

# Licensing (General) Sub-Committee

Thursday, 14th February, 2013  
at 9.30 am

## **PLEASE NOTE TIME OF MEETING**

Conference Room 3 - Civic Centre

This meeting is open to the public

### **Members**

Councillor Cunio (Chair)  
Councillor Parnell  
Councillor Mrs Blatchford  
Councillor Vassiliou  
Councillor Lewzey

### **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 2012/13**

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.

### **Rules of Procedure**

The meeting is governed by the Council Procedure Rules as set out in Part 4 of the Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Quorum**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## CONDUCT OF MEETING

### **DISCLOSURE OF INTEREST**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Personal Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PERSONAL 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 the 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 for 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 a, '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

Agendas and papers are available on the Council's website at  
[www.southampton.gov.uk](http://www.southampton.gov.uk)

### **1 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.

### **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.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

### **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<sup>th</sup> November 2012 and to deal with any matters arising, attached.

### **5 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 item 6 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.

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 press and the public, unless otherwise excluded by Category 4 of paragraph 10.4 of the Council's Access to Information Procedure Rules, 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.

**6 APPLICATION FOR VARIATION OF A SEX SHOP LICENCE - 90 HOWARD ROAD, SOUTHAMPTON, SO15 5BH**

Report of the Head of Legal, HR and Democratic Services detailing an application for variation of a sex shop licence in respect of 90 Howard Road, Southampton, SO15 5BH, attached.

Wednesday, 6 February 2013

HEAD OF LEGAL, HR AND DEMOCRATIC  
SERVICES

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SOUTHAMPTON CITY COUNCIL  
LICENSING (GENERAL) SUB-COMMITTEE  
MINUTES OF THE MEETING HELD ON 29 November 2012

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Present:

Councillors Cunio (Chair), Parnell, Lewzey and B Harris

Apologies

Councillors Mrs Blatchford and Vassiliou

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

The Sub-Committee noted that Councillor Harris was in attendance as a nominated substitute for Councillor Vassiliou in accordance with Council Procedure Rule 4.3.

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

**RESOLVED** that the Minutes of the Meeting held on 28th July 2011 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

3. **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 5 and be invited to return immediately following private session at which time the matter be determined and the decision of the Panel be announced.

4. **DECLARATION OF NEW AIR QUALITY MANAGEMENT AREAS (AQMA)**

The Sub-Committee considered the report of the Senior Manager for Planning, Sustainability and Transport recommending that four Air Quality Management Areas be extended and three new Air Quality Management Areas be approved by Order. (Copy of the report circulated with agenda and appended to the signed minutes)

**RESOLVED** that:-

- (i) the extension to the area of four Air Quality Management Areas at Bitterne Road, Romsey Road, Redbridge Road and Millbrook Road and the declaration of three new Air Quality Management Areas at Burgess Road, Victoria Road and New Road be approved, as set out in appendices 1 to 7; and
- (ii) authority be delegated to the Head of Legal, HR and Democratic Services to take all action necessary to give effect to the recommendations including the drafting, publication and confirmation of such Orders and other legal processes or documentation as may be required.

5. **APPLICATION TO VARY A SEX SHOP LICENCE - PRIVATE SHOP, GROUND FLOOR, 16 HANOVER BUILDINGS, SOUTHAMPTON, SO14 1JA**

The Sub-Committee considered the report of the Head of Legal, HR and Democratic Services regarding an application for variation of a sex shop licence in respect of Private Shop, Ground Floor, 16 Hanover Buildings, Southampton, SO14 1JA. (Copy of report circulated with the agenda and appended to signed minutes).

Mr Bown, Owner and Mr Nath, Darker Enterprises were present and with the consent of the Chair, addressed the meeting.

**RESOLVED** that:-

- (i) the application for variation of a sex shop licence in respect of Private Shop, Ground Floor, 16 Hanover Buildings, Southampton, SO14 1JA, be granted, subject to the following restrictions/amendments (reference to Items 1-8 on page 3 of the report):-
1. **Addition of address and telephone number to fascia board** - approved as applied.
  2. **Addition of location website to fascia board** – the website identified shall at no time advertise or display items for sale at the premises or elsewhere or contain any link to any other site and shall provide information regarding location/address of premises only.
  3. **Change of name on fascia board** – approved subject to a requirement that no lettering shall exceed 12 inches in height.
  4. **Change of style and colour of name on fascia board** – approved as applied.
  5. **Additional wording “Stockists of DVD’s, magazines, toys and lingerie”** – approved subject to the inclusion of the word “Adult” before DVD’s and removal of the word “toys”.
  6. **Wording “A great single and couple friendly store on window with silver background** – approved subject to the background being white rather than silver and removal of the wording on the window closest to the door with the wording as shown on the left window moved to the centre of the window.
  7. **Wording “Licensed Adult Centre” on window with silver background** – approved subject to white background.
  8. **One window to have mannequin dressed in lingerie with rear of display area blanked to prevent view of shop interior** – Refused. The window to the right of the door shall display a graphic/poster of a type, design and content to be approved by the Licensing Manager.

**Note:** 1, 2, 3 and 4 are approved subject to the background of the fascia board being white.



- (ii) In implementing the above decision, the Licensing (General) Sub-Committee delegates authority to the Head of Legal, HR and Democratic Services to approve conditions and amendment of the existing to achieve the above.

## **REASONS**

The Sub-Committee noted the concerns that the proposed new frontage was not sufficiently discreet and appropriate to the character of the locality, likewise it considered carefully representations from the licence-holder regarding the locality of this particular premises and in particular the impact of closed shops nearby.

In making its decision the Sub-Committee paid careful attention to the impact of the proposed changes and the effect on the locality. In this respect it is stressed that the decision does not set a precedent but shows a careful consideration of the application on its own merits and the premises in its surrounding area.

By way of guidance to the Licensing Manager when assessing the appropriateness of the graphic/poster the Sub-Committee would stress that no nudity or mannequins be displayed, but images of a similar nature to that presented showing a couple in embrace are considered acceptable.

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# Agenda Item 6

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

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