

Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 29th May, 2024
at 1.00 pm

PLEASE NOTE TIME OF MEETING

Virtual Meeting

This meeting is open to the public at Committee Room 1, Civic Centre

Members

Three Members drawn from the Licensing Committee

Contacts

Democratic Support Officer
Melanie Morley
Email: Melanie.Morley@southampton.gov.uk

Executive Director Growth & Prosperity

PUBLIC INFORMATION

The Members of the Licensing Committee are Councillors M Bunday, Mrs Blatchford, Cooper, Cox, Kenny, Laurent, Moulton, Noon, 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 - 8)

To approve and sign as a correct record the Minutes of the meetings held on 17th April 2024 and 24th April 2024 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 items 7 and 8 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 **APPLICATION TO CONSIDER THE GRANT OF A PERSONAL LICENCE** (Pages 9 - 24)

Application to Consider the Grant of a Personal Licence

8 APPLICATION FOR REVIEW OF PREMISES LICENCE - KINGSLAND NEWS, 76A ST MARY STREET, SOUTHAMPTON SO14 1NY (Pages 25 - 76)

Application for Review of Premises Licence - Kingsland News, 76A St Mary Street,
Southampton SO14 1NY

Monday, 20 May 2024

Executive Director Communities & Wellbeing (DASS)

SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 17 APRIL 2024

Present: Councillors M Bunday, Noon and Powell-Vaughan

51. **ELECTION OF CHAIR**

It was noted that the hearing was a hybrid meeting with the Sub-Committee and some of the parties in the room and other parties to the hearing participating online. 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.

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

RESOLVED that the minutes for the Sub-Committee meetings on 21st March 2024 and 27th March 2024 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. 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 and the decision of the Sub-Committee would be published on the website of Southampton City Council.

54. **APPLICATION FOR NEW PREMISES LICENCE - ONDROP, FRONT UNIT, HENTY ROAD, SOUTHAMPTON SO16 4GF**

The Sub-Committee considered very carefully the application as submitted for a new premises licence at Ondrop, Front Unit, Henty Road, Southampton, SO16 4GF.

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. Representations by all the parties present at the hearing as well as written representations were also fully taken into consideration.

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), Environmental Health and thirty-nine residents had submitted representations. It also noted that conditions had been agreed by Hampshire Constabulary and Environmental Health with the Applicant. No other responsible authorities had made representations.

At the outset the Applicant amended the application so that the licensable activity of supply of alcohol was sought for the following hours:

Wednesday and Thursday 8-00 p.m. to 02:00 a.m. the following morning;
Friday and Saturday 8:00 p.m. to 05:00 a.m. the following morning.

The Sub-Committee heard oral evidence from the applicant, from several of the residents, and two councillors. The written representations were also considered.

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

RESOLVED to grant the premises license in accordance with the amended application and subject to the conditions agreed with Hampshire Constabulary and Environmental Health. These are set out in the email from Matt Taylor of Environmental Health to the applicant dated 23rd February 2024 and the email from PC Dimmer to the applicant dated 15th February 2024. An amendment was made to the hours for the supply of alcohol so that the hours granted are :

Wednesday and Thursday 8-00 p.m. to 02:00 a.m. the following morning;
Friday and Saturday 8:00 p.m. to 05:00 a.m. the following morning.

Reasons

This was an application for a new premises in an industrial unit located in a residential area.

The Sub-Committee received legal advice that the legislation had a presumption of grant of a licence, so that it can only refuse the application if concerns raised cannot be met by conditions. Advice was also received that in line with the statutory guidance as responsible authorities Hampshire Constabulary and Environmental Health should be deemed to be experts in their field. Both agreed conditions which in their view met the licensing objectives. Legal advice was also provided that speculation as to what might happen if the application was granted could not be taken into account

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

Generally, residents are concerned that the grant of a Premises Licence will lead to an increase in public nuisance, crime and anti-social behaviour as well as a risk of harm to children.

The Sub-Committee has considered all representations but concludes that there is no evidence of a real risk of a breach of the Licensing Objectives. The Sub-Committee acknowledges the genuine concerns of the residents but is 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 and environmental health or proof provided by any of the residents, concerns could only be classed as speculative.

The Sub-Committee had serious concerns about the vulnerability of delivery drivers being lone workers late at night. Whilst noting the training condition imposed the Sub-Committee felt that the applicant should consider the use of body worn cameras as an additional safeguard.

The Sub-Committee noted that the applicant wished to work with the local community and recommends that it does so perhaps providing a point of contact for any issues that may arise so that they can be addressed quickly.

Residents and Councillors can be re-assured that there is a robust review system under the Licensing Act so that 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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SOUTHAMPTON CITY COUNCIL
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 24 APRIL 2024

Present: Councillors M Bunday, Kenny and Windle

20. **ELECTION OF CHAIR**

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

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

Councillor Windle declared herself as an appointed Trustee of Thorners Almshouses, where some of the objectors were residents. The Councillor attends Trustees meetings, however, none of the residents who had submitted representations had approached Councillor Windle or her Ward colleagues on this matter and so Councillor Windle attended the meeting with no pre-conceptions.

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

23. **APPLICATION FOR A NEW PREMISES LICENCE - MUMBAI STREET KITCHEN, 22 BEDFORD PLACE, SOUTHAMPTON SO15 2DB**

The hearing was held as a hybrid meeting using Microsoft Teams and at the Civic Centre, Southampton.

The Sub-Committee considered very carefully the application as submitted for a new premises licence at Mumbai Street Kitchen, 22 Bedford Place, Southampton, SO15 2DB.

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. Representations by all the parties present at the hearing as well as written representations were also fully taken into consideration.

The Sub-Committee noted that conditions had been agreed by Hampshire Constabulary and Environmental Health with the Applicant. No other responsible authorities had made representations. Five residents had made representations.

At the outset the Applicant amended the application so that the licensable activity of supply of alcohol and recorded music was sought for the following hours:

11-00 a.m. to 23:00 p.m. every day; with the same opening hours for the premises.

The Sub-Committee heard oral evidence from the applicant and from three of the residents. 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 amended application and subject to the conditions agreed with Hampshire Constabulary and Environmental Health. These were set out in the email from Matt Taylor of Environmental Health to the applicant dated 1st March 2024 and the email from PC Hawley to Licensing dated 28th February 2024.

Reasons

This was an application for a new premises in a cumulative impact area.

The Sub-Committee received legal advice that the presumption of grant of a licence, in the legislation is reversed in a cumulative impact area so that it can only grant the application if concerns raised cannot be met by conditions and a grant will not adversely add to the impact in the area.

Advice was also received that, in line with the statutory guidance, as responsible authorities Hampshire Constabulary and Environmental Health should be deemed to be experts in their field. Both had agreed conditions, which in their view met the licensing objectives.

The Sub-Committee carefully considered the written objections and oral representations made at the hearing.

Generally, residents were concerned that the grant of a Premises Licence would lead to an increase in public nuisance, crime and anti-social behaviour.

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 and Environmental Health, or proof provided by any of the residents, concerns could only be classed as speculative.

The Sub-Committee formed the view that the applicant had lengthy, good experience in running restaurants and believed the premises would be responsibly and well run. Conditions provide for signage requesting that patrons leave quietly. However, beyond that the premises is not responsible for what those patrons may then do or where they may then go.

The premises licence in place allowed patrons to bring in their own alcohol and the Sub-Committee agreed that this unregulated activity was much more difficult to control than direct sales by the premises. A premises licence is likely to lead to less alcohol

intake with greater control by the premises and would therefore not adversely add to the impact in the area.

The Sub-Committee noted that the applicant was keen to work with local residents and other premises and recommended that it does so, perhaps providing a point of contact for any issues that may arise so that they can be addressed quickly.

Residents can be re-assured that there is a robust review system under the Licensing Act so that 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 set out that right in full.

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