

Licensing (Licensing and Gambling) Sub-Committee

Thursday, 21st March, 2019
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic
Centre

This meeting is open to the public

Members

Three Members drawn from the Licensing
Committee

Contacts

Democratic Support Officer
Pat Wood
Tel: 023 8083 2302
Email: pat.wood@southampton.gov.uk

Service Director - Transactions & Universal
Services

Mitch Sanders
Tel: 023 8083 3613
Email: mitch.sanders@southampton.gov.uk

PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors J Baillie, Blatchford, Bogle, Furnell, B Harris, Leggett, McEwing, Parnell, Streets and T Thomas

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 2018/19

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 THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 1 - 6)

To approve and sign as a correct record the Minutes of the meetings held on 28 November 2018 and 30 November 2018 and to deal with any matters arising.

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 EXCLUSION OF THE PRESS AND PUBLIC

Chair to move that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules contained within the Constitution, the press and public be excluded from the meeting in respect of item 8 based on Categories 1 and 2 of paragraph 10.4 of the Access to Information Procedure Rules. The information contained therein is potentially exempt as it relates to individual personal details and information held under data protection legislation. Having applied the public interest test it is not appropriate to disclose this information as the individuals' legal expectation of privacy outweighs the public interest in the exempt information.

8 APPLICATION TO VARY A PREMISES LICENCE TO SPECIFY AN INDIVIDUAL AS DESIGNATED PREMISES SUPERVISOR - PREMIER, 290 SHIRLEY ROAD, SOUTHAMPTON SO15 3HL (Pages 7 - 28)

Application to vary a premises licence to specify an individual as Designated Premises Supervisor at Premier, 290 Shirley Road Southampton SO15 3HL.

Wednesday, 13 March 2019

Service Director - Transactions and Universal
Services

Agenda Item 5

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

- 28 November 2018
- 30 November 2018

This page is intentionally left blank

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 28 NOVEMBER 2018

Present: Councillors Mrs Blatchford, Furnell and Streets

28. **ELECTION OF CHAIR**

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

29. **MINUTES OF THE PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)**

RESOLVED that the minutes of the Meeting held on 17 October 2018 and 24 October 2018 be approved and signed as a correct record.

30. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

RESOLVED that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the parties to the hearings, press and public be excluded at a predetermined point whilst the Sub-Committee reaches its decision.

31. **APPLICATION FOR GRANT OF A PREMISES LICENCE - CAFE FUMEE, GROUND FLOOR RETAIL TELEPHONE HOUSE, 73 HIGH STREET, SOUTHAMPTON SO14 2NW**

The Sub-Committee considered the report of the Service Director of Transactions and Universal Services for an application for a premises licence in respect of Cafe Fumee, Ground Floor Retail, Telephone House, 73 High Street Southampton SO14 2NW.

Mr Tarafdar (Applicant) and Elaine Jeffery (Principle Environmental Health Officer) 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 premises licence be granted subject to the conditions agreed with the Police and Environmental Health

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 a premises licence at Cafe Fumee, Ground Floor Retail, Telephone House, 73 High Street Southampton SO14 2NW. 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 equalities legislation have been borne in mind whilst making the decision.

The Sub-Committee noted that representations had been received from Environmental Health and the Police. Conditions had been agreed with the Police prior to the hearing and on that basis the Police did not feel a hearing was necessary and therefore did not attend. A condition had been proposed by Environmental Health who had objected on the basis of public nuisance arising from smoke, odour and noise resulting predominantly from the use of outside areas.

The applicant attended the hearing and confirmed agreement of the proposed condition as set out in the papers namely the representation from Environmental Health. The Sub-Committee was accordingly advised that there remained no issue to determine and it accordingly endorsed the agreement reached between the parties during the course of the hearing.

In light of all the above, the Sub-Committee determined to grant the application as applied for and in accordance with the operating schedule which shall form the basis of conditions attached to the licence, conditions agreed with the police in advance of the hearing and the condition proposed by Environmental Health at the hearing and amended to read as follows for clarity.

“Alcohol shall not be sold or supplied at the premises otherwise than to persons taking table meals there and for consumption by such a person as ancillary to their meal.”

Reasons

The Sub-Committee accepted legal advice that it had no option other than to endorse the agreement as set out above and grant the licence in accordance with all the conditions agreed between the parties and those to be applied in accordance with the operating schedule.

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.

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 30 NOVEMBER 2018

Present: Councillors Mrs Blatchford, Bogle and B Harris

32. **ELECTION OF CHAIR**

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

33. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

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.

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

RESOLVED that having applied the public interest test and in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 it was not appropriate to disclose this information as it contained sensitive details of an ongoing police investigation. Accordingly the press and public were excluded from the hearing.

35. **APPLICATION FOR A REVIEW OF PREMISES LICENCE - SEYMOUR'S WINE BAR, CARLTON HOUSE, 1 CARLTON PLACE, SOUTHAMPTON, SO15 2DZ (ADJOURNED FROM MEETING ON 24 OCTOBER 2018)**

The Sub-Committee considered the application for a review of premises licence in respect of Seymour's Wine Bar, Carlton House, 1 Carlton Place, Southampton, SO15 2DZ (adjourned from meeting on 24 October).

Hampshire Constabulary, the Premises Licence Holder and his representatives 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 premises licence could continue with the conditions proposed by the police and accepted by the Premises Licence Holder attached to it.

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.

This was a continuation of the hearing previously adjourned on 24 October 2018 to consider the application for review of the premises licence at Seymour's Wine Bar, Carlton House, 1 Carlton Place, Southampton, SO15 2DZ.

The Sub-Committee has considered very carefully the application for review and representations by the parties present at the hearing. It has given due regard to the

Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human rights and Equalities legislation has been borne in mind.

The Sub-Committee noted that there has been a change of Premises Licence Holder since the application for review was made. The DPS requested removal from his position from the 5 October 2018 and there is currently no DPS. The premises has been closed since that time and there is no intention to re-open until a new DPS is appointed.

The Sub-Committee has noted the revised conditions proposed by the police and the fact that they have been accepted by the Premises Licence Holder. Having reviewed the conditions the Sub-Committee are satisfied that these address the issues that have been raised in the application and meet the licensing objectives of the prevention of crime and disorder and public safety.

In light of the above the Sub-Committee has determined that the Licence should continue with the conditions proposed by the police and accepted by the Premises Licence Holder attached to it.

Reasons

The Sub-Committee heard from the Police about the history of incidents at the venue that led to their application for a review of the premises licence. This demonstrated the need for the proposed conditions to be attached to the Licence.

In addition, the Sub-Committee heard from the new Premises Licence Holder and his representative. They were not involved in the premises prior to October and gave an outline of their intentions for the future operation of the venue. They also confirmed that they agreed that the proposed conditions were fair, reasonable and proportionate.

The Sub-Committee considered very carefully all of the options available to it in accordance with Section 52 (4) of the Act. However, in light of the agreement between the parties and its own consideration of the proposed conditions the Sub-Committee concluded that the Licence should continue with the conditions proposed by the police and accepted by the Premises Licence Holder attached to it.

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.

Document is Confidential

This page is intentionally left blank