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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 31 MARCH 2021

Present: Councillors G Galton, McEwing and Renyard

45. **ELECTION OF CHAIR**

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

46. **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.

47. **APPLICATION FOR REVIEW OF PREMISES LICENCE - CATTLE STEAKHOUSE, 14-15 HANOVER BUILDINGS, SOUTHAMPTON SO14 1AE**

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.

The Sub Committee gave due regard to the Equality Act 2010. The Council's statement of Licensing Policy and statutory guidance was taken into account. 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 considered very carefully the application for review of the premises licence at Cattle Steakhouse, 14-15 Hanover Buildings, Southampton, SO14 1EA. 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 by the Service Director, Communities, Culture and Homes, as well as 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 Sub-Committee considered the representations, both written and given orally at the hearing, by all parties. The Sub-Committee heard from the applicant PC Mark Hawley and the Licensing Officer Karen Head and Phil Gilbert, Public Health. Mr Nazim Ahmed was also in attendance and addressed the Sub-Committee.

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 Mark Hawley. 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.

At the time of the event the country was in national lockdown with regulations in place for public safety. Hospitality premises were permitted only to provide food to be taken away and eaten off site. Coronavirus regulations were breached when customers were allowed to eat and drink on the premises. Mr Nazim Ahmed failed to acknowledge the regulations in place or his responsibility for ensuring staff and public safety on the premises.

Additionally, he 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, thus disregarding the potential harm placed on the general public.

On the date in question at the arrival of the police, a number of customers were warned to exit through a staff door, not the public exit. None of the staff or customers were adhering to regulatory safety measures. No face masks were worn, and no social distancing was in place and there was evidence that smoking was taking place in doors.

Whilst the Sub-Committee considered the reasons given for people to be on the premises at the time, there was no acceptable reason for eating, drinking and smoking to be taking place on site. Evidence of illegal activity taking place suggested that this was not a single event. The absence of CCTV footage (which breached a condition of the license) as requested by Hampshire Constabulary, meant that there was no proof to the contrary.

The Sub-Committee felt that Mr Ahmed's lack of knowledge for his responsibilities as DPS and Premises License Holder, in view of the current pandemic and the period of national lockdown, was a serious concern.

The issues highlighted could not be resolved by modification of conditions or excluding a licensable activity from the scope of the license. This was because the offences related to non-licensable activities. Removal of the DPS would still have left Mr Ahmed in control as the premises license holder. The gravity of the incident meant that suspension was not appropriate.

As DPS, Mr Ahmed had failed in his duties and responsibilities and there was concern that he was putting profit before public safety. The Sub-Committee deliberated long and hard and came to the conclusion that revoking the license was the only proportionate response to promote the licensing objectives of the prevention of crime and disorder and public safety.

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.

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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 7 APRIL 2021

Present: Councillors Bunday, G Galton and Renyard

48. **ELECTION OF CHAIR**

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

49. **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.

50. **APPLICATION FOR GRANT OF A PREMISES LICENCE - DHALIWAL TWO STORE, 31 ONSLOW ROAD, SOUTHAMPTON SO14 0JH**

The Sub-Committee considered very carefully the application for a premises licence at Dhaliwal Two Store, 31 Onslow Road, Southampton SO14 0JH in the report of the Service Director, Communities, Culture and Homes. 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 application as submitted, including the representation from the objector, Mrs. Salina Rahman-Khan, who did not attend. The Sub-Committee heard from Mrs. Anuragpreet Kaur, the applicant and her son Mr Garry Singh, as well as her representative, Mr Semper.

The Sub-Committee considered the representations, both written and given orally at the hearing 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.

It was noted that the proposed conditions as set out in the application were deemed as satisfactory by Hampshire Constabulary and Trading Standards and that Environmental Health – Licensing and the Fire Service found the application to be satisfactory also.

The Sub-Committee noted that the objections related to historic issues at the premises which concerned problems later in the evening. There were no current concerns raised by Environmental Health or Hampshire Constabulary. The Sub-Committee was satisfied that the allegations made against the applicant were unfounded.

The Sub-Committee was advised that as the premises fell within the cumulative impact area the presumption of grant provided for by the legislation is reversed. There is a rebuttable presumption to refuse the licence. To rebut that presumption the applicant needs to satisfy the Sub-Committee that the operation of its premises will not add to the cumulative impact already being experienced.

Nevertheless, in light of all the above the Sub-Committee:

RESOLVED that the application should be granted, subject to the conditions agreed with Hampshire Constabulary and Trading Standards as set out. For clarity, the conditions imposed were those as set out in section M of the application to include limiting the floor space for alcohol display and limiting the supply of alcohol between the hours of 7:00am and 11:00pm every day.

Reasons

The Sub-Committee considered the representation which objected to the application. It noted the concerns in respect of the licensing objectives that were raised. Hampshire Constabulary made no representation against this application and were aware that the proposed DPS would be at two stores. The Applicant satisfied the Sub-Committee that the concerns were unfounded.

The Sub-Committee also carefully considered the representations made in support of the application. The applicant acknowledged that the application was within the cumulative impact area and had factored this within the operating schedule.

Weighing up all of the above, the Sub-Committee did not consider it would be appropriate or proportionate to refuse the application at the time on the basis of the evidence presented. The Sub-Committee concluded that it would be appropriate and proportionate to grant the licence subject to the conditions and stated hours.

The Sub-Committee felt able to depart from its policy relating to cumulative impact areas as the applicant had provided evidence that the premises would not add to the cumulative impact already experienced.

Factors in this were the fact that the premises would be an off-licence and there was a terminal hour for sale of alcohol of 11:00p.m. This differed from many premises in the area and so the premises would have a relatively small throughput of customers throughout the licensable hours and there would not be a congregation after other premises closed.

It was noted that the police specifically stated that they were satisfied with the proposed conditions in the application.

Residents and local businesses were reassured that where the grant of any application lead to an adverse impact upon the licensing objectives, a review of the licence could be brought by them 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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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 28 APRIL 2021

Present: Councillors McEwing, Bunday and Noon

51. **ELECTION OF CHAIR**

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

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

RESOLVED that the minutes of the meeting held on 24 March be approved and signed as a correct record.

53. **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.

54. **APPLICATION FOR NEW PREMISES LICENCE - AVENUE FOOD AND WINE, 21 METHUEN STREET, SOUTHAMPTON SO14 6FL**

The Sub-Committee considered very carefully the application for a premises licence at Avenue Food and Wine 21 Methuen Street, SOUTHAMPTON SO14 6FL. 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 report of the Service Director for Communities, Culture and Homes, the representations, both written and given orally at the hearing 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 Applicant confirmed to the Sub-Committee that following discussion with Trading Standards, both the opening hours applied for, and the hours for the supply by retail of alcohol (for consumption on and off the premises) were agreed. The Sub-Committee noted that the hours were comparable to the local opening hours of those Off-License premises referenced in the representations.

Supply by retail of alcohol:

Monday 0700 - 2300

Tuesday 0700 - 2300

Wednesday 0700 - 2300

Thursday 0700 - 2300

Friday 0700 - 2300

Saturday 0700 - 2300

Sunday 0700 – 2300

The Sub-Committee noted that generally the legislation provides for a presumption of grant of a licence, unless the Licensing objectives cannot be met by conditions, which, having considered the report, the Sub-Committee agreed it could. The premises was not located in a Cumulative Impact Zone, so there was no presumption of refusal.

The Sub-Committee heard from members of the public and a neighbouring business premises who objected to the application.

The Sub-Committee considered whether it would be justified in departing from its Statement of Licensing Policy in light of the representations, but after careful consideration decided it was not.

In light of all the above the Sub-Committee:

RESOLVED that the licence be granted subject to the conditions agreed with Trading Standards as set out above.

Reasons

The Sub-Committee considered very carefully all the representations objecting to the application. It noted the strength of feeling and the concerns in respect of the licensing objectives that were raised.

The Sub-Committee considered the representations made by the applicant and the type of premises the applicant wished to run. It noted the fact that Trading Standards had agreed conditions with the applicant and had not attended.

Whilst the Sub-Committee were mindful of the concerns raised by the objectors regarding the problems in the area with a number of licenced premises, this decision was made bearing in mind the licensing objectives and assurances by the applicant's solicitor to ensure the premises would not adversely affect those licensing objectives.

Residents and local businesses were reassured that where the grant of any application leads to an adverse impact upon the licensing objectives a review of the licence could be brought by them 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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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 28 APRIL 2021

Present: Councillors Bunday, McEwing and Noon

55. **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.

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

RESOLVED that there was no personal or pecuniary interest from Cllr Bunday who declared that he lived in the area of the proposed business but that he was not impacted by it and had no interest in the business.

57. **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.

58. **NEW APPLICATION FOR PREMISES LICENCE - PERSIAN CULTURAL CENTRE, 1 MANOR FARM ROAD, SOUTHAMPTON SO18 1NN**

The Sub-Committee considered very carefully the application for a premises licence at Persian Cultural Centre, 1 Manor Farm Road, Bitterne, Southampton. 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 report of the Service Director for Communities, Culture and Homes, the representations, both written and given orally at the hearing 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 noted that legislation provides for a presumption of grant of a licence, unless the licensing objectives cannot be met by conditions, which, having considered the report, the Sub-Committee agreed it could.

The Applicant confirmed to the Sub-Committee the opening hours applied for and the conditions for licensable activity as agreed with Hampshire Constabulary.

The Sub-Committee heard from members of the public who objected to the application. They confirmed their objections related to the use of the outside of the premises for licensable activities. The applicant's representative confirmed that this application was limited to use inside the premises.

The Sub-Committee considered whether it would be justified in departing from its Statement of Licensing Policy in light of the representations, but after careful consideration decided it was not.

In light of all the above the Sub-Committee:

RESOLVED that the application be granted subject to the conditions agreed with Hampshire Constabulary.

Reasons

The Sub-Committee considered very carefully all the representations objecting to the application. It noted the strength of feeling and the concerns in respect of the licensing objectives that were raised. Particularly in relation to roof access overlooking private residential gardens. However, the applicant's representative made it clear that there would be no use of the outside space, including the roof terraces without further application.

Whilst the Sub-Committee was mindful of the concerns raised by the objectors regarding the problems that may arise relating to additional noise and pollution in the area. It became clear that the objections were directed against use of the outside of the premises.

The decision was made bearing in mind the licensing objectives and assurances by the applicant to ensure the premises would not adversely affect those licensing objectives.

Residents and local businesses were reassured that where the grant of any application lead to an adverse impact upon the licensing objectives a review of the licence could be brought by them and appropriate steps taken at that time.

Whilst this was not part of the decision, the Sub-Committee noted that the applicant had not considered parking but offered to liaise with the local community should this become an issue to ensure public safety.

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.