

## LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Tuesday, 27 June 2017 at 9.30 am in the executive meeting room, floor 3 of the Guildhall, Portsmouth

### Present

(in the Chair)

Councillors David Fuller  
Steve Hastings  
Steve Pitt

### Apologies for Absence

Scott Harris

#### 48. Appointment of Chair

Councillor Steve Pitt was appointed Chair of this hearing.

#### 49. Declarations of Members' Interests

No interests were declared.

#### 50. Licensing Act 2003 – Application for variation of a premises licence, Pryzm, Former Connaught Drill Hall, Stanhope Road, Portsmouth, PO1 1DE.

##### Present

Jonathan Smith, Solicitor for the applicant  
Ged Gorrie, Regional Operations Director  
Dave Joyce, DPS

PC Pete Rackham was also in attendance. The Licensing Officer advised that due to a personal emergency the Licensing Manager Nickii Humphreys was not able to attend the meeting today. The representations she had previously included in the papers still stood.

The hearing procedure of Licensing Act 2003 applications for 'Responsible Authorities' was followed.

##### Decision

**In the matter of the Licensing Act 2003.**

**In the matter of an application for a grant of a variation of a premises licence "Pryzm", Former Connaught Drill Hall, Stanhope Road, Portsmouth, PO1 1DE**

The Committee has heard the representations of the applicant, the relevant Responsible Authorities and the advocate acting on behalf of the applicant in addition the Committee has considered all the papers put before them along with the annexes attached to each document.

The Committee is aware that the premises is located within an area of special policy. This committee is engaged by reason of referral to the committee by the relevant Responsible Authorities - Police and Licensing, all of whom make objection to the grant of a variation to the existing licence.

The licensing objectives that are not promoted within the area of special policy are: prevention of crime and disorder, public safety and the prevention of public nuisance along with the protection of children from harm. The Responsible Authorities all indicate that the applicant has failed to sufficiently engage in negating any increase to the cumulative impact by reason of having appropriate conditions or measures in place to overcome the legal burden placed upon by the applicant. Both the police and the licensing department ask that the application for variation be refused.

The Committee look to all the Responsible Authorities but mainly the Police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the Police, prevention of crime and disorder - the Committee should, but are not obliged to accept all reasonable and proportionate representations made by the Police. If the Committee depart from the advices as given they should set out their reasoning.

The Committee take a similar view with respect to the representations made by the Licensing Department of Portsmouth City Council.

The above stated the Committee have balanced within their consideration all representations made by the applicant through their advocate and by way of comments made by the applicant themselves. The Committee undertook a site visit and looked at the premise in detail.

In considering the application for a grant of variation, the Committee is mindful of the following facts as having been established upon a balance of probability and further that they have been specifically taken to the relevant parts of the Statutory Guidance under Section 182 of the Licensing Act 2003.

1. It is very clear that there has been a high level of engagement between all responsible authorities and the applicants. The committee has visited the premises and note the measures put in place to satisfy the primary obligation with respect to the relevant licensing objectives being promoted.
2. The Committee is further satisfied that whilst the premises is within a CIZ zone, they could not find upon the basis of the evidence that the variation would add to the cumulative impact. The statistics show that whilst crime and disorder exist within the night time economy, what cannot be established beyond a balance of probabilities is an addition

to the cumulative impact by reason of the variation as sought.

3. Whilst not obliged to do so, the efforts of the applicants could be potentially assisting of diminishing the level of the current cumulative impact, as such given the high level of conditions that exist and are offered cannot be said to do anything other than mitigate against any additional impact into the cumulative impact zone.
4. The Committee have paid due regard to the current policy and it has been given high consideration. This said and given the very professional basis of the application and having looked at the statutory guidance it would be appropriate in this case to consider this application upon its own specific facts.

On balance having heard the representations from the applicants and their advocate the committee is satisfied that the burden that rests with the applicant to shift in showing that the new proposed operating schedule in the current application will not have a negative cumulative impact has been shifted. In coming to this conclusion the Committee was of the view that the applicant had sufficiently assuaged the cumulative impact by reason of the full range of conditions as offered by the applicant in the current licence and also by reason of the highly competent fashion the premise is run and organised. The committee refer to its earlier reasoning.

The Licensing Committee is further aware that any Responsible Authority, indeed anyone can ask that the Committee review the licence currently held which would of course engage the Committee in being able to consider the full range of evidence including matters that are currently being considered. Subject to the conditions as offered, accepted and amended as attached the application is granted.

Conditions:

On any evening when the premises trade for the sale of alcohol after 02:00 then:

- 1) All members of the door team who are registered with the Security Industry Authority will wear a body camera, and will use it to record any incidents at the premises in which they are involved (every day);
- 2) A Personal Licence Holder will be on duty at all times that alcohol is being sold (every day);
- 3) A member of the door team will be positioned at the taxi rank on Station Road from 03:00 until 04:00 to assist in monitoring the taxi queue, to ensure that the queue is dispersed as quickly and as safely as possible, such member of door staff being in radio contact with the premises (Sunday to Thursday);
- 4) Two members of the door team will be positioned outside Catherine House from 03:00 until 04:00 to monitor the dispersal of customers, and to assist with any students who may be going into the flats and

- who may need any care and attention, such members of door staff being in radio contact with the premises (Sunday to Thursday);
- 5) Between 01:00 and 04:00 provide a SIA trained surveillance officer monitoring CCTV cameras and in radio contact with other camera operatives. No body cameras to be worn by the monitoring officer (every day).

**51. Licensing Act 2003 - Application for grant of a premises licence - Twyford Convenience, 139 Twyford Avenue, Portsmouth, PO2 8HU.**

Mr Suresh Kanapathi, Solicitor for the applicant and Mr Thines Jeyarantham, the applicant were present.

Mr Andrew Colthup, objector and local resident was also present.

The hearing procedure of Licensing Act 2003 applications for 'interested parties' was followed.

Decision

**In the matter of the Licensing Act 2003.**

**In the matter of application for grant of a premises licence - Twyford Convenience , 139 Twyford Avenue, Portsmouth, PO2 8HU.**

The Committee has heard the representations of the applicant and has considered all the papers put before them along with the annexes attached to each document. They have listened to all representations from the community and local representatives.

The Responsible Authorities make no assertions or comments with respect to the application save as outlined on annex D (page 125).

This Committee is seized of this application by reason of there having been a range of formal complaints received by the Licensing Authority from a number of local residents. The consequence of that fact being that the Committee will determine this application according to the facts and upon merit each case being looked at on an individual basis.

The alleged failing upon the part of the applicant is that the application should be refused, as there is no basis for it to be concluded that the relevant licensing objectives are being promoted. The theme of the written representations is that a grant of the application would lead to a greater risk of there being a nuisance along with there being a failure to prevent crime and disorder and a potential issue as to public safety. In addition a number of the representations refer to the lack of there being a "need" within the area for another off licence facility.

The Committee look to all the Responsible Authorities but mainly the Police for guidance and assistance in determining the effect of a licensing activity in terms of all the licensing objectives, but principally in terms of the Police, prevention of crime and disorder. The committee should not, but are not obliged, to accept all reasonable and proportionate representations made by the Police. It is noteworthy that the Police and all other responsible authorities have made no representations to this Committee. It is further noted that the applicant has agreed a condition with respect to the sale of alcohol not above 6.5% ABV, and also that cans are not to be sold on a single unit basis. Additionally the Committee notes that the applicant offers additional CCTV and whilst not imposed as a condition, the applicants are asked to work with the community and statutory authorities. The above stated the Committee have balanced within their consideration all representations made by the applicant and by way of comments made by way of written and oral comment from those in attendance today.

It is felt that whilst many of the representations are clearly highly relevant to the complainants, that they fail to establish that the licensing objectives are not being promoted as the potential failing are by and large based upon what "may happen" as opposed to showing a failure to promote a licensing objective. Further the concept of "need" is not a relevant consideration for the purposes of the application before this Committee. The Committee adds further that should anyone see a potential act of criminality they should be referred to the appropriate authorities to take action. The focus of a review process with the licensing committee is with the respect to a failure to promote any of the licensing objectives.

In considering the application the Committee is mindful of the following and considered that having heard all matters today could conclude that the following facts have been established:

1. The applicants have engaged with all the responsible authorities in agreeing a range of conditions that promote all licensing objectives.
2. Whilst the Committee have heard a range of complaints they cannot be related to the premises and when considered and balanced are not such as to establish any fact.

Whilst the applicant has put forward a range of conditions in an attempt to assuage the concerns of local residents and having considered the evidence produced to this Committee and having reviewed all aspects of the case the Committee are entitled to grant the application.

The Committee state that each application for a licence or a variation shall be considered on merit and with due consideration as to the specific facts of each case.

All parties human rights have been engaged and the Committee has considered the right to a fair hearing.

In addition and for the avoidance of doubt, the Committee did consider the ability under the 2003 Act to consider a review and how and by whom a review could be initiated but were of the mind that this was an appropriate safety mechanism.

The application is therefore granted and there is a right to appeal this decision.

The meeting concluded at 1.30 pm.

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Chair