuisance in the area. Issues raised included (but were not limited to):

- Late night noise (shouting and screaming)
- Vandalism
- Vomiting
- Street drinking
- Urinating
- Litter
- The precedent caused by granting any extension
- The need for additional alcohol availability in the area
- Lack of police presence
- Highly residential area with elderly homes nearby
- New student blocks are to be completed soon

Generally, residents are concerned that any additional premises or extension to licensable activities (the sale of alcohol) will necessarily lead to an increase in drunkenness and the associated issues arising. The Sub-Committee does acknowledge these concerns and can fully understand the fears of residents given the blight caused by alcohol abuse, drug abuse and general anti-social behaviour in the area. However, the Sub-Committee has had to determine the application that is before it and had to focus its mind upon the extent to which the issues reported are created by the premises in question and perhaps, more importantly, the extent, if any, the application will affect those issues if granted. The additional hours now sought are very much reduced from the original application and only span a very limited period. The Sub-Committee heard evidence from the applicant to state that the full extent of the application would not be utilised and that, in fact, the reality was that only a few additional days over the Christmas period would be used. The number of days applied for would allow flexibility. The Sub-Committee noted that students were unlikely to be in student accommodation at this time, being Christmas.

The Sub-Committee was not satisfied that the additional hours sought to allow packing throughout the night would lead to any increase to the issues complained of

whatsoever, given the store can currently operate in this way in any event save for the packing of alcohol.

The Sub-Committee has had to consider the application on its own merits and accepted legal advice that any decision therefore does not set a precedent.

Whilst the Sub-Committee acknowledges the wider concerns of the residents, it would not be appropriate or proportionate to refuse the application at this time on the basis of the evidence presented.

It was also acknowledged that the statutory guidance does indicate that shop premises should generally be granted hours that coincide with their opening hours and that the police are the experts on crime and disorder and have decided that a hearing is not necessary following agreement with the applicant.

Residents can be reassured that where the grant of any application leads to an adverse impact upon the licensing objectives a review of the licence can be brought 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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Document is Confidential

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