

Licensing (General) Sub-Committee

Thursday, 21st September,
2023

at 10.00 am

PLEASE NOTE TIME OF MEETING
Council Chamber - Civic Centre

This meeting is open to the public

Members

Councillor M Bunday
Councillor T Bunday
Councillor Kenny
Councillor Powell-Vaughan
Councillor Mrs Blatchford

Contacts

Democratic Support Officer
Melanie Morley
Tel: 023 8083 2198
Email:
democratic.services@southampton.gov.uk

Executive Director Place
Adam Wilkinson
Email: adam.wilkinson@southampton.gov.uk

PUBLIC INFORMATION

Terms of Reference

The Sub-Committee deals with licences, 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
- Street trading
- Sex establishments

Members: Five members drawn from the Licensing Committee

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: Corporate Plan 2022-2030 sets out the four key goals:

- **Strong Foundations for Life.**- For people to access and maximise opportunities to truly thrive, Southampton will focus on ensuring residents of all ages and backgrounds have strong foundations for life.
- **A proud and resilient city** - Southampton's greatest assets are our people. Enriched lives lead to thriving communities, which in turn create places where people want to live, work and study.
- **A prosperous city** - Southampton will focus on growing our local economy and bringing investment into our city.
- **A successful, sustainable organisation** - The successful delivery of the outcomes in this plan will be rooted in the culture of our organisation and becoming an effective and efficient council.

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

Mobile Telephones:- Please switch your mobile telephones to silent whilst in the meeting

Use of Social Media:- The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting. By entering the meeting room you are consenting to being recorded and to the use of those images and recordings for broadcasting and or/training purposes. The meeting may be recorded by the press or members of the public.

Any person or organisation filming, recording or broadcasting any meeting of the Council is responsible for any claims or other liability resulting from them doing so.

Details of the Council's Guidance on the recording of meetings is available on the Council's website.

Fire Procedure – Should the fire alarm sound during the meeting leave the building by the nearest available exit and assemble in the Civic Centre forecourt car park.

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 2023/24

Meetings of the Committee are held as and when required.

CONDUCT OF MEETING

TERMS OF REFERENCE

The terms of reference of the Licensing Committee are contained in 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 "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 of 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

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.

3 **STATEMENT FROM THE CHAIR**

4 **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)** (Pages 1 - 4)

To approve and sign as a correct record the Minutes of the meetings held on 28th June 2023 and 26th July 2023 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 7 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 data protection legislation. 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.

6 **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

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 parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, 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.

7 **PRIVATE HIRE DRIVERS LICENCE REVIEW** (Pages 5 - 96)

Report of the Executive Director for Place to consider whether the applicant is a fit and proper person to hold a Private Hire Driver's Licence.

SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 28 JUNE 2023

Present: Councillors M Bunday, Kenny, Noon, Powell-Vaughan and Windle

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

RESOLVED: that the minutes for the Sub- Committee meetings on 19 April 2023 and 26 April 2023 be approved and signed as a correct record.

2. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

RESOLVED that at a predetermined point during the consideration of all items the Sub-Committee would move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and public, unless otherwise excluded by the Council's Access to Information Procedure Rules would be invited to return immediately following that private session at which time the matter would be determined and the decision of the Sub-Committee would be announced.

3. **APPLICATION FOR A VARIATION OF A SEX ESTABLISHMENT LICENCE - FOR YOUR EYES ONLY, 135-136 HIGH STREET, SOUTHAMPTON SO14 2BR**

The Sub-Committee has considered very carefully the application for the variation of the sexual entertainment venue licence in For Your Eyes Only, 135-136 High Street, Southampton, SO14 2BR.

The Sub-Committee has given due regard to the Local Government (Miscellaneous Provisions) Act 1982, statutory guidance, its own policy where relevant, the Crime and Disorder Act 1998, the Public Sector Equality Duty under section 149, Equality Act 2010, and Human Rights legislation.

The Sub-Committee considered representations both written and given orally at the meeting today.

The Manager and licence holder for the premises were present and with the consent of the Chair addressed the meeting.

The Sub-Committee noted that no objection had been received and that Hampshire Constabulary Licensing Team were satisfied with the application.

The application for variation of the Sexual Entertainment Venue Licence requested to change the current licence as follows:

- to extend the permitted hours from currently 0430 hours (0500 hours incorrectly stated on the application) to 0600 hours.
- and for last admission to 0500 hours. (Not currently stated on the licence)

RESOLVED: That the application for the variation of the Sexual Entertainment Venue licence be approved with all other conditions remaining unchanged including the hours of opening.

This means that the licence allows the premises to operate as a Sexual Entertainment Venue between the hours of 10-00 a.m. to 06-00 a.m with the hour for last admission set at 05:00

Reasons

Paragraph 18 of the Local Government (Miscellaneous Provisions) Act 1982 provides that the holder of a sexual entertainment venue (SEV) licence may at any time apply for any variation of the terms, conditions, or restrictions on or subject to which the licence is held.

The Hampshire Constabulary Licensing Team have advised that they have no objection to the application.

The Sub-Committee noted that no objections have been raised. The Senior Licensing Officer confirmed that the Licensing Team was content with the application.

The sub-committee noted the excellent working relationship between Licensing officers, the applicant, and police, and were impressed with the procedures and practices in place. The sub-committee is satisfied that the premises are well run and compliant with all conditions.

There was no compelling evidence presented to the Sub-Committee that would justify refusal of the application or any reason for amendments to the variations applied for.

The Sub-Committee did express some concern over the arrangements for door supervisors which seemed a little ad hoc. The Sub-Committee therefore wished to remind the applicant of the condition on the Licensing Act premises licence relating to the number of door supervisors required.

There is a right of appeal full details of which will be provided in the written decision.

SOUTHAMPTON CITY COUNCIL
LICENSING (GENERAL) SUB-COMMITTEE
MINUTES OF THE MEETING HELD ON 26 JULY 2023

Present: Councillors M Bunday, A Frampton, Noon, Powell-Vaughan and Windle

Apologies:

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

Following changes to membership of the Licensing Committee at Council on 19th July 2023 Councillor A Frampton now sat as substitute for Councillor A Bundy.

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

The Chair moved 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 data protection legislation.

RESOLVED: that having applied the public interest test it was not appropriate to disclose this information as the individuals' legal expectation of privacy outweighed the public interest in the exempt information.

6. **EXCLUSION OF THE PRESS AND PUBLIC - LEGAL ADVICE**

RESOLVED: that at a predetermined point during the consideration of all items the Sub-Committee would move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Council's Access to information Procedure Rules would 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.

7. **PRIVATE HIRE DRIVER'S LICENCE APPLICATION**

The Sub-Committee considered the report of the Executive Director – Place, to consider whether the specific individual is a fit and proper person to hold a Private Hire Driver's Licence.

The Licensing Officer and the Private Hire Driver were present and with the consent of the Chair addressed the meeting.

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

The Sub-Committee has given due regard to the Local Government (Miscellaneous Provisions) Act 1976 "the Act" and Department for Transport Standards relating to the application of the "fit and proper person" test and other considerations of character. The

Human Rights Act, the Crime and Disorder Act, 1998 and the Equality Act 2010, have been borne in mind whilst making the decision.

The Sub-Committee has also considered the Taxi Licensing Policy and in particular the Guidance on Determining the Suitability of Applicants in the Hackney Carriage and Private Hire Trades.

The Sub Committee received legal advice that personal circumstances, including financial implications, could not be taken into account. Legal advice was also provided that the Rehabilitation of Offenders Act 1974 does not apply to taxi drivers.

The Sub-Committee considered all the facts but were not persuaded to deviate from policy.

RESOLVED: that the driver is not a fit and proper person to hold a Private Hire Driver's Licence in accordance with the Act.

Reasons for Decision

The Sub Committee heard from the Licensing Officer that the taxi policy as it related to this application states:

Paragraph 35 – Dishonesty

Where an applicant has a conviction for any offence of dishonesty, or any offence where dishonesty is an element of the offence, a licence will not be granted until at least 7 years have elapsed since the completion of any sentence imposed.

Paragraph 36 – Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

The Sub Committee noted that as far as the dishonesty conviction was concerned granting a licence would be within policy. However, the drugs conviction had a penalty of 22 months suspended sentence and so granting a licence would be against policy and that would remain the case until 15th June 2025.

Having heard from the Private Hire Driver in detail, whilst having some sympathy for him, the Sub-Committee was not sufficiently convinced to go outside of policy.

The Sub-Committee noted that the Private Hire Driver in his evidence detailed a number of medical concerns which were under investigation but he had not indicated any such concerns in his application form.

The Sub-Committee would always recommend any applicant to liaise with licensing officers and trade representatives before submitting an application. Where possible it would also recommend seeking to obtain representation at any hearing there may be.

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

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