

Licensing (General) Sub-Committee

Thursday, 28th July, 2011
at 9.30 am

PLEASE NOTE TIME OF MEETING

Committee Rooms 1 and 2 - Civic Centre

This meeting is open to the public

Members

Councillor Mrs Blatchford
Councillor Drake
Councillor Parnell (Chair)
Councillor Thomas
Councillor Willacy

Contacts

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PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licenses, permits and forms of consent (other than those for which the Council is responsible under the Licensing Act 2003), including

- Hackney carriage and private hire drivers, vehicles and operators
- Public music and dancing
- Amusements with prizes
- Street trading
- Sex establishments

Relevant Representations

Those who have made relevant representations may address the meeting about the matter in which they have an interest with the consent of the Chair.

•Southampton City Council's Seven Priorities

- More jobs for local people
- More local people who are well educated and skilled
- A better and safer place in which to live and invest
- Better protection for children and young people
- Support for the most vulnerable people and families
- Reducing health inequalities
- Reshaping the Council for the future

Smoking policy –

The Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – please turn off your mobile telephone whilst in the meeting.

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.

Dates of Meetings: Municipal Year 2011/12

Meetings of the Committee are held as and when required.

CONDUCT OF MEETING

Terms of Reference

The terms of reference of the Audit Committee are contained in Article 8 and Part 3 (Schedule 2) of 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 Council Procedure Rules as set out in Part 4 of the Constitution.

Quorum

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 "personal" or "prejudicial" interests they may have in relation to matters for consideration on this Agenda.

Personal Interests

A Member must regard himself or herself as having a personal interest in any matter

- (i) if the matter relates to an interest in the Member's register of interests; or
- (ii) if a decision upon a matter might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers and inhabitants of the District, the wellbeing or financial position of himself or herself, a relative or a friend or:-
 - (a) any employment or business carried on by such person;
 - (b) any person who employs or has appointed such a person, any firm in which such a person is a partner, or any company of which such a person is a director;
 - (c) any corporate body in which such a person has a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in Article 14(a) to (e) in which such a person holds a position of general control or management.

A Member must disclose a personal interest.

Continued/.....

Prejudicial Interests

Having identified a personal interest, a Member must consider whether a member of the public with knowledge of the relevant facts would reasonably think that the interest was so significant and particular that it could prejudice that Member's judgement of the public interest. If that is the case, the interest must be regarded as "prejudicial" and the Member must disclose the interest and withdraw from the meeting room during discussion on the item.

It should be noted that a prejudicial interest may apply to part or the whole of an item.

Where there are a series of inter-related financial or resource matters, with a limited resource available, under consideration a prejudicial interest in one matter relating to that resource may lead to a member being excluded from considering the other matters relating to that same limited resource.

There are some limited exceptions.

Note: Members are encouraged to seek advice from the Monitoring Officer or his staff in Democratic Services if they have any problems or concerns in relation to the above.

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

Agendas and papers are available on the Council's website at
www.southampton.gov.uk

1 APPOINTMENT OF VICE CHAIR

To appoint a Vice Chair to the Sub-Committee for the 2011/12 municipal year.

2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)

To note any changes in the membership of the Sub-Committee made in accordance with Council Procedure Rule 4.3.

3 DISCLOSURE OF PERSONAL AND PREJUDICIAL INTERESTS

In accordance with the Local Government Act 2000, and the Council's Code of Conduct adopted on 16th May 2007, Members to disclose any personal or prejudicial interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Cabinet Administrator prior to the commencement of this meeting.

4 STATEMENT FROM THE CHAIR

5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)

To approve and sign as a correct record the Minutes of the meeting held on 1st June 2011 and to deal with any matters arising, attached.

6 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 to 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 the Data Protection Act 1998. 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.

7 PRIVATE HIRE DRIVER

Confidential report of the Head of Legal and Democratic Services seeking consideration on whether an individual is a fit and proper person to be a private hire driver, attached.

NOTE: IT IS NOT IN THE PUBLIC INTEREST TO DISCLOSE THIS BECAUSE DOING SO WOULD CONSTITUTE A BREACH OF THE DATA PROTECTION ACT 1998 AS WELL AS A BREACH OF A COMMON LAW DUTY OF CONFIDENTIALITY.

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Wednesday, 20 July 2011

HEAD OF LEGAL AND DEMOCRATIC
SERVICES

LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 1 June 2011

Present Councillors Drake, Parnell, Willacy, Mrs Blatchford and Cunio

Apologies Councillor Thomas

1. **ELECTION OF CHAIR**

RESOLVED that Councillor Parnell be elected Chair of the Sub-Committee for the 2011/2012 Municipal Year.

2. **APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

The Panel noted that Councillor Cunio was in attendance as a nominated substitute for Councillor Thomas in accordance with Council Procedure Rule 4.3.

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

RESOLVED that the Minutes of the meeting held on 27 October 2010 be signed as a correct record, subject to the following amendment.

Page 8 Item 20 – **Application for a Sex Shop Licence – the Adult Shop, 90 Howard Road**, (ii) third line to read “.....currently licensed by the City Council – 09.00 to 20.00..... (Copy of the minutes circulated with the agenda and appended to the signed minutes).

4. **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED that the press and public, unless otherwise excluded by Category 4 of paragraph 10.4 of the Council’s Access to Information Procedure Rules, be excluded from the meeting in respect of Item No 6 and be invited to return immediately following private session at which time the matter be determined and the decision of the Panel be announced.

5. **APPLICATION FOR RENEWAL OF A SEX SHOP LICENCE - TASTE OF AMSTERDAM, 437 MILLBROOK ROAD WEST**

The Sub-Committee considered the report of the Solicitor to the Council regarding an application for renewal of a sex shop licence in respect of A Taste of Amsterdam, 437 Millbrook Road West, Southampton, S015 0HX. (Copy of report circulated with the agenda and appended to signed minutes).

Mr Castle (Applicant) was present and with the consent of the Chair, addressed the meeting.

RESOLVED that the application for renewal of a sex shop licence in respect of A Taste of Amsterdam, 437 Millbrook Road West, Southampton, S015 0HX be granted on the terms and conditions as stated in the report.

REASONS FOR THE DECISION

There was no compelling evidence presented to the Sub-Committee that would justify refusal of the application for renewal of the licence.

6. **APPLICATION FOR RENEWAL OF A SEX SHOP LICENCE WITH 2 VARIATIONS - HIDDEN ASSETS, 439 MILLBROOK ROAD WEST**

The Sub-Committee considered the report of the Solicitor to the Council regarding an application for the renewal of a sex shop licence and to separately consider the requests for the premises to be able to trade on Sundays and for additional signage to be permitted to be displayed on the front exterior of the premises in respect of Hidden Assets, 439 Millbrook Road West, Southampton, SO15 0HX. . (Copy of report circulated with the agenda and appended to signed minutes).

Mr Smith (Applicant) was present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the report in confidential session in accordance with Category 4 of Paragraph 10.4 of the Council's Access to Information Procedure Rules.

RESOLVED:

- (i) that the application for a renewal of the licence be granted; and
- (ii) that the requests for Sunday trading and additional signage to be displayed on the front exterior of the premises be refused.

REASONS FOR THE DECISION

The Sub-Committee considered the application for a renewal of the licence and found no compelling evidence that would justify refusal of the application.

The Sub-Committee considered the requests for Sunday trading and additional signage to be displayed on the front exterior but concluded that they should be refused. In reaching this decision the Sub-Committee considered the Southampton City Council Regulations for Sex Establishments, in particular Regulation 3 on opening hours and Regulation 10 and 14 on additional signage and advertisements. These Regulations had been agreed to ensure consistency across all sex shops in the City and the Sub-Committee saw no good reason to deviate from them.

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Agenda Item 7

by virtue of paragraph number 1, 2 of the Council's Access to information Procedure Rules

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Agenda Item 8

by virtue of paragraph number 1, 2 of the Council's Access to information Procedure Rules

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