

Licensing (General) Sub-Committee

Wednesday, 24th March, 2021
at 10.00 am

PLEASE NOTE TIME OF MEETING

Virtual Meeting

This meeting is open to the public

Members

Councillor McEwing
Councillor G Galton
Councillor Kataria

Contacts

Democratic Support Officer
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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences, permits and forms of consent (other than those for which the Council is responsible under the Licensing Act 2003), including

- Hackney carriage and private hire drivers, vehicles and operators
- Street trading
- Sex establishments

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest with the consent of the Chair.

Southampton: Corporate Plan 2020-2025 sets out the four key outcomes:

- Communities, culture & homes - Celebrating the diversity of cultures within Southampton; enhancing our cultural and historical offer and using these to help transform our communities.
- Green City - Providing a sustainable, clean, healthy and safe environment for everyone. Nurturing green spaces and embracing our waterfront.
- Place shaping - Delivering a city for future generations. Using data, insight and vision to meet the current and future needs of the city.
- Wellbeing - Start well, live well, age well, die well; working with other partners and other services to make sure that customers get the right help at the right time

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.

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.

Dates of Meetings: Municipal Year 2020/21

Meetings of the Committee are held as and when required.

CONDUCT OF MEETING

Rules of Procedure

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

Business to be discussed

Only those items listed on the attached agenda may be considered at this meeting.

Quorum

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

CONDUCT OF MEETING

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 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with Council Procedure Rule 4.3.

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 - 4)

To approve and sign as a correct record the Minutes of the meeting held on 25th February 2021, 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 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 REPORT TO CONSIDER THE SUSPENSION OR REVOCATION OF A PRIVATE HIRE DRIVERS LICENCE (Pages 5 - 80)

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 25 FEBRUARY 2021

Present: Councillors Galton, Kataria and McEwing

44. **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.

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

RESOLVED that none were noted.

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

RESOLVED that the minutes of the meeting held on 3 February 2021 be approved and signed as a correct record.

47. **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.

48. **APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOR BITTERNE PARK HOTEL, 2-4 COBDEN AVENUE, SOUTHAMPTON SO18 1FX**

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

This hearing was held as a virtual meeting using Microsoft Teams and was streamed live online for the press and public to view via the Live Events platform.

The Sub-Committee has considered very carefully the application by Hampshire Constabulary for a review of a premises licence for Bitterne Park Hotel at 2 - 4 Cobden Avenue, Southampton, SO18 1FX, as submitted in the report of the Service Director - Communities, Culture and Homes.

It has given due regard to the Licensing Act 2003 and the Licensing Objectives (1) The prevention of crime and disorder (2) Public safety, statutory guidance and the adopted statement of Licensing Policy.

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 considered the application as submitted and heard representations from Mr Gurvinder Singh, as the DPS and on behalf of the Premises Licence Holder, PC Mark Hawley (Hearing review applicant), The Sub-Committee also heard, Phil Gilbert - Public Health, and Gavin Derrick, Environmental Health.

The Sub-Committee considered the representations, both written and given orally today, by all parties.

In light of all the above the Sub-Committee

RESOLVED that the premises licence be revoked.

Reasons

The Sub-Committee considered very carefully the application of PC Mark Hawley with regard for the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy.

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 Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020, which in turn impinged on the licensing objectives of the prevention of crime and disorder and public safety. Additionally, Mr Singh had confirmed to Hampshire Constabulary, and to the Sub-Committee today, that a similar incident, involving the same numbers, had occurred on 19 December 2020, five nights prior.

Covid 19 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 is evident that Mr Singh had failed to recognise the seriousness of the threat to public health that Covid 19 represents and the importance of behaving in accordance

with both the legislative provisions and government guidance in order to control its spread.

There was no acceptable reason for a gathering of 30-40 people, or for licenced activity (drinking) to be taking place.

The Sub-Committee was also concerned at an apparent lack of concern shown by Mr Singh for his responsibilities as DPS and de facto Premises License Holder in view of the current pandemic and the regulations in force at the time.

Whilst the Sub-Committee acknowledge and was grateful for Mr Singh's candour and apology, as DPS, he 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 is particularly the case, as Mr Singh is both the DPS and in effect the Premises Licence Holder, as the only Officer of that company. Therefore, removing him as DPS would not resolve the issues.

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

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