

Licensing (General) Sub-Committee

Thursday, 8th May, 2014
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 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 Priorities:

- **Economic:** Promoting Southampton and attracting investment; raising ambitions and improving outcomes for children and young people.
- **Social:** Improving health and keeping people safe; helping individuals and communities to work together and help themselves.
- **Environmental:** Encouraging new house building and improving existing homes; making the city more attractive and sustainable.

- **One Council:** Developing an engaged, skilled and motivated workforce; implementing better ways of working to manage reduced budgets and increased demand.

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 2013/14

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 INTERESTS

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

DISCLOSABLE PECUNIARY 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 an, '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

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 meetings held on 17 and 24 October 2013 and to deal with any matters arising, attached.

5 EXCLUSION OF THE PRESS AND PUBLIC

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 - HIDDEN ASSETS, 439 MILLBROOK ROAD WEST, SOUTHAMPTON SO15 0HX

For the Sub-Committee to consider and determine the application for the variation of the sex shop licence in respect of 439 Millbrook Road West, Southampton, SO15 0HX.

Tuesday, 29 April 2014

HEAD OF LEGAL AND DEMOCRATIC SERVICES

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Agenda Item 4

Minutes of the Previous Meetings:-

Appendix 1 – 17 October 2013

Appendix 2 – 24 October 2013

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SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 17 OCTOBER 2013

Present:

Members of the Council

Councillors Cunio (Chair), Mrs Blatchford and Vassiliou

Apologies

Councillors Lewzey and Parnell

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

The Sub-Committee noted that apologies had been received from Councillors Lewzey and Parnell.

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

RESOLVED that the minutes of the meeting held on 14 August 2013 be approved and signed as a correct record.

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

- (i) **RESOLVED** that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules, the press and public be excluded from the meeting in respect of viewing CCTV evidence disclosed by the Police in relation to Item 9 based on Categories 1 and 2 of paragraph 10.4 of the said Rules and be invited to return immediately following private session.
- (ii) **RESOLVED** that the Sub-Committee may move into private session in order to receive legal advice when determining issues. The press and public, unless otherwise excluded by 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 decisions of the Sub-Committee will be announced.

9. **APPLICATION FOR GRANT OF A SEXUAL ENTERTAINMENT VENUE LICENCE - ISIS, 188 ABOVE BAR STREET, SOUTHAMPTON**

The Sub-Committee considered the application for a Sexual Entertainment Venue licence in respect of Isis, 188 Above Bar Street, Southampton. (Copy of the report circulated with the agenda and appended to the signed minutes).

Mr Gill (Applicant / Manager), Mrs Gill (Owner), Miss Helmi (Barrister), Ms Baillie (Floor Supervisor, Isis) and PC Conway (Hampshire Constabulary) were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee moved into confidential session to view two clips of CCTV evidence disclosed by the Police in accordance with Categories 1 and 2 of Paragraph 10.4 of the Council's Access to Information Procedure Rules.

One clip of the CCTV evidence showed a particular incident which had been reported to the Police by Isis. The second clip showed a number of dances at the club. There was a dispute between the parties regarding what the remaining (not viewed) evidence showed in relation to other dancers and whether there were further breaches of the dancers' Code of Conduct and conditions. The police confirmed the CCTV evidence had been disclosed, in full, to the applicant and the Council in advance of the hearing with an indication that the intention was to rely upon that evidence at the hearing.

RESOLVED

- (i) that the meeting be adjourned in order for the Sub-Committee to view the CCTV evidence, in full, in private session to determine whether other dancers at the premises were in breach of the Code of Conduct and conditions;
- (ii) that a decision would be made by the Sub-Committee in private session following the viewing of the CCTV evidence in order to receive legal advice when determining the issue.

SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 24 OCTOBER 2013

Present:

Members of the Council

Councillors Cunio (Chair), Mrs Blatchford and Vassiliou

Apologies

Councillors Parnell and Lewzey

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

- (i) **RESOLVED** that in accordance with the Council's Constitution, specifically the Access to Information Procedure Rules, the press and public be excluded from the meeting in respect of the viewing of CCTV evidence disclosed by the Police in relation to Item 11 based on Categories 1 and 2 of paragraph 10.4 of the said Rules.
- (ii) **RESOLVED** that the Sub-Committee may move into private session in order to receive legal advice when determining issues. The press and public, unless otherwise excluded by 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 decisions of the Sub-Committee will be announced.

11. **APPLICATION FOR GRANT OF A SEXUAL ENTERTAINMENT VENUE LICENCE - ISIS, 188 ABOVE BAR STREET, SOUTHAMPTON**

The Sub-Committee considered the application for a Sexual Entertainment Venue licence in respect of Isis, Above Bar Street. (Copy of the report circulated with the agenda and appended to the signed minutes). The application being a matter adjourned by the same Sub-Committee, at a previous hearing dated 17 October 2013.

The Sub-Committee moved into confidential session to view the full extent of the CCTV evidence disclosed by the Police in accordance with Categories 1 and 2 of Paragraph 10.4 of the Council's Access to Information Procedure Rules.

The Sub-Committee considered the decision in private session in order to receive legal advice when determining issues.

RESOLVED that the application for a Sexual Entertainment Venue licence be refused.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision with reasons:-

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

The Sub-Committee has considered very carefully the application for a sexual entertainment venue licence in respect of Isis, 188 Above Bar Street. It has given due

regard to the Local Government (Miscellaneous Provisions) Act 1982, statutory guidance, Crime and Disorder Act 1998 and Human Rights legislation.

The Sub Committee considered representations, both written and given orally on 17 October 2013, as well as additional CCTV evidence disclosed by the Police to the applicant and the Council in advance of the hearing.

The Sub-Committee has considered very carefully all of the evidence and the application and has determined to refuse the licence. The licence is refused on the following grounds:

- (i) on the basis that the applicant is unsuitable to hold the licence for “any other reason”;
- (ii) a grant of the licence would be inappropriate having regard to the layout, character or condition of the premises.

REASONS

The Sub-Committee carefully considered the representations of both the Police and the applicant. It was noted that the applicant stressed the following points:

- the applicant reported the incident to the Police and has been proactive in addressing this rare occurrence;
- the dancer did not notice immediately, the camera angle did not show the true extent of the touching between the dancer and the client;
- the applicant stressed the paramount importance being the safety of dancers;
- the applicant is now being punished for reporting this isolated incident;
- touching between dancers and clients categorically refuted other than accidental brushing;
- that the club was doing its best to comply with conditions already in force;
- that there were no objections initially but only in relation to one incident;
- that the dancer concerned admitted mistakes on this one incident due to personal circumstances specific to that dancer;
- steps have been taken to prevent future risk by implementing lines on the floor / moving lamps.

The Sub-Committee adjourned in order to view the full extent of the CCTV evidence following dispute between the parties at the hearing on 17 October in relation to what that evidence showed. Having viewed the evidence in full, and in higher resolution on a smaller screen, the Sub-Committee finds as a matter of fact that during the periods covered by the CCTV footage the dancers were breaching the Code of Conduct and conditions, which the applicant stressed during the hearing were in place and being adhered to. Accordingly the Sub-Committee finds that the incident which led to the client exposing himself and the Police being called was not an isolated incident but in fact part of accepted practice by all dancers. The CCTV showed at least 19 dances taking place all of which were a cause for concern and showing dancers repeatedly touching clients. Mr D Gill and Mrs L Gill were clearly at the premises and at no time challenge any of the dancers or interrupt or intervene in any way. As a result, the Sub-Committee can only assume that this practice was accepted on a widespread basis and not simply on the night to which the CCTV evidence relates. In any event, the Sub-Committee is very clearly satisfied that the repeated and continuous breaches on this one evening alone are sufficient to warrant a refusal on the basis that the applicant is

not suitable to hold a licence in accordance with paragraph 12 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

The Sub-Committee held very real concerns with regards to the suitability of Mrs Gill, due to her clear involvement with running the premises and her being clearly visible at the premises on the CCTV and failing likewise, to take any action. The Sub-Committee accepted legal advice that its determination relates to the suitability of the applicant only in this instance.

The Sub-Committee, also have concerns in relation to the layout of the premises, the sofas used, the position of clients and dancers, the lighting, quality of internal CCTV and the number of SIA approved security staff on the premises (and in particular on the floor on which the incident occurred) on the evening in question.

All of this clearly shows that management of the premises was severely lacking at a time when the Sub-Committee has heard that the same conditions, Code of Conduct and regulation of the premises was in place as it would be; should a licence be granted. The Sub-Committee considered very carefully whether additional conditions could be imposed to offer reassurance that the premises would be properly run in future, however, the Sub-Committee was not satisfied that any condition would be sufficient.

The applicant asserted that he was being punished for reporting the incident. This is not the case, the incident occurring in its own right would not have led to a refusal, however, the reason for the refusal relates to quality of management at, and layout and character of the premises, and the clear failures that led to the incident occurring.

There is a right of appeal to the Magistrates' Court. Formal notification of the decision will set out that right in full.

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Agenda Item 6

DECISION-MAKER:	LICENSING (GENERAL) SUB-COMMITTEE		
SUBJECT:	APPLICATION FOR VARIATION OF A SEX SHOP LICENCE – HIDDEN ASSETS, 439 MILLBROOK ROAD WEST, SOUTHAMPTON, SO15 0HX		
DATE OF DECISION:	8 MAY 2014		
REPORT OF:	HEAD OF LEGAL AND DEMOCRATIC SERVICES		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Ian McGuinness	Tel: 023 8083 4231
	E-mail:	ian.mcguinness@southampton.gov.uk	
Director	Name:	Mark Heath	Tel: 023 8083 2371
	E-mail:	mark.heath@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

Not applicable

BRIEF SUMMARY

The sub-committee is requested to consider and determine the application for the variation of the sex shop licence in respect of 439 Millbrook Road West, Southampton. SO15 0HX

RECOMMENDATIONS:

- (i) The Sub-Committee to consider and determine the application for the variation of the sex shop licence in respect of 439 Millbrook Road West, Southampton, SO15 0HX.

REASONS FOR REPORT RECOMMENDATIONS

1. The determination of applications for variation of sex shop licences is not delegated to officers, therefore it is for the sub-committee to consider and determine the application.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. N/A

DETAIL (Including consultation carried out)

3. Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16th March 1983.
4. Following High Court challenges to other local authorities' adoption of the legislation, the City Council was advised by Counsel in 1995 that it would be appropriate to readopt the provisions. The Council resolved the adoption of schedule 3 to the Local Government (Miscellaneous

Provisions) Act 1982 on 10th April 1995, with the provisions coming into effect from 3 July 1995. Notices setting out the effect of the provisions were published in the Southern Daily Echo on 5th and 12th May 1995.

5. Mr. Matthew Barry Caplen Smith, has held a sex shop licence in Southampton since 2003, with the licence being renewed annually since.
6. On 17th March 2014 an application was made by Mr. Matthew Barry Caplen Smith to renew the sex shop licence in respect of 439 Millbrook Road West, Southampton, SO15 0HX. At the same time as making this renewal application, the applicant submitted a request to change the trading name of the premises and vary the current shop frontage.
7. The renewal of the licence was unopposed and in line with the scheme of delegation, which gives the Licensing Manager the power to determine such applications in those circumstances, the renewal of the licence has been deemed granted. Therefore, the renewal application is not presented for the consideration of the Committee.
8. In summary, the applicant has requested to make the following changes;
 1. For the premises to change the trading name to 'Adult Superstore'; and
 2. For the shop front to vary to a blue frontage with a double door and a single window either side of each door, with the lobby area relocated to a central position
9. A description of the variation was supplied on page 11 of the application form and is attached as Appendix 1. The applicant has supplied an impression of the proposed changes. This is attached to the report as Appendix 2. A photograph of the current appearance of the premises is attached as Appendix 3. A copy of the current licence is attached as Appendix 4.
10. In proposing these changes, the applicant would be seeking to vary conditions 16(b) and 16(c) of the current licence. Condition 16(b) states;

'The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. There shall be no external advertisements nor shall the frontage contain displays of advertisements of any nature or permit the interior of the place licensed to be viewed from outside'

In addition condition 16 (c) currently sets out the requirements of the licensing authority in terms of agreed appearance and signage for these premises.

A copy of the current licence containing all the conditions relating to this premises is attached as Appendix 3.

11. There is no requirement under the Act to advertise a variation of the licence, only for the application, renewal or transfer of a licence. Therefore, there is no formal mechanism of consultation for this process, although a copy of the proposed variation was served on Hampshire Constabulary by the applicant.
12. The Hampshire Constabulary Western Licensing Unit has advised that they have no objection to this variation.
13. Section 18 of the Local Government (Miscellaneous Provisions) Act 1982 permits the holder of a sex shop licence to apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
14. The authority may;
 - Make the variation specified in the application; or
 - Make such variations as they think fit; or
 - Refuse the application.
15. Should the Committee be mindful to grant any variation to the appearance of the current shop frontage, it is recommended that the applicant be advised of the need check with the Planning department as to whether planning permission is required before any changes are implemented.
16. An applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.
17. A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as Appendix 5.

RESOURCE IMPLICATIONS

Capital/Revenue

18. There are no financial implications

Property/Other

19. N/A

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

20. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the City Councils power to determine an application to vary the terms, conditions or restrictions of a sex shop licence.

Other Legal Implications:

21. **CRIME AND DISORDER ACT 1998**

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

22. **HUMAN RIGHTS ACT 1998**

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

POLICY FRAMEWORK IMPLICATIONS

23. The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.

KEY DECISION? Yes/No

WARDS/COMMUNITIES AFFECTED:

SUPPORTING DOCUMENTATION

Appendices

1.	Covering application (Page 11) outlining proposals.	
2.	Impression of proposed shop frontage	
3.	Photograph of current shop frontage	
4.	Copy of current licence	
5.	Procedure for hearing the application	

Documents In Members' Rooms

1.	None

Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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Other Background Documents**Equality Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.		
2.		

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30. Have you any reason to believe that a prosecution may be pending against any of the persons or bodies whose names are given in response to Questions 2, 14, 16, 17 and 27? If 'Yes' give full details. **NO**

31. Has any person or body named in this application been associated in any way with any other application for a licence for a sex establishment? **YES**

32. Is there in force against the applicant or any of the persons or bodies named in answer to Questions 14, 19, 27 and 29 a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982?

If 'Yes' give full details. **NO**

33. Is there any further information which the applicant would wish the Council to take into account when considering this application?

(This space may also be used to amplify any replies to other questions.)

I would like to ask at this time for the consideration to be taken, of a proposed change to the shop frontage and name of the premises. The proposed new name will be "ADULT SUPERSTORE" This is completely within all taste and decency regulations, and as there is already an "ADULT GIFT STORE" in SO'TON, the proposed change should raise no issues.

Also the shopfront would be changed to a double door entry with a single window either side of each door. All methods currently used to obscure exterior view into the premises, would be re-used (re-used). The existing interior lobby would be moved to a central position and would provide the same level of obscurity that it always has. All lettering on the new headboard and windows would be kept within the regulated sizes and would in fact mean a reduction in size of the existing lettering, as there are several more letters to fill in the same space. All lettering would be in plain white on the same existing blue background. I hope and believe, that these changes are well within any regs and thank you for your time.

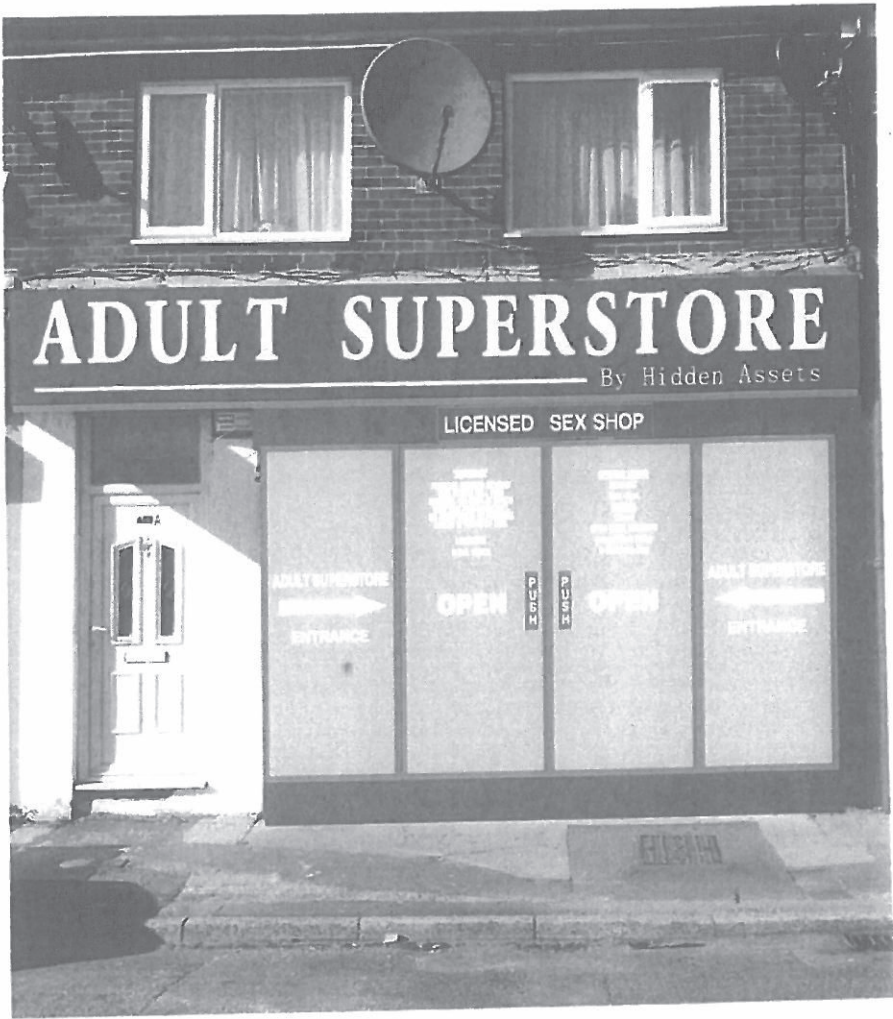
* (visual included)

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Agenda Item 6

Appendix 2



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Agenda Item 6

Appendix 3



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Licence Number	2013/00622/19SEXE
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SEX ESTABLISHMENT LICENCE

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 2

SOUTHAMPTON CITY COUNCIL by virtue of the powers contained in section 2 and schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, hereby grants to:

Matthew Barry Caplen Smith

of the following address:

28 Prideaux-Brune Avenue
Gosport
Hampshire
PO13 0VE

A licence to use the premises known as

Hidden Assets

and situate at

**439 Millbrook Road West
Southampton
SO15 0HX**

in the City of Southampton as a

SEX SHOP

This licence has effect from 20th day of March 2013 until

19th day of March 2014

The permitted hours of this licence:

Monday	09:00 - 20:00
Tuesday	09:00 - 20:00
Wednesday	09:00 - 20:00
Thursday	09:00 - 20:00
Friday	09:00 - 20:00
Saturday	09:00 - 20:00

SUBJECT TO THE FOLLOWING CONDITIONS:

1 Regulations for Sex Establishments

Southampton City Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 and of all other powers enabling them in that behalf make the following Regulations:

1.

(a) In these Regulations the following expressions that is to say "Sex Establishment", "Sex Shop", "Sex Cinema", "Sex Article", and "Vessel" shall have the meanings respectively assigned to them by Schedule 3 of the Act.

(b) In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely: -

"the Act" - means the Local Government (Miscellaneous Provisions) Act, 1982.

"the Council" - means Southampton City Council.

"the licensed premises" - means any premises, vehicle, vessel or stall licensed under the Act.

"licence holder" - means a person who is the holder of a sex establishment licence.

"permitted hours" - means the hours during which the licensed premises are permitted under Regulations 2 and 3 hereof to be open to the public.

"sex establishment licence" - means a licence granted pursuant to Schedule 3 of the Act.

Conditions applicable to licences for Sex Establishments

2. The licensed premises shall be closed throughout Good Friday, Easter Monday, Christmas Day, Boxing and every Sunday and may be open only during the permitted hours prescribed in Regulation 3 hereof.

3. The permitted hours of opening, unless varied by special condition, shall be as follows:-

Mondays 9:00 a.m. to 8:00 p.m.

Tuesdays 9:00 a.m. to 8:00 p.m.

Wednesdays 9:00 a.m. to 8:00 p.m.

Thursdays 9:00 a.m. to 8:00 p.m.

Fridays 9:00 a.m. to 8:00 p.m.

Saturdays 9:00 a.m. to 8:00 p.m.

4. The licensed premises shall not be used for any purpose other than the business of a sex establishment.

5. The licensed premises shall not be open for the purposes for which the sex establishment licence is granted on any occasion when the Council may signify in writing to the licence holder, occupier or other person having at the time the care and management of the premises, that the same should not be open.

6. No person who is or appears to be under the age of 18 or is known by the licence holder or any servant or agent of his present on the licensed premises to be under that age shall be admitted to or shall be permitted to remain on the licensed premises.

7. The licence holder: -

- (a) shall display on the licensed premises in a conspicuous position his sex establishment licence;
- (b) shall exhibit on those premises such notices in such form and in such position as may be prescribed;
- (c) shall comply with any prescribed restriction with respect to the exhibiting of other written matter or of signs of any description on the licensed premises.

8. No facilities shall be provided in a sex shop for: -

- (a) seeing any television broadcast or the replaying of any video tape or film or other like matter, except for a looped video recording, the content of which and location of the equipment shall be approved by the Licensing Manager, nor;
- (b) hearing any sound broadcast tape or other like matter other than facilities for the reception of radio programmes broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority.
- (c) A television, DVD player and video tape player may be installed in the licensed premises in a position approved by the Licensing Manager out of sight of customers for the sole purpose of quality control of recordings made available in the licensed premises.

9. No music, dancing or other entertainment whether of a like kind or not shall be provided or permitted, other than as permitted by Regulation 8 of these Regulations, and no refreshment of any kind shall be served on nor shall any facilities for the taking of such refreshment be provided upon the licensed premises.

10. The licence holder shall exhibit on the exterior of the licensed premises in a position visible to persons outside the premises a notice, in addition to his name, in not more than one place, in characters not exceeding three inches in height and consisting only of the words licensed sex shop or licensed sex cinema (as the case may be) and such indication, if any, as he thinks fit to give of the times at which the licensed premises are open. No other notices, unless pursuant to these Regulations, may be exhibited.

11. The licence holder shall exhibit in a conspicuous manner and in some conspicuous place inside the licensed premises and at the point of access to the licensed premises a notice stating that persons under the age of eighteen years are not admitted thereto.

12. The licence holder shall not display in any position visible to persons outside the premises any matter which does not comply with the Indecent Displays (Control) Act 1981.

13. The licence holder shall not permit any person other than persons employed by him, his servant or agent, statutory undertakers or, if applicable, his landlord to enter upon any part of the premises which are not available to the public in connection with the display, sale, hire, exchange, loan or demonstration of sex articles.

14. The licence holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any article or thing intended for use in connection with or for the purpose of stimulating or encouraging acts of force or restraint which are or may be associated with sexual activity.

15. The licence holder shall ensure that the interior of the sex establishment shall not be visible to persons outside the premises.

16.

- (a) The exterior of the licensed premises shall be of materials approved by the Council
- (b) The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. There shall be no external advertisements nor shall the frontage contain displays of advertisements of any nature or permit the interior of the licensed premises to be viewed from outside.

(c) Detailed proposals for the external appearance of the licensed premises shall be agreed with the Council's Licensing Manager within 14 days of the notification of the determination of the application for a licence and shall be subject to ratification by the Council's Licensing (General) Sub Committee prior to the commencement of business at the licensed premises.

17. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Licensing Manager and subject to planning permission.

18. The holder of a sex cinema licence shall observe such regulations and conditions as may be approved by the Council from time for cinemas having a licence under the Cinemas Act 1985 as shall be applied by the Council by special condition to the sex establishment licence, giving such reference to the said Cinema licence conditions as may be deemed appropriate and the regulations and conditions shall have the same force and effect as if the same were severally contained in these regulations.

19. The licence holder shall not knowingly allow the licensed premises to be the habitual resort of a reputed prostitute or the habitual resort or meeting place of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution.

20. If the Council notifies the licence holder, occupier or other person having at the time the care and management of the premises in writing by delivering notice at the licensed premises that any particular sex article, advertisement or matter shall not be displayed the same shall be withdrawn from view forthwith.

21. No film or video material shall be kept at the sex establishment except such film or video material that bears a reproduction of the Certificate of the British Board of Film Certification.

22. The licence holder shall comply with all fire and safety requirements of the Council and maintain and keep available for use all specified fire fighting equipment and extinguishers.

23. The external doors of the licensed premises shall be fitted with self-closing mechanisms and such mechanisms shall be maintained in good order. No external door shall be fixed in the open position at any time during the permitted hours. A lobby area will be installed, the style and design to be approved by the Licensing Manager.

24. Applicants for the grant, 'renewal or transfer of a sex establishment licence or waiver thereof shall make their application on the form approved from time to time by the Council returnable to the office of the Solicitor to the Council together with the approved fee (where a sex establishment licence is required). A copy of the application in all cases shall be sent to the Chief Constable of Hampshire Constabulary, West Hill, Winchester not later than 7 days after the date of the application to the Council.

25. Applicants for the grant, renewal or transfer of a sex establishment licence shall advertise notice of their application in the form approved by the Council and in accordance with the prescribed dimensions by publishing the advertisement in a local newspaper circulating in Southampton not later than 7 days after the date of the application. A copy of the advertisement as published and date of publication shall be lodged with the Council forthwith.

26. Applicants for the grant, renewal or transfer of a sex establishment licence shall display a notice in the form approved by the Council and furnish two completed copies to the Council forthwith so that a copy may be sent to the appropriate public library. The Notice shall be displayed at the premises to be licensed for 21 days beginning with the date of the application to the Council and in a place where the notice can be inspected and conveniently read by the public from outside the premises.

27. A police officer or an authorised officer of the Council may at any reasonable time enter and inspect any premises in respect of which a sex establishment licence is for the time being in force.

28. The licence holder or some responsible person, being 21 years of age or over, nominated by him in writing shall be in attendance at the premises at all such times as the premises are open to the public and any nomination shall be produced to any police officer or authorised officer of the Council and give the name and address of the person nominated.

29. A closed circuit television system shall be installed in the licensed premises to the satisfaction of the Council's Licensing Manager. The system shall efficiently record the operation of the licensed premises and shall automatically indicate the date and time of the events recorded to a standard that would be acceptable as evidence in the Courts. All closed circuit television recordings shall be retained for a minimum of 28 days and shall be made available at the licensed premises for inspection by a police officer or an authorised officer of the Council.

30. The licensee shall notify the Council and Hampshire Constabulary of the name, address and date of birth of any manager or employee involved in the operation of the business at the licensed premises within seven days of them commencing employment. The City Council shall reserve the right to object to any person being involved in the operation of the business at the licensed premises where it considers them unsuitable, in particular by reason of relevant unspent criminal convictions.

31. The licensee shall produce and maintain a list of all stock carried at the licensed premises and shall make it available to a police officer or authorised officer of the Council on demand.

32. The rear door of the premises will be closed to customers save as required as an emergency exit in pursuance to Fire and Health and Safety Regulations.

Dated this 16th day of August 2013

Head of Legal, HR & Democratic Services

Licensing – Southampton City Council
PO Box 1767
Southampton
SO18 9LA

Agenda Item 6

Appendix 5

APPENDIX 5

Special Procedure for the Licensing (General) Sub-Committee – Applications for Sex Establishment licences

One of the Council's Corporate Legal Advisors will be in attendance throughout the proceedings and he/she is there to advise Members. Sub-Committee Members may seek clarification on points of procedure at any time.

Please note that the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

1. INTRODUCTION

- ◆ Everyone to introduce themselves
- ◆ The Licensing Officer will introduce the report, including background information and any written objections received.
- ◆ Members' questions to the Licensing Officer

2. OBJECTORS

If Objectors (including Police) have attended indicating a wish to address the Sub-Committee the Sub-Committee will consider each request in light of its discretion to permit oral representations.

As a guide, such representations will only be permitted if appropriate in order to briefly summarise and expand upon the main points of objection as set out in written submissions. Mere recitation of previous written submissions will not be permitted, nor will the introduction of entirely new grounds of objection.

Questions of Objectors will not be permitted by any party (including Members).

3. APPLICATION

The applicant or their representative will outline the details of the application and call any witnesses in support.

Questions may be asked of the applicant or of any witnesses by:

Licensing Officer

Members of the Sub-Committee

The applicant may call supporting witnesses at their discretion during the presentation of their application. Questions may be asked by the Sub-Committee Members / Licensing Officer of such witnesses at any appropriate point in their presentation

If any written objections have been received the applicant or their representative will be invited to comment on them

4. SUMMING UP

The applicant or their representative will have a final opportunity to sum up their application.

5. CONSIDERATION OF DECISION - CONFIDENTIAL SESSION

Members of the Sub-Committee will retire to consider the decision. In doing so the Solicitor to the Sub-Committee and the Sub-Committee Administrator will retire with them, but will take no part in the discussion of the merits of the case or what the decision should be

Should the Solicitor to the Sub-Committee be required to clarify any points of law, these will be repeated in the public session.

6. ANNOUNCEMENT OF DECISION

Sub-Committee Members will return and the Chair of the Sub-Committee will deliver the decision in public session. The Licensing Officer will confirm this decision in writing to the Applicant within 7 days of the Sub-Committee decision, together with details of any relevant right of appeal.

Note: This procedure note is issued as a guide only – the order and conduct of business may be varied by the person presiding at any time in order to facilitate the determination of the matter, having regard to statutory restrictions and the rules of natural justice.