

Licensing (General) Sub-Committee

Thursday, 11th March 2010
at 10.30 am

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic Centre

This meeting is open to the public

Members

Councillor Parnell (Chair)
Councillor Mrs Blatchford
Councillor Cunio
Councillor Fitzgerald
Councillor Galton
Councillor Norris
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 Six Priorities

- Providing good value, high quality services
- Getting the City working
- Investing in education and training
- Keeping people safe
- Keeping the City clean and green
- Looking after people

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 2009/10

| 2009 | 2010 |
|--------------------|-------------|
| 6 MAY | 13 JANUARY |
| 3 JUNE | 10 FEBRUARY |
| 1 JULY | 10 MARCH |
| 29 JULY | 7 APRIL |
| 2 SEPTEMBER | |
| 30 SEPTEMBER | |
| 28 OCTOBER | |
| THURSDAY 26 NOV | |
| 17 DECEMBER | |

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.

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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 now available on the Council's website at
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 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.

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 26th November 2009 and 17th December 2009 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 items 6 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.

6 HACKNEY CARRIAGE DRIVER

Confidential report of the Solicitor to the Council seeking consideration on whether an individual is a fit and proper person to be a Hackney Carriage Driver, attached.

7 PRIVATE HIRE DRIVER

Confidential report of the Solicitor to the Council seeking consideration on whether an individual is a fit and proper person to be a Private Hire Driver, attached.

8 HACKNEY CARRIAGE DRIVER

Confidential report of the Solicitor to the Council seeking consideration on whether an individual is a fit and proper person to be a Hackney Carriage Driver, attached.

Wednesday, 3 March 2010

SOLICITOR TO THE COUNCIL

Agenda Item 4

To approve and sign as a correct record the Minutes of the meetings held on 26th November 2009 and 17th December 2009 and to deal with any matters arising, attached.

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LICENSING (GENERAL) SUB – COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 26TH NOVEMBER 2009

Present: Councillors Baillie, Mrs Blatchford, Cunio, Drake, Norris, Parnell and Willacy

Apologies: Councillors Galton and Fitzgerald

11. APOLOGIES/ CHANGES IN MEMBERSHIP

The Panel noted that Councillor Drake was in attendance as a nominated substitute for Councillor Galton and Councillor Baillie was in attendance as a nominated substitute for Councillor Fitzgerald in accordance with Council Procedure Rule 4.3.

12. MINUTES OF THE PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)

RESOLVED that the Minutes of the meetings held on 26th August 2009 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

13. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that in accordance with the Council's Constitution, specifically the Access to Information Rules, the press and public be excluded from the meeting in respect of the consideration of the following item on grounds based on Categories 1 and 2 of paragraph 10.4 of the Council's Access to Information Procedure Rules because failing to do so would constitute a breach of the Data Protection Act 1998 as well as a breach of a common law duty of confidentiality.

14. PRIVATE HIRE DRIVER

The Sub-Committee considered the confidential report of the Solicitor to the Council seeking consideration on whether an individual was a fit and proper person to be a Private Hire Driver. (Copy of report circulated with agenda and appended to signed minutes).

Part of the evidence presented to the Sub-Committee was in the form of photographic and accompanying soundtrack obtained from the digital security camera fitted to the vehicle. The Sub-Committee noted that this was the first occasion that such evidence had been presented.

The Sub-Committee also noted that no appeal had been received from the driver since the immediate suspension of the Private Hire Driver's licence on 27th October, 2009 and that under the regulations the driver remained unable to drive pending the outcome of the appeal even under circumstances where an appeal had been lodged.

In addition the Sub-Committee noted that the driver and his Solicitor had been invited to attend the Sub-Committee's meeting but were not in attendance.

RESOLVED that the Private Hire Driver's licence be revoked.

REASON FOR THE DECISION

Having regard to the Home Office Guidelines the Sub-Committee was satisfied that the applicant was not a fit and proper person to hold a Private Hire Driver's licence.

The Sub-Committee were seriously concerned at the driver's extremely offensive behaviour, abusive language and actions towards three elderly and infirm residents of the City and considered that such behaviour towards the public should not be tolerated.

The serious nature of the driver's recorded behaviour, together with the written evidence presented, were considered valid reasons for the Sub-Committee's decision.

LICENSING (GENERAL) SUB – COMMITTEE
MINUTES OF THE MEETING HELD ON WEDNESDAY, 17TH DECEMBER 2009

Present: Councillors Parnell (Chair), Cunio, Drake, Fitzgerald, Norris, Thomas and Willacy

Apologies: Councillors Mrs Blatchford and Galton

15. APOLOGIES/ CHANGES IN MEMBERSHIP

The Panel noted that Councillor Thomas was in attendance as a nominated substitute for Councillor Mrs Blatchford and Councillor Drake was in attendance as a nominated substitute for Councillor Galton in accordance with Council Procedure Rule 4.3.

16. MINUTES OF THE PREVIOUS MEETINGS (INCLUDING MATTERS ARISING)

RESOLVED that the Minutes of the meeting held on 26th November 2009 be signed as a correct record. (Copy of the minutes circulated with the agenda and appended to the signed minutes).

17. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that in accordance with the Council's Constitution, specifically the Access to Information Rules, the press and public be excluded from the meeting at a predetermined point in the hearing in respect of any consideration of the following matters and specifically in respect of any consideration of Items 19 and 20 on grounds based on Categories 1 and 2 of paragraph 10.4 of the Council's Access to Information Procedure Rules because failing to do so would constitute a breach of the Data Protection Act 1998 as well as a breach of a Common Law duty of confidentiality.

18. APPLICATION FOR VARIATION OF STREET TRADING CONSENT - ABOVE BAR PEDESTRIAN PRECINCT - MR. M. AND MRS. P. TRAVERS

The Sub-Committee considered the report of the Solicitor to the Council concerning an application for a variation of the terms of a street trading consent. (Copy of report circulated with agenda and appended to signed minutes).

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

The Sub-Committee noted that no objections to this application had been received and that the proposed hours of trading on a Sunday had been amended by the applicant to maintain the existing permitted hours.

RESOLVED that the application for variation of the terms of the existing street trading consent be granted as follows:

- (i) that the size of the site be extended so that it will not exceed 21 ft in length and 8 ft 6 inches in depth; and
- (ii) that the hours of trading be between the hours of 9.00 am and 8.00 pm, seven days a week (excepting Sundays when the hours of trading be 11.00 am to 5.00 pm).

REASON FOR THE DECISION

Having regard to the Local Government (Miscellaneous Provisions) Act 1982 the Sub-Committee was satisfied that the application to vary the terms of the Street Trading consent at Above Bar Pedestrian Precinct be granted.

19. HACKNEY CARRIAGE DRIVER

The Sub-Committee considered the confidential report of the Solicitor to the Council concerning an application for the grant of a Hackney Carriage driver's licence. (Copy of report circulated with agenda and appended to signed minutes).

The applicant and Councillor Burke were present and, with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with Categories 1 and 2 of Paragraph 10.4 of the Council's Access to Information Procedure Rules.

RESOLVED that the application for a Hackney Carriage Driver's Licence be granted.

REASON FOR THE DECISION

The Sub-Committee was satisfied that, in the light of the oral and written representations, in addition to the character references and qualifications submitted, the applicant could now be considered a fit and proper person to hold a Hackney Carriage Driver's Licence albeit not in strict accordance with the Home Office guidelines .

The Sub-Committee took into account that the Home Office Guidelines required a period of three to five years to have elapsed regarding convictions relating to dishonesty. Whilst stressing the seriousness of the latest conviction the Sub-Committee did not consider that the applicant continued to present any danger to the public.

The Sub-Committee stressed that any further offence of any nature would be viewed very seriously.

The Sub-Committee also recommended that the applicant only drive vehicles fitted with a digital camera.

20. **PRIVATE HIRE DRIVER**

The Sub-Committee considered the confidential report of the Solicitor to the Council seeking consideration on whether an individual was a fit and proper person to be a Private Hire Driver. (Copy of report circulated with agenda and appended to signed minutes).

RESOLVED that in light of the failure to make contact with and the non-appearance of the applicant, pending further information, consideration of this application be deferred to a future meeting.

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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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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

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