

Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 26th June, 2024
at 2.00 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, 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)**

To approve and sign as a correct record the Minutes of the meeting held on 29 May 2024 and to deal with any matters arising, attached.

5 **EXCLUSION OF THE PRESS AND PUBLIC**

Chair to move that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005, the press and the public be excluded from all or part of the hearing where it considers that the public interest in doing so outweighs the public interest in the hearing or that part of the hearing, taking place in public. The information contained in item 7 relates to allegations relating to criminal offences and personal details and the public interest in doing so outweighs the public interest in the hearing in accordance with regulation 14.

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 FOR REVIEW OF PREMISES LICENCE - PUCCINIS, 325-327 SHIRLEY ROAD SOUTHAMPTON SO15 3HW** (Pages 1 - 26)

Application for review of Premises Licence - Puccinis, 325-327 Shirley Road, Southampton SO15 3HW

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Public Document Pack Agenda Item 4

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.

Document is Confidential

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