SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON 26 JANUARY 2021

Present: Councillors Kataria, McEwing and Renyard

33. **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.

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

RESOLVED that the minutes of the meeting held on 6 January 2021 be approved and signed as a correct record.

35. **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.

36. **APPLICATION FOR REVIEW OF PREMISES LICENCE - CENO BAR AND RESTAURANT, 119 HIGHFIELD LANE, SOUTHAMPTON SO17 1AQ**

The Sub Committee considered the application in accordance with the Licensing Act 2003 (Hearings) and Regulations 2005 (as amended). The Sub Committee also took into consideration the Crime and Disorder Act 1998 and the Human Rights Act 1998. In reaching its decision the Sub Committee was mindful of Procedure Rules as set out in Part 4 of the Constitution, so far as it was applicable.
The Sub Committee also had due regard for the Equality Act 2010. The Council's statement of Licensing Policy and statutory guidance was also taken into account.

The Sub-Committee considered very carefully the application for review of the premises licence at Ceno Bar and Restaurant, 119 Highfield Lane, Southampton, SO17 1AQ. The application to review related to two licensing objectives: The prevention of crime and disorder and public safety. The Sub Committee took into account the written report presented to it, and also, video and written evidence submitted to the Sub Committee by Hampshire Constabulary in advance of the hearing. The panel also received written

representations from the Licensing Authority, Public Health, and the Premises License Holder. The latter comprised of witness statements.

The Sub-Committee considered the representations, both written and given orally at the hearing, by all parties. The Sub-Committee heard from; the applicant, PC Scott, Mr Bates, the Licensing Manager, and Mr Malcolm Gibney, Barrister for the licensed premises holder Mr Darby. Mr Darby was in attendance but felt unable to give evidence or answer direct questions.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act (Hearings) Regulations 2005.
In light of all of the above the Sub-Committee:
RESOLVED that the premises licence be revoked.

Reasons
The Sub-Committee considered very carefully the application of PC Lee Scott. It gave 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, by all parties. The Human Rights Act 1998, The Equality Act 2010 and The Crime and Disorder Act 1998, Section 17 were considered whilst making the decision.

The Sub-Committee considered all the options set out in Section 52(4) Licensing Act 2003 (namely):

- To modify the conditions of the licence
- To exclude a licensable activity from the scope of the licence
- To remove the DPS
- To suspend the licence for a period not exceeding 3 months
- To revoke the licence

The Sub-Committee was concerned that this was a very serious incident, which breached the Coronavirus regulations, which in turn impinged on the licensing objectives of the prevention of crime and disorder and public safety.
Covid 19 is a deadly virus, which presents a very significant threat to the health and lives of many, and its control is something the world is striving for, at great cost, in every sense of the word. It was evident that Mr Darby had failed to recognise the seriousness of the threat to public health that Covid 19 represented and the importance of behaving in accordance with both the legislative provisions and government guidance in order to control its spread. We ignore those steps not just at our own peril, but at the peril of others we come into contact with.

Whilst the Sub-Committee considered the reasons given for people to be on the premises at the time, whether these were accepted or not, there was no acceptable reason for drinking to have taken place.

The Sub-Committee was also concerned at an apparent lack of concern shown by Mr Darby for his responsibilities as DPS and Premises License Holder in view of the current pandemic and a period of lockdown. Examples of this were his lack of cooperation with the police, his unwillingness to share CCTV evidence, and the notices

on the premises, which were at best open to misinterpretation. It was also noted that he failed to follow advice to conduct meetings off site.

As DPS, Mr Darby had failed in his duties and responsibilities. The Sub-Committee deliberated long and hard and concluded that revoking the licence was the only proportionate response. This was particularly the case, as Mr Darby was both the DPS and the Premises Licence Holder. Therefore, removing him as DPS would not have resolved the issues.

There is a statutory right of appeal against this decision to the Magistrates' Court within 21 days of formal notification, which will set out that right in full.