



Decisions by the Licensing Sub Committee

Issued by Democratic Services

1st August 2019

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| | | <p>Licensing Sub-committee Decision Meeting - 30 July</p> <p>The cabinet Member has made the following decisions:-</p> | <p>Joanne Wildsmith Democratic Services Tel: 9283 4057 Democratic@Portsouthcc.gov.uk</p> |
| 3 | | <p>Licensing Act 2003 - Application for grant of a premises licence - Marmion House, 89 Marmion Road, Southsea, PO5 2AX</p> <p>Decision As announced at the end of the meeting:</p> <p>"The Licensing Sub-Committee has considered very carefully an application for a premises licence for the proposed premises at Marmion House, 89 Marmion Road, Southsea, PO5 2AX. Due regard has been given to the Licensing Act 2003, statutory guidance, the adopted statement of licensing policy, the Human Rights Act and representations of all parties to the hearing - both written and given orally at the hearing today.</p> <p>All the representations before the Sub-Committee and leading to today's hearing have been received from residents, landlords and/or businesses; namely 18 in favour and 6 objecting. The objection focusses generally upon the licensing objective of the prevention of public nuisance. Existing premises create concern amongst residents in relation to late night noise and litter. The fear expressed is that an additional premises will add to the issues already experienced, particularly late night noise. The Sub-Committee heard that this location is not in a</p> | <p>Derek Stone Principal Licensing Officer Tel: 9268 8462</p> |

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| | | <p>cumulative impact zone and accordingly no special policy applies to the application which must be considered on its merits in the usual manner.</p> <p>It was noted by the Sub-Committee that no representation had been made by any of the responsible authorities but notably Environmental Health.</p> <p>The Applicant confirmed that they were willing to adopt a voluntary policy of terminating amplified noise at 10.00pm and the installation of a noise limiter at the premises.</p> <p>In light of consideration of all the above evidence the Sub-Committee has determined to grant the premises licence as applied for.</p> <p><u>Reasons</u></p> <p>The Sub-Committee listened carefully to the concerns of residents and acknowledged concern regarding levels of disturbance caused by premises already operating nearby and at the same location in the past. However, the Sub-Committee had to consider the extent to which the application before it would lead to issues of public nuisance and whether, in light of that assessment, it would be appropriate to refuse or restrict the proposed licensable activities.</p> <p>In objection the Sub-Committee heard:</p> <ul style="list-style-type: none"> - that there are too many premises close by, - insulation would not or could not prevent noise escape - the noise of patrons in drink would not be acceptable - residential premises above would be materially affected by noise - additional noise from car doors slamming and litter would ensue - planning precedent would not assist with other applications under consideration - extraction will cause nuisance <p>However, the Sub-Committee accepted legal advice that in relation to the content of the objection planning issues generally could not be accepted or considered as relevant (e.g. issues relating to change of use, availability of parking etc.). It was also made clear that this application must be considered</p> | |

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| | | <p>on its own merits and on the basis of the evidence before the Sub-Committee today and any decision does not set a precedent in licensing terms.</p> <p>The Sub-Committee was impressed by the experience and professional approach of the applicant. The proposal is for a restaurant with limited bar provision (the bar now being smaller than shown on plans) and with licensable activities ceasing at 22.00 hours at latest. It was noted that the planning permission requires insulation to be installed and that the extraction system must be approved by the Council. There is no objection from Environmental Health in relation to potential noise escape and the Sub-Committee heard that the extraction system was being professionally installed, venting to the roof and with noise attenuation measures.</p> <p>Residents expressed concern that the premises may change over time or otherwise not be run in accordance with the operating schedule outlined today. By way of reassurance it should be noted that a licence, when granted, is not set in stone and may be the subject of review proceedings.</p> <p>A review may be brought by residents or by responsible authorities if the grant of the licence does lead to additional issues attributable to this venue. On review, steps can be taken to address concerns where evidence supports that action.</p> <p>The applicant has engaged in constructive dialogue and has amended the application to take account of concerns. It is recommended that residents and the applicant continue to engage in constructive dialogue going forward.</p> <p>There is a statutory right of appeal against the decision available to all parties to the hearing. Appeal must be made to the Magistrates' Court within 21 days of formal notification. Formal notification of the decision will set out that right in full."</p> <p>Full written notification of the decision and reasons would be sent to all parties.</p> | |