

## STREET TRADING CONSENTS

### PROCEDURAL RULES FOR THE HEARING OF APPEALS

#### 1 Purpose

- 1.1 These rules have been prepared to facilitate proper consideration of appeals against a decision by an Authorised Officer of the Council to:-
  - 1.1.1 to refuse an application for a Street Trading Consent under paragraph 7 (2) of Schedule 4 to the Local Government ( Miscellaneous Provisions) Act 1982 ('the Act');
  - 1.1.2 to impose conditions on the grant of a Street Trading Consent under paragraph 7 (4) of Schedule 4 to the Act, or
  - 1.1.3 to revoke a Street Trading Consent under paragraph 7 (10) of Schedule 4 to the Act.
- 1.2 The rules set out a framework for how appeals are to be heard and explain the role of the participants at the hearing.

#### 2 The Licensing Sub Committee

- 2.1 The Council has delegated authority to the Licensing Sub Committee to hear appeals relating to street trading consents. The Sub Committee comprises three members of the Council.
- 2.2 The members of the Sub Committee shall elect one of their number to chair the appeal hearing
- 2.3 In the event that a member of the Sub Committee, or his/her substitute, is not present at the time scheduled for the start of the hearing, the hearing may proceed with two members or may be adjourned to another date at the discretion of the Chairman of the Sub Committee,.

#### 3 Parties to the Hearing

- 3.1 The parties to the hearing shall be the applicant or Consent holder (as applicable) ('the Appellant') and the officer who made the decision being challenged ('the Authorised Officer').
- 3.2 Either party may be represented by another person, if they so wish.
- 3.3 At the hearing, either party may call any other person to speak in support of their representation

## **4 The Hearing**

- 4.1 The Hearing shall take place in public unless the Sub Committee resolve to exclude the public and press in accordance with the provisions of s.100 A Local Government Act 1972.
- 4.2 In addition to the Sub Committee members and the parties (and any representatives and/or witnesses), the following may also attend the hearing:-
- a legal adviser to the Sub Committee ('the Legal Adviser')
  - a representative from Democratic Services to take minutes of the hearing on behalf of the Sub-Committee ('Committee Manager')
- 4.3 The Sub Committee may require any person attending the hearing who, in its opinion, is behaving in a disruptive manner, to leave the hearing and may:
- a refuse to permit them to return;
  - b permit them to return only on such conditions as the Sub Committee may specify;
  - c in the event that a person is required to leave a hearing that person may, before the end of the hearing, submit to the Sub Committee in writing any information which they would have given orally.
- 4.4 At the start of the hearing, the Chairman shall advise the parties of the procedure it proposes to follow at the hearing.
- 4.5 The Sub Committee will allow the parties an equal maximum period of time in which to exercise their rights.
- 4.6 This equal maximum time may have been notified in advance of the hearing.
- 4.7 Ultimately the Chairman determines the application of these rules, having regard to any submissions being made by those present and in particular the Legal Adviser.

## **5 Presentation of Representations**

- 5.1 The Chairman will explain the purpose of the hearing.
- 5.2 Submissions shall be made in the following order unless the Chairman directs otherwise:
- The Authorised Officer will explain to the Sub Committee the reasons why he/she determined to refuse the application/impose conditions/ revoke the Consent
  - The Appellant will explain to the Sub Committee the reasons why he/she considers that the application should be granted/conditions not be imposed/Consent be not revoked.

## **6 Questioning of Submissions**

- 6.1 The Chairman will regulate the order in which questions are asked by Sub Committee members.
- 6.2 The Sub Committee members may question any party following the completion of their submission.
- 6.3 The Chairman will normally permit each party to ask questions of the other party.
- 6.4 The Chairman may direct that questions which are not considered to be relevant to the hearing are not formally put or answered.
- 6.5 The Chairman shall invite the Legal Adviser, if present, to advise the Sub Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairman may adjourn the Hearing so that advice can be given.

## **7 Documentation**

- 7.1 Copies of all documentation to be referred to at the hearing shall be provided to the Sub Committee and to the other party at least five working days before the hearing. The Sub Committee may decline to consider documentation submitted after that time if it considers it to be appropriate to do so, having heard submissions from the parties and taken advice from the Legal Adviser.
- 7.2 No Party shall present new documentation to the Sub Committee at the hearing other than with the consent of all of the other party, unless the Sub Committee considers that such documentation should be taken into account in the interests of justice.
- 7.3 The Sub Committee may give such weight to any late documentation as it considers appropriate.

## **8 Failure of Parties to Attend Hearing**

- 8.1 If a party has informed the Sub Committee that it does not intend to attend or be represented at a hearing, the hearing may proceed in its absence.
- 8.2 If a party has not indicated that it does not intend to attend or be represented at a hearing and fails to attend or be represented at the hearing then the Sub Committee may:
  - where it considers it be necessary in the public interest, adjourn the hearing to a specified date; or
  - hold the hearing in the Party's absence.

8.3 Where the Sub Committee holds a hearing in the absence of a party, it shall consider at the hearing the application and any written representations made by that party.

## **9 Closing Submissions**

9.1 The Chairman shall allow first, the Authorised Officer or their representative and secondly the Appellant or their representative an opportunity to make an oral closing submission.

## **10 Decision**

10.1 The Sub Committee and the Legal Adviser and Committee Manager, if present, shall retire so that the decision may be considered in private.

10.2 The Sub Committee's decision shall be decided by a majority. If required, the Chairman shall have a second or casting vote.

10.2 The decision of the Sub Committee, and reasons for the decision, shall normally be notified to the parties within five working days of the close of the Hearing.

## Hearing Procedure Summary

1. The Chairman welcomes all those present and explains the purpose of the hearing.
2. The Chairman invites the Sub Committee members and the parties to the hearing to introduce themselves.
3. The Chairman outlines the hearing procedure.
4. The Authorised Officer presents the reasons for the proposed decision to refuse the application/ impose conditions/ revoke the Consent, calling any witnesses in support.
5. Questions to the Authorised Officer or any witness by the Appellant.
6. Questions to the Authorised Officer or any witness by members of the Sub Committee.
7. The Appellant presents their case against the proposed decision to refuse the application/ impose conditions/ revoke the Consent, calling any witnesses in support.
8. Questions to the Appellant or any witness by the Authorised Officer.
9. Questions to the Appellant or any witness by members of the Sub Committee.
10. Summing up by the Authorised Officer.
11. Summing up by Appellant.
12. Sub Committee retires with the Legal Adviser and Committee Manager (if appropriate) to consider its decision.
13. The decision will be normally be notified to the parties in writing with reasons within five working days.