

Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 28th June, 2023
at 3.00 pm

PLEASE NOTE TIME OF MEETING

Virtual Meetings - Virtual meeting

This meeting is open to the public

Members

Councillor M Bunday
Councillor Noon
Councillor Windle

Contacts

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DECISION

10 NEW PREMISES APPLICATION - VNG STORES 128 ABOVE BAR STREET, SOUTHAMPTON SO14 7DU (Pages 3 - 4)

Tuesday, 20 June 2023

Service Director, Legal & Governance

LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE DECISION OF THE MEETING HELD 28 JUNE 2023

APPLICATION FOR A NEW PREMISES LICENCE VNG STORES 128 ABOVE BAR STREET SOUTHAMPTON SO14 7DU

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

This hearing was held as a hybrid in person/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 considered very carefully the application as submitted for a new premises licence at VNG Stores, 128 Above Bar Street, Southampton, SO14 7DU. Representations by all the parties present at the hearing as well as written representations were also fully taken into consideration.

The Sub-Committee 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 Equality Act 2010 and The Crime and Disorder Act 1998 Section 17 were also considered whilst making the decision.

The Sub-Committee also took into account that Licensing and Hampshire Constabulary had made representations to the Sub-Committee Hearing. No other representations had been received.

The Sub-Committee received legal advice that whilst generally 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, the premises was situated within the Above Bar Cumulative Impact Policy Zone 2 area. The Council's Statement of Licensing Policy reverses the presumption for applications within the Cumulative Impact areas so that there is a rebuttable presumption of refusal of a licence. The onus is on the applicant to demonstrate through their Operating Schedule and supporting evidence such as risk assessments, that the operation of the premises will not add to the cumulative impact already being experienced.

The Sub-Committee considered whether it would be justified in departing from its Statement of Licensing Policy as regards its Cumulative Impact Policy, on the basis that the applicant had provided evidence that the premises would not add to the cumulative impact in the area.

Considering all the above, the Sub-Committee has decided to refuse the application.

Reasons:

The Sub-Committee heard evidence from the applicant and his representative and also from Hampshire Police and the Senior Licensing officer.

The Sub-Committee heard the concerns of Hampshire Constabulary that the applicant had not engaged with responsible authorities and that the application would have an impact on four licensing objectives because of the character of the Above Bar area:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Sub-Committee noted that Hampshire Constabulary would recommend that the application should be refused. Should the application be granted Hampshire Constabulary would recommend a condition that the sale of alcohol and opening hours of the premises to both be no later than 9pm every day along with a number of additional conditions.

The Sub-Committee heard the concerns of Licensing that the application would have an impact on two licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance.

The Sub-Committee noted that Licensing would recommend that should the application be granted then a condition requiring alcohol sales to finish no later than 9pm every day of the week and after that time that alcohol be locked away out of view would be appropriate because of the character of the Above Bar area.

In response the applicant indicated a willingness to reduce the hours requested by half an hour each day. Whilst referring to the applicant's good record at other premises the applicant was not able to produce evidence to the Sub-Committee that the premises would not add to the cumulative impact in the area.

The Sub-Committee was disappointed and surprised that the applicant had not engaged with the responsible authorities prior to making the application and had either not engaged with neighbouring premises intending to do so or had done but did not bring any evidence of that to the Sub-Committee.

The Sub-Committee had been advised that the Statutory Guidance provides that a Cumulative Impact Policy need not be absolute, and Southampton's policy is not in that it provides for a rebuttable presumption. However, in all the circumstances the Sub-Committee did not find sufficient reason to depart from its policy and the application was therefore refused.

There is a right of appeal for any party to the Magistrates' Court. All parties will receive written notification of the decision with reasons which will set out that right in full.