
SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 29 MAY 2024

Present: Councillors M Bunday, Kenny and Noon

1. **ELECTION OF CHAIR**

It was noted that the hearing was a hybrid meeting with the Chair of the Sub-Committee and some officers in the room and other parties to the hearing participating online. After item 7 the meeting was adjourned and resumed as a virtual meeting. The option to attend the hearing remotely or in person had been offered to all relevant parties.

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

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

RESOLVED that the minutes for the Sub-Committee meetings on 17th April 2024 and 24th April 2024 be approved and signed as a correct record.

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

The Chair moved that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005, the hearing should proceed with the press and public excluded. The papers contain allegations relating to criminal offences and personal details and the public interest in doing so outweighed the public interest in the hearing in accordance with Regulation 14.

RESOLVED that having applied the public interest test the hearing should proceed with the press and public excluded.

4. **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 (Hearings) Regulations 2005, would be notified within 24 hours of the matter being determined.

5. **APPLICATION TO CONSIDER THE GRANT OF A PERSONAL LICENCE**

This hearing was held as a hybrid hearing with some of the parties participating virtually using Microsoft Teams and others attending in person.

The Sub-Committee determined that the hearing should proceed with the press and public excluded. This decision was made in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. The papers contain personal details including details of convictions and it was determined that the public interest in doing so outweighed the public interest in the hearing in accordance with Regulation 14.

The Applicant did not attend but the Sub-Committee heard from Licensing Enforcement Officer that the Licensing Department had been in touch with the Applicant and his agent. The Applicant was aware of the hearing time and date and was provided with the Teams link. On that basis the Sub-Committee decided to proceed in the Applicant's absence.

The Sub-Committee considered very carefully the report of the Service Director of Resident Services and all of the evidence presented today by the Police supported by the Licensing Enforcement Officer. 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 also 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.

RESOLVED that considering all the above, the Sub-Committee has decided to refuse the application for a personal licence.

Reasons

The Sub-Committee accepted legal advice provided during the course of the hearing that the offences of which the applicant was convicted on 19th October 2022 and 17th April 2023 are relevant offences prescribed by Section 113 Licensing Act 2003 and set out in paragraph 14 of Schedule 4 of that Act.

The applicant had declared these convictions when applying for a personal licence.

A police representation had been submitted on 29th April 2024. The police objected to the grant of a personal licence as the applicant had a second conviction for driving a vehicle with excess alcohol and now sought a personal licence to be in control of alcohol and granting a personal licence would undermine the prevention of crime and disorder objective.

The Sub-Committee had very strong concerns relating to the convictions. In light of the nature of those offences it was considered appropriate and necessary to refuse the Personal Licence in the interests of the crime and disorder prevention objective as the offences are classified as relevant offences under the Act.

The Sub-Committee was satisfied that the Applicant had been given a proper opportunity to make representations and had failed to do so and accordingly felt it had no option other than to refuse the application.

There is a statutory right of appeal against this decision to the Magistrates' Court within 21 days of formal notification. This decision takes effect upon the expiry of the appeal period.

6. **APPLICATION FOR REVIEW OF PREMISES LICENCE - KINGSLAND NEWS, 76A ST MARY STREET, SOUTHAMPTON SO14 1NY**

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

This hearing was held as a virtual meeting using Microsoft Teams.

The Sub-Committee determined that the hearing should proceed with the press and public excluded. This decision was made in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. The papers contain personal details and details of an ongoing police investigation and it was determined that the public interest in doing so outweighed the public interest in the hearing in accordance with Regulation 14.

The Sub-Committee has considered very carefully the application by Hampshire & Isle of Wight Constabulary for a review of a premises licence for a premises in Southampton as submitted in the report of the Service Director - Place.

It has given due regard to the Licensing Act 2003, statutory guidance and the Licensing Objective of the prevention of crime and disorder 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 the police, the premises licence holder and his representative, and from Licensing.

The Sub-Committee considered the representations, both written and given orally today, by all parties. The Sub-Committee noted that Trading Standards supported the application but were unable to attend.

RESOLVED In light of all the above the Sub-Committee decided that the premises licence should be revoked.

Reasons

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

The Sub-Committee viewed the CCTV footage from the store and together with the evidence submitted by the police were satisfied that stolen goods were purchased. The Sub-Committee were of the view that the value of stolen items could have been contained within the bag seen on CCTV as it would have amounted to around 150 chocolate bars.

The Sub-Committee took into account the police evidence that the thief had ridden over a mile directly to this store to sell the stolen goods. On a balance of probabilities, the Sub-Committee concluded that this was not an ad hoc sale but had probably been arranged in advance and was likely not to have been a one-off incident. The Sub-Committee was satisfied therefore that the Licensing Objective of prevention of Crime and Disorder was being failed by this premises.

The Sub-Committee was deeply concerned regarding the management of the premises. By his own admission the licence holder had left the store under the control

of an untrained acquaintance of a few months. He had left the keys to the premises in an unsecure location and criminal activity had taken place in the store. This person did not have the right to work at the store and the licence holder's checks were not good enough. Unless he was absolutely sure, the appropriate action would have been to close the store.

The Sub-Committee were also concerned that the licence holder was unable to obtain assistance from trained staff when on two occasions the acquaintance assisted. On both these occasions there was plenty of notice of the appointments.

With regard to the police enquiry of 18th April there was an inconsistency in that the reason given for failing to provide CCTV and staff details was that legal advice was awaited and yet the refusals log requested at the same time was provided.

During the hearing it transpired that the licence holder had changed address in 2022 and had failed to notify the Licensing Department. This along with the poor management and failed immigration checks demonstrated a failure to take seriously the duties of being a licence holder. As such the Sub-Committee had grave doubts as to the licence holder's ability to promote any of the Licensing objectives.

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

To modify the conditions of the licence – it was not felt that additional conditions would address the issues raised.

To exclude a licensable activity from the scope of the licence – alcohol provision is the only licensable activity and removal of this is equivalent to revocation.

To remove the designated premises supervisor – this would not change the licence holder, and this would not therefore address the concerns.

To suspend the licence for a period not exceeding three months – a suspension was not deemed appropriate in this case as it would not address the issues raised.

To revoke the licence – this was the only remaining option and was deemed to be reasonable and proportionate in this case.

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.

CHAIR



24 July 2024