

Date of issue: 5<sup>th</sup> January, 2017

<b>MEETING:</b>	<b>LICENSING SUB-COMMITTEE</b> (Councillors Davis (Chair), Sohal and Strutton)
<b>DATE AND TIME:</b>	MONDAY, 16TH JANUARY, 2017 AT 10.00 AM
<b>VENUE:</b>	PLUTO SUITE 4, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE
<b>DEMOCRATIC SERVICES OFFICER:</b> (for all enquiries)	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**ROGER PARKIN**  
Interim Chief Executive

AGENDA

PART I

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Apologies for absence.

**CONSTITUTIONAL MATTERS**

1. Declarations of Interest

*All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the*

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*Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.*

*The Chair will ask Members to confirm that they do not have a declarable interest.*

*All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.*

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| 2. | Guidance on Predetermination/ Predisposition - To Note | 1 - 2 |
| 3. | Minutes of the Last Meeting held on 5th December, 2016 | 3 - 6 |

**LICENSING ISSUES**

*This 'General' Licensing Sub-Committee is convening to hear and decide licensing matters other than those arising under the Licensing Act 2003 and Gambling Act 2005. This includes (amongst others) applications for hackney carriage/private hire drivers' licences, hackney carriage/private hire vehicle licences and street trading consents.*

4. Exclusion of the Press and Public

It is recommended that the press and public be excluded from the remainder of the meeting as the items to be considered contain exempt information relating to individuals as defined in Paragraphs 1 and 2 of Part I of Schedule 12A to the Local Government Act 1972.

**PART II**

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| 5. | Private Hire Conduct Hearing- (Ref 03-16) | 7 - 14 |
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**Press and Public**

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

## PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

### Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

### Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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**Licensing Sub-Committee – Meeting held on Monday, 5th December, 2016.**

**Present:-** Councillors Davis (Chair), A Sandhu and Wright

**Officers Present:-** Teresa Clark, Senior Democratic Services Officer, Tola Idowu, Licensing Officer, Alison Peters, Legal Representative.

**PART 1**

**12. Declarations of Interest**

None.

**13. Guidance on Predetermination/ Predisposition - To Note**

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

**14. Minutes of the Last Meeting held on 7th November, 2016**

**Resolved-** That the minutes of the last meeting held on 7<sup>th</sup> November, 2016 be approved as a correct record.

**15. Application for a Street Trading Consent: 'Mean Burger', The Service Road between 220, Farnham Road (Farnham Road Post Office) and 216-218, Farnham Road, ('Way to Save'). Slough**

The Chair welcomed all parties to the meeting and asked those present to introduce themselves and explained the procedure for the hearing. The Applicant attended the hearing.

Introduction by the Licensing Officer

The Licensing Officer introduced the report stating that an application for a Street Trading Consent in the location of the Service Road between 220, Farnham Road and 216-218, Farnham Road, Slough, had been received. The premises would trade as 'Mean Burger'.

The Sub Committee was reminded that the Council had designated all streets in the Borough as consent streets but Street Trading was only allowed with the consent of the Council. The Council could limit the number of Consents issued and attach appropriate conditions.

It was highlighted that a Street Trading Consent for the site was previously granted to "Aleks Kebabs" who operated from 2009 to November 2015 until the operator ceased trading. No complaints were received in respect of Aleks Kebabs and the Applicant for 'Mean Burger' proposed a similar use.

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The Officer discussed the consultation which had taken place with relevant authorities and owners/ occupiers of properties within 100 metres of the proposed site. Objections were received from owners/ occupiers which included the following grounds:

- The granting of the application would result in noise and anti-social activities.
- There would be an increase in litter in the form of food waste and drinks cans and bottles.
- There would be a loss of view to current shop holders if the Consent was granted.
- Access to the service road would be obstructed.

The Sub Committee was reminded that conditions could be attached to the Consent where deemed necessary and these could be varied when required. The Consent was valid for a year and could be reviewed annually. Further, the Council could revoke a Consent at any time.

Should it grant the Consent, the Sub Committee was recommended to impose a number of conditions as set out in the report. The Licensing Team would review any complaints received during the Applicant's first year of trade.

### Questions to Licensing Officer

A Member asked whether the Consent would be subject to the payment of Business Rates. The Officer believed this was not the case but would confirm this.

### Representations by the Applicant

The Applicant responded to the objections received and advised that he was not aware of any anti-social behaviour in the locality of the Consent and he did not accept that a trailer van would attract such behaviour. He anticipated that customers would buy their food and leave the location immediately as there was no seating. He was personally averse to litter and would ensure that a frequent check was carried out and any litter removed. He highlighted that no alcohol would be available for sale. He disagreed that any of the shop fronts on Farnham Road would be obstructed and his business would target the higher end of the market with quality food. He also confirmed that the business would only trade for 4 hours from 7 pm to 11 pm.

The applicant observed that the wording of the individual letters of objection were repetitive in nature.

### Questions to the Applicant

Members asked a number of questions including whether the Applicant had experience in the food trade, and whether he intended to operate the business on his own. The Applicant confirmed that he had family experience

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in the trade and should he need an assistant then he would apply for a nominated assistant permission.

The Licensing Officer and the Applicant summed up. All parties were asked to leave the meeting at 10.40 am whilst the Sub-Committee deliberated. The Sub Committee re-convened at 11.00 am.

### Decision

The Sub-Committee carefully considered all of the evidence at its disposal, and it was:

**Resolved-** That a Street Trading Consent for 'Mean Burger', the Service Road between 220, Farnham Road, and 216-218, Farnham Road, Slough, be granted for one year, subject to the following conditions:-

1. A limit on the hours of trade which can be undertaken (hours of operation Monday to Saturday from 19:00 hrs to 23:00 hrs and on Sunday from 17:00 hrs, to 23:00 hrs.
2. A bin must be placed on the site and a litter pick of a 25 metre radius of the site and a litter pick undertaken on a daily basis.
3. Removal of all rubbish daily.
4. A prohibition on leaving vehicles at the site overnight.

Chair

(Note: The Meeting opened at 10.00 am and closed at 10.50 am)

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**AGENDA ITEM 5**

By virtue of paragraph(s) 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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