

**BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL**  
**LICENSING SUB-COMMITTEE**

Minutes of the Meeting held on 23 November 2023 at 10.00 am

Present:-

Cllr D Flagg – Chair

Present: Cllr B Castle and Cllr L Williams

48. Election of Chair

**RESOLVED that Councillor D Flagg be elected Chair of the Sub-Committee for the duration of the meeting.**

49. Apologies

There were no apologies.

50. Declarations of Interests

There were no declarations of interest.

51. Protocol for Public Speaking at Meetings

The protocol was noted.

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

Attendance:

BCP Council:

Sarah Rogers – Senior Licensing Officer

Nananka Randle – Licensing Manager

Mary Almeida – Legal Advisor to the Sub-Committee

Jill Holyoake – Clerk to the Sub-Committee

Rebekah Rhodes - Democratic and Overview and Scrutiny Officer  
(observing for training purposes)

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

The Senior Licensing Officer presented the 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 Establishment Licence for 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.

As a result of the consultation two objections had been received against the renewal of the licence. The applicant drafted a letter in response to objector 1. A further response to the applicant was provided by Objector 1 and circulated as a supplement after agenda publication, a copy of this appears as Appendix B to these minutes in the Minute Book.

It was confirmed that there had been no representations received from any of the responsible authorities.

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

- Mr Tom Clark – National Retail Manager, on behalf of the applicant, Mr Tim Hemming, CEO of ABS Holdings Ltd
- Mrs Susan Stockwell – Objector 1

The Sub Committee asked various questions of all parties present and were grateful for the responses received. All parties were invited to sum up before the Sub-Committee retired to make its decision.

**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.**

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

The Sub-Committee also considered the verbal submissions made by the Senior Licensing Officer, Mrs Susan Stockwell, one of the objectors and the verbal submissions of 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 Mrs Stockwell referred to R. v Newcastle Upon Tyne City Council Ex p. The Christian Institute 2000, Mrs Stockwell was assured the Sub-Committee would consider these points with the Legal Advisor during its deliberations.

The Sub-Committee noted that the premises has traded as a sex shop for 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.

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, the use of the word 'proowler' and the name of the website being above the shop.

The Sub-Committee was advised by the applicant that the window display featured dressed mannequins and did not include the photographs of products mentioned in one of the objector's submissions. The applicant explained that the use of the term 'proowler' was well known in the gay community and had no negative connotations. The Sub-Committee also noted that there was nothing to prevent the premises from displaying its website address if it chose to do so.

Objectors complained that girls were being harassed in the street in and around the premises however, no evidence was provided to support this or to connect such activity to the premises.

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.

After full consideration of the objections raised, the case of R. v Newcastle Upon Tyne City Council Ex p. The Christian Institute 2000, the grounds set out in paragraph 12 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the Equality Act 2010 the Sub Committee did not feel there was any basis to refuse the application and therefore resolved to grant it.

### **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, any challenge 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.

#### 53. 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.**

#### 54. Consideration of the suitability of an individual to become a Hackney Carriage and/or Private Hire Driver

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).

Attendance:

From BCP Council:

Nananka Randle – Licensing Manager

Mary Almeida – Legal Advisor to the Sub-Committee

Jill Holyoake – Clerk to the Sub-Committee

Rebekah Rhodes - Democratic and Overview and Scrutiny Officer (observing for training purposes)

The Applicant and their companion were also in attendance.

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

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'C' 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 with the application process for a hackney carriage/private hire drivers licence.

The applicant and their companion addressed the Sub Committee to present their case.

The Sub-Committee asked various questions of all parties present and was grateful for the responses received.

All parties were 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 applicant is not considered to be a 'fit and proper' person to continue with the application process to become a licenced hackney carriage and/or private hire driver.**

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the hearing and contained in the Licensing Officer's report for Agenda Item 7 and the verbal submissions made at the hearing by all parties and the responses to questions.

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).

Taking all relevant factors into consideration the Sub- Committee concluded that the applicant is not a 'fit and proper person' to continue with the application process to become a licensed Hackney Carriage/Private Hire driver.

### **Rights of Appeal.**

If any party does not agree with the decision of the Licensing Sub-Committee they may appeal to the Magistrates' Court within a period of 21 days beginning with the day that they are notified, in writing, of the decision.

55. Consideration of the suitability of an individual to become a Hackney Carriage and/or Private Hire Driver

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).

Attendance:

From BCP Council:

Nananka Randle – Licensing Manager

Mary Almeida – Legal Advisor to the Sub-Committee

Jill Holyoake – Clerk to the Sub-Committee

Rebekah Rhodes - Democratic and Overview and Scrutiny Officer (observing for training purposes)

The Applicant and their legal representative were also in attendance.

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

The Licensing Manager presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'D' 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 with the application process for a hackney carriage/private hire drivers licence.

The applicant and their legal representative addressed the Sub Committee to present their case.

The Sub-Committee and all parties were given 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 Council's Legal Advisor advised all parties of the right of appeal.

**RESOLVED that the applicant is considered to be a 'fit and proper' person to continue with the application process to become a licenced hackney carriage and/or private hire driver.**

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the hearing and contained in the Licensing Officer's report for Agenda Item 8 and the verbal submissions made at the hearing by all parties.

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).

Taking all relevant factors into consideration the Sub- Committee concluded that the applicant is a 'fit and proper person' and that it is appropriate to depart from the policy so that they can continue with the application process to become a licensed Hackney Carriage/Private Hire driver.

**Rights of Appeal.**

If any party does not agree with the decision of the Licensing Sub-Committee they may appeal to the Magistrates' Court within a period of 21 days beginning with the day that they are notified, in writing, of the decision.

The meeting ended at 1.05 pm

CHAIR

This page is intentionally left blank