

Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 24th January, 2024
at 4.00 pm

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
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PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors M Bunday, Beaurain, Mrs Blatchford, A Frampton, Kenny, Noon, Powell-Vaughan, Whitbread and Windle.

Role of the Sub-Committee

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 2022-2030 sets out the four key goals:

- Strong Foundations for Life.- For people to access and maximise opportunities to truly thrive, Southampton will focus on ensuring residents of all ages and backgrounds have strong foundations for life
- A proud and resilient city - Southampton's greatest assets are our people. Enriched lives lead to thriving communities, which in turn create places where people want to live, work and study
- A prosperous city - Southampton will focus on growing our local economy and bringing investment into our city.
- A successful, sustainable organisation - The successful delivery of the outcomes in this plan will be rooted in the culture of our organisation and becoming an effective and efficient council.

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 for the Municipal Year
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 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 **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.

3 **STATEMENT FROM THE CHAIR**

4 **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 12)

To approve and sign as a correct record the Minutes of the meetings held on 23 October 2023, 25 October 2023 and 16 November 2023 and to deal with any matters arising, attached.

5 **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 7 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.

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 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 **HEARING TO CONSIDER SUITABILITY OF A PERSONAL LICENCE HOLDER FOLLOWING CONVICTION OF A RELEVANT OFFENCE** (Pages 13 - 20)

Hearing to consider suspension or revocation of a personal licence following

notification that the holder of the licence has been convicted of a relevant offence under the Licensing Act 2003

Tuesday, 16 January 2024

Executive Director Communities, Culture & Homes

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 23 OCTOBER 2023

Present: Councillors M Bunday, Kenny and Powell-Vaughan

Apologies: None

19. **ELECTION OF CHAIR**

RESOLVED: that Councillor M Bunday, as Chair of the Licensing Committee, would be Chair for the purposes of this meeting.

20. **STATEMENT FROM THE CHAIR**

The Chair noted that the hearing was a virtual meeting, with the participants to the hearing participating online.

The Sub-Committee would 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) would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced.

The online live stream of the meeting would end when the Sub-Committee moved into private session and for the press and the public who had not attended in person the decision of the Sub-Committee would be published on the Council's website.

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

RESOLVED: that the minutes for the Sub-Committee meeting on 4th October 2023 be approved and signed as a correct record.

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

RESOLVED:

- I. That the Sub-Committee 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), would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced;
- II. And that the online live stream of the meeting would end when the Sub-Committee moved into private session and for the press and the public who had not attended in person the decision of the Sub-Committee would be published on the Council's website.

23. **APPLICATION FOR NEW PREMISES LICENCE - CITY NEWS, 8 PARK STREET, SOUTHAMPTON SO16 4RJ**

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

This hearing was held as a virtual hearing with people attending 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 as submitted. Representations by all the parties present at the hearing as well as written representations were also fully taken into consideration.

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, by all parties. The Human Rights Act 1998, The Equality Act 2010 and The Crime and Disorder Act 1998 Section 17 have been considered whilst making the decision.

The Sub-Committee noted that conditions had been agreed with Hampshire Constabulary and Trading Standards so no responsible authorities made representations.

RESOLVED:

Having considered all of the above the Sub-Committee decided to grant the licence in accordance with the application but subject to the conditions agreed and set out in an email from the Licensing Authority (Ms Young) to Hampshire Constabulary (PC Dimmer) and Trading Standards (Mr Marshall) dated 21st September 2023 and timed at 3-04 p.m.

Reasons:

The Sub-Committee heard from the Applicant's representative Mr J Wallsgrove in support of the application and Mr S. Panchal opposing the application on behalf of Ms S.Goswani. The Sub-Committee noted the petition submitted by Ms Goswani and considered it as support for her objection.

The objection focused greatly on the history of the premises which had limited relevance to the Application as this is a new application with a new Applicant. There was speculation as to what may happen if the licence is granted. The Sub-Committee received advice that they could not take into account speculation although in this case they might take the view that the history raised enabled some speculative concerns to be considered.

Advice was also given that the legislation has a presumption of grant so that the application can only be refused if the concerns raised cannot be met by conditions. The conditions agreed with the Hampshire Constabulary and Trading Standards do meet concerns that do not amount to speculation. Advice was also received that the responsible authorities are regarded as experts in their respective fields.

The Sub-Committee had concerns with regard to the close involvement of the Applicant's parents in the business. However they were reassured by the fact that

Hampshire Constabulary and Trading Standards had spent time with the Applicant and were satisfied that the licence could be granted with the agreed conditions. Additionally, it was noted that Mr Wallsgrove will continue to assist the Applicant with appropriate training methods and documentation.

Whilst the Sub-committee noted the objection around hours for the sale of alcohol it was not presented with any evidence that there was good reason to depart from the Statutory Guidance to allow alcohol sales during the shop opening hours.

Objectors and residents should be assured that if the concerns raised do materialise they have the right to seek a review of the licence which would be heard by the Sub-Committee.

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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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 25 OCTOBER 2023

Present: Councillors Beaurain, M Bunday and Noon

Apologies: None

24. **ELECTION OF CHAIR**

RESOLVED: that Councillor M Bunday, as Chair of the Licensing Committee, would be Chair for the purposes of this meeting.

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

26. **STATEMENT FROM THE CHAIR**

The Chair noted that the hearing was a virtual meeting with the participants to the hearing participating online.

The Sub-Committee would 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), would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee would be published on the Council's website.

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

RESOLVED:

- I. That the Sub-Committee 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), would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee announced;
- II. And that the online live stream of the meeting would end when the Sub-Committee moved into private session and for the press and public who had not attended in person the decision of the Sub-Committee would be published on the Council's website.

28. **APPLICATION FOR A VARIATION TO A PREMISES LICENCE - WHISKEY BLUE, 129 HIGH STREET, SOUTHAMPTON, SO14 2BR**

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

This hearing was held as a remote hearing with all 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 variation of the premises licence at Whiskey Blue, 129 High Street, Southampton, SO14 2BR. 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 of the evidence submitted, both in writing and given orally at the Hearing.

The Sub-Committee noted that representation had been made by the Environmental Health Service and four residents. No other responsible authority had made representations.

The application was for a variation:

- to the plan
- to reduce licensable hours of live music, recorded music, performance of dance
- to add licensable activities play and films
- to replace all licensing conditions with those referred to in 'Sheet One' in the application.

The Sub-Committee heard oral evidence from the applicant Mr Alexander, and from Mr Taylor (Environmental Health Officer) and residents Ms Powell and Mr Brasil. The written representations were also considered.

RESOLVED:

Considering all the above, the Sub-Committee decided to refuse the application.

Reasons

The Sub-Committee was refreshingly impressed with Mr Alexander's honesty in taking responsibility for the position he finds himself in. It was also impressed with the steps he had taken to try to assist and compensate the Tenants.

However, by his own admission the premises is not suitable as a live music venue with residential accommodation above. In those circumstances the Sub-Committee concluded that there were no conditions that could be imposed to alleviate the public nuisance already occurring. Granting the application which in practical terms would increase the hours for licensable activities, would just make matters worse.

The objections were based on public nuisance and there was also objection to the amendments to conditions applied for. Generally, residents are concerned that any additional extension to licensable activities will lead to an increase in public nuisance. Accordingly, the Sub-Committee had to determine to what extent, if at all, the proposed variation would lead to additional issues at the premises.

The Sub-Committee accepted the representations made by the Tenants and Environmental Health as, to his credit, did the Applicant. There are public nuisance issues now with the licence in its current form. Granting the application is likely to lead to additional issues. The Sub-Committee heard that the tenants immediately above the premises will shortly be vacated and it is the intention of the Applicant to take those flats so that there will be no residents immediately above. It is not clear what impact that will have on remaining residents.

It seems to the Sub-Committee that the Applicant needs to try to sort out the noise issues and once that is done satisfactorily could then seek to vary his licence.

The Sub-Committee sincerely hopes that the Applicant will be able to do so and make the premises a success.

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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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 16 NOVEMBER 2023

Present: Councillors Beaurain, Kenny and M Bunday

29. **ELECTION OF CHAIR**

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

30. **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, the parties to the hearing press and the public unless otherwise excluded by the Licensing Act 2003 (Gearings Regulations 2005), would be invited to return immediately following that private session, at which time, the matter would be determined and the decision of the Sub-Committee announced.

31. **APPLICATION FOR NEW PREMISES LICENCE - SAM STORE, EAST BLOCK THE BALBIRS, 72 PORTSWOOD ROAD, SOUTHAMPTON SO17 2FB**

The hearing was held as a remote hearing with all 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 the grant of a premises licence at Sam Store East Block - The Balbirs 72 Portswood Road Southampton SO17 2FB. It gave 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 of the evidence submitted, both in writing and given orally at the Hearing.

The Sub-Committee noted that Hampshire Constabulary (Licensing) and thirty-five residents had submitted representations. It also noted that conditions had been agreed by Hampshire Constabulary with the Applicant. No other responsible authorities had made representations.

The Sub-Committee heard oral evidence from the applicant's representative Mr Shorish Mustafa, and from several of the residents, and two councillors. The written representations were also considered.

Having considered all of the above, the Sub-Committee:

RESOLVED to grant the Premises License in accordance with the application and subject to the conditions agreed with Hampshire Constabulary. An amendment was made to the condition regarding the sale of alcohol, which will be from 8am Monday to Saturday and 11am on Sunday with no change to the closing hours agreed.

Reasons

The application was for a new Premises Licence for a shop on a newly built block of flats with small retail units at the ground level.

Legislation provides for a presumption of the granting of a new Premises Licence, subject to the determination of the application with a view to promoting the licensing objectives in the overall interests of the local community.

The Sub-Committee carefully considered the written objections, oral representations, and the representations in support of the application.

Hampshire Constabulary agreed conditions with the applicant prior to the hearing. The Police had also explained to the Applicant, that the proposed DPS must have their Personal Licence before any alcohol could be sold, and, that this must be reflected on the licence if it is granted. Provided the agreed conditions were included in the licence, the police have no objections to the grant of a Premises Licence.

Generally, residents were concerned that the grant of a Premises Licence would lead to an increase in public nuisance and anti-social behaviour as well as a risk of harm to children. There was also concern that there are a number of businesses offering the same services within a short distance. Objectors also raised the proximity of the proposed shop to other local amenities, for example; the nearby Mosque, a pre-school and school, and a housing association.

The Sub-Committee considered all representations but concluded that there was no evidence of a real risk of a breach of the Licensing Objectives. The Sub-Committee acknowledged the genuine concerns of the residents but was limited to dealing with the application in accordance with the Licensing Objectives. The Sub-Committee noted that in the absence of concerns raised by the police or proof provided by any of the residents, concerns could only be classed as speculative, which the Sub-Committee could only give limited weight to.

The Sub-Committee considered the concerns of the residents and councillors regarding the sale of alcohol early in the morning and therefore decided to bring the sales time in line with other retailers in the area, as detailed above.

The Sub-Committee noted that while the Applicant appeared inexperienced, there will be guidance and assistance available, which the Panel strongly advised the Applicant to take advantage of. The Sub-Committee hoped that this assured residents who had concerns about the Applicant's inexperience.

There is a general right to review a Premises Licence, which can be brought by residents or responsible authorities. In the event that the premises causes issues of concern, the licence, in its entirety, can be considered at that stage, where the evidence supports it.

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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