

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 13 November 2024 at 10.15 am

Present: Cllr D A Flagg, Cllr E Harman and Cllr M Howell

54. Election of Chair

RESOLVED that Councillor Flagg be elected Chairman of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

55. Apologies

No apologies for absence were received. Cllr Mark Howell stepped up as 1st reserve member to sit on the Sub Committee. This was not reported at the meeting.

56. Declarations of Interests

No declarations of interest were received.

57. Protocol for Public Speaking at Licensing Hearings

The protocol for public speaking at licensing hearings was noted.

58. Havana, 61 Charminster Road, Bournemouth BH8 8UE - Request to adjourn review of premises licence

The Chair advised that the Licensing Authority had received an application from Dorset Police to review the premises licence for the premises known as 'Havana', 61 Charminster Road, Bournemouth BH8 8UE. The Sub Committee was asked to adjourn the hearing until 26 November 2024 to enable the premises to be legally represented at the hearing. This was in accordance with Regulation 12 of the Licensing Act 2003 (Hearings) Regulations 2005 and was with the agreement of all parties.

RESOLVED that consideration of the application to review the premises licence for 'Havana' be adjourned until 26 November 2024.

59. Simply Pleasure.com, 333-335 Holdenhurst Road, Bournemouth, BH8 8BT

Present:

From BCP Council:

Sarah Rogers – Licensing Officer

Johanne McNamara – Legal Advisor to the Sub Committee

Michelle Cutler – Clerk to the Sub Committee

The Chair made introductions and explained the procedure for the hearing which was agreed by all parties.

The Licensing Officer presented a report, a copy of which had been circulated and a copy of which appears as Appendix 'A' to these minutes in the Minute Book.

The Sub Committee was asked to consider an application for the renewal of the Sex Establish Licence of the premises known as 'Simply Pleasure.com', 333-335 Holdenhurst Road, Bournemouth, BH8 8BT to permit the premises to trade as a sex shop for a further twelve-month period. The Licensing Authority had received 3 objections and 2 letters in support of the application.

The following persons attended the hearing and addressed the Sub Committee to expand on the points made in their written submissions:

Tom Clark – on behalf of the Applicant, ABS Holdings
Susan Stockwell – Objector

The Chair advised that one of the objectors, named as 'objector number 3' in the report pack, had submitted 3 written questions on the morning of the hearing, as they were no longer able to attend. The Chair advised that he would read the questions out for a response at the appropriate time during the hearing.

The Sub Committee asked various questions of all parties present and was grateful for the responses received. All parties had the opportunity to ask questions. All parties were invited to sum up before the Sub Committee retired to make its decision. Before concluding the hearing, the Legal Advisor advised all parties of the right of appeal, as appropriate.

RESOLVED that the application to renew the Sex Establishment Licence for the premises known as 'Simply Pleasure.Com', 333 – 335 Holdenhurst Road, Bournemouth BH8 8BT be GRANTED subject to the following conditions:

- i. **' .com' be removed from the front fascia of the premises; and**
- ii. **that the 'General Conditions for a Sex Establishment', as shown in Appendix 3 of the Report, page 29, paragraph 30, be amended to read 'No window shall contain any sign, advertising material, goods or display without the written consent of the Council. For the avoidance of doubt, this**

includes any window display. The window shall only bear a suitable display approved by the Council as and when it is changed’.

The Sub Committee considered in detail all the information which had been submitted before the hearing, including the Senior Licensing Officer’s report, the written submissions of the three objectors, the written submission of the applicant, Mr Timothy Hemming, and the supplementary papers.

The Sub Committee also considered the verbal submissions made by Sarah Rogers, the Senior Licensing Officer, Mrs Susan Stockwell, one of the objectors and Mr Tom Clark, who attended on behalf of the applicant.

The Sub Committee was grateful to all parties for their responses to questions raised at the hearing.

Reasons for Decision:

In making its decision the Sub Committee had regard to the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the available grounds for refusing the application contained within paragraph 12 of that schedule.

During the hearing the Chair read out 3 questions submitted on the morning of the hearing on behalf of Objector number 3, who was unable to attend the hearing. The Senior Licensing Officer gave the following response:

- i. There was no policy in place to dictate how many sex shop licences there could be in the locality.
- ii. There was no statutory requirement in relation to consultation with other agencies when considering applications under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. However, the Licensing Authority did consult with those who were listed as various Responsible Authorities in accordance with the Licensing Act 2003. Such consultation was made in relation to the application before the Sub Committee and included BCP Children’s Services. If a Responsible Authority, such as Children’s Services, wanted to make a representation then it had the opportunity to do so.
- iii. The other premises referred to by Objector 3 was a second ‘Simply Pleasures’ store and was not treated any differently. It was styled differently to the premises on Holdenhurst Road, and the Applicant had closed this in October 2023.

The Sub Committee noted that the premises had traded as a sex shop for over 20 years under the current ownership. The Senior Licensing Officer confirmed at the hearing that no complaints had been received by the

Licensing Authority in connection with the premises. The Sub Committee noted the points raised in the objections and the responses on behalf of the applicant in respect of the premises' location. Mrs Stockwell confirmed during the hearing that she wished to withdraw her objection relating to the unsuitability of the premises as she had now viewed the plan and was satisfied that the premises was suitable.

The Sub Committee did not consider that there had been a material change in the locality since the licence was renewed last year or that there were sufficient grounds based on the character of the locality to refuse the application.

The Sub Committee noted the points raised in objections regarding the window displays, and the sign on the front fascia of the premises 'SimplyPleasure.com'.

Mr Tom Clark, representing the applicant, confirmed that 'SimplyPleasure.Com' was the name of the store. It was noted that Simply Pleasure Ltd' was the legal name and 'ABS Wholesale Ltd' was the parent company.

The Sub Committee was concerned that the sign displayed on the front fascia of the premises 'SimplyPleasure.com' directed the public to a website that was unsuitable for younger people. The Sub Committee felt that many more young people had access to smart phones today and that it was not appropriate for young people to be able to easily access the content shown on the website. The Sub Committee agreed that '.com' should be removed from the front fascia of the premises to protect young people from accessing adult content.

Objectors had submitted representations regarding the window display of the premises, particularly a mannequin dressed in a schoolgirl outfit.

The Sub Committee was advised by the applicant that the window display only featured fully dressed mannequins and that various themes were used throughout the year including summer and Halloween themes, however no bondage outfits/accessories were displayed, and mannequins' nipples were covered. The applicant advised that there was nothing on display in the premises window that could not be seen in other Highstreet shop window displays and that other non-licensed shops sold similar outfits e.g. fancy-dress shops.

The Senior Licensing Officer advised that no complaints had been received regarding the content of the window displays and advised the Sub Committee that day-to-day window displays did not need approval from the Council, however, all major changes had to be approved.

The Sub Committee agreed that there had been some items on display in the window of the premises that you would not find in other stores. The Sub Committee was of the view that some of the displays were inappropriate in an area where families and children may pass and that to address the

concerns raised by objectors the licensing condition listed that the ‘General Conditions for a Sex Establishment’, as shown in Appendix 3 of the Report, page 29, paragraph 30, be amended to read ‘No window shall contain any sign, advertising material, goods or display without the written consent of the Council. For the avoidance of doubt, this includes any window display. The window shall only bear a suitable display approved by the Council as and when it is changed’.

Mrs Stockwell stated that the sex store attracted unsavoury characters to the area however, no evidence was provided to support this or to connect such activity to the premises.

In response to a statement made by Mrs Stockwell that the previous SEV policy for Bournemouth Council was still in place and should therefore be followed, the Legal Advisor to the Sub Committee confirmed that this was incorrect. Legal advice had been sought externally, and it had been concluded that all the steps taken to reach a SEV policy for BCP Council and that the ‘Bournemouth policy’ was due to be reviewed, meant that the Bournemouth policy no longer existed. There is no current SEV policy in place for BCP Council. There is no statutory requirement to have a SEV Policy.

The Sub Committee was mindful that Dorset Police had not made an objection to the application and was of the view that if the Police had concerns about the premises and its effect on crime and disorder in the vicinity, they would have voiced these concerns.

Public Sector Equality Duty

In considering the application, and in coming to its decision, the Sub Committee had regard to the need to eliminate discrimination, foster good relations, and advance equality of opportunity between those with a protected characteristic, and those without. The Sub Committee was advised that the premises welcomed, and was frequented, by men and women and offered a safe space for the LGBTQ community.

The Sub Committee determined that some of the points raised in the objections were not grounds on which the application can be refused, and some were inaccurate or without evidence.

Right of Appeal

If the application for renewal is refused on relevant grounds the applicant may appeal the decision to the Magistrates’ Court within 21 days of the date of this letter.

If, however, the application was refused under Schedule 3, paragraph 12 (3) (c) or (d) of the Local Government (Miscellaneous Provisions) Act 1982, there is no right of appeal within the Act. Any challenge to this must be by way of Judicial Review.

If any objector to the application wants to challenge the decision they can do so by way of Judicial Review.

60. Exclusion of Press and Public

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

61. Consideration of the continued suitability of a Hackney Carriage Driver in the Bournemouth Zone

This item was restricted by virtue of paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual) and 2 (information which is likely to reveal the identity of an individual).

Present:

From BCP Council:

Johanne McNamara – Legal Adviser to the Sub-Committee

Wesley Freeman – Passenger Transport Co-ordinator

Michelle Cutler – Clerk to the Sub Committee

The driver was not in attendance.

The Chair made introductions and explained the procedure to be followed in considering this item, which was agreed by all parties present.

The Licensing Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

The Sub Committee was asked to consider whether the applicant was deemed to be a 'fit and proper' person to allow them to continue to hold a hackney carriage drivers licence in the Bournemouth Zone.

The Sub Committee asked various questions of the Passenger Transport Co-ordinator and was grateful for the responses received.

The Passenger Transport Co-ordinator was invited to sum up before the Sub Committee retired to make its decision. Before concluding the hearing, the Council's Legal Advisor advised all parties of the right of appeal.

RESOLVED that the driver, is not considered to be a ‘fit and proper’ person to continue to hold a hackney carriage drivers’ licence for BCP Council and that his hackney carriage licence be revoked with immediate effect.

Reason for Decision:

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the hearing and contained in the Passenger Transport Co-ordinators report for Agenda Item 8, along with the verbal submissions made at the hearing by Wesley Freeman, Passenger Transport Co-ordinator.

The driver was not present at the hearing.

In considering the test of a ‘fit and proper person’, the Sub Committee had regard to the BCP Council Hackney Carriage and Private Hire Driver Policy 2021 - 2025, the provisions of the Local Government (Miscellaneous Provisions) Act 1976, the Institute of Licensing (IOL) Guidance on determining the suitability of applicants and licensees in the hackney and private hire trades (2018) and the guidance within the Department of Transport Statutory Taxi and Private Hire Vehicle Standards (updated November 2022).

In considering the circumstances of the case the Sub Committee was mindful that the driver showed no recognition or response for his actions in the paperwork that he had submitted in advance of the hearing, which was of notable concern.

The Sub Committee concluded that the applicant was not a ‘fit and proper person to continue to hold a Hackney Carriage drivers’ licence with BCP Council and as such, agreed that his licence be revoked with immediate effect due his repeated pattern of past behaviour towards passengers.

Anyone aggrieved by this decision has the right of appeal to the Magistrates’ Court within a period of 21 days beginning with the day that the applicant is notified, in writing, of the decision.

The meeting ended at 11.34 am

CHAIRMAN