

Agenda

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Licensing and Registration Sub Committee

Date: **Monday 16 December 2013**

Time: **5.30 pm**

Place: **St. Aldate's Room, Town Hall**

For any further information please contact:

Lois Stock, Democratic and Electoral Services Officer

Telephone: 01865 252275

Email: lstock@oxford.gov.uk

Licensing and Registration Sub Committee

Membership

Chair

Vice-Chair

Councillor Van Coulter	Barton and Sandhills;
Councillor Gwynneth Royce	St. Margaret's;
Councillor Mary Clarkson	Marston;
Councillor Rae Humberstone	Blackbird Leys;

HOW TO OBTAIN AGENDA

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AGENDA

Pages

1 ELECTION OF CHAIR

The Sub-Committee will be asked to elect a Chair of the Committee for the remainder of the 2013/14 Council year.

2 ELECTION OF VICE-CHAIR

The Sub-Committee will be asked to elect a Vice-Chair of the Committee for the remainder of the Council year 2013/14.

3 APOLOGIES FOR ABSENCE

The quorum is two Members and substitutes are allowed.

4 DECLARATIONS OF INTEREST

Members are asked to declare any disclosable pecuniary interests they may have in any of the following agenda items. Guidance on this is set out at the end of these agenda pages.

5 PROCEDURE TO BE FOLLOWED

1 - 6

Guidance is attached

6 BREACH OF STREET TRADING CONSENT CONDITIONS - MR HAROON KHAN

7 - 16

The Head of Environmental Development has submitted a report which details a Street Trading Consent where the street trader has not adhered to the conditions of the Street Trading Policy.

The Sub-Committee is asked to determine what action to take in relation to Mr Haroon Khan's Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

7 SIMPLY PLEASURE COM - APPLICATION FOR THE RENEWAL OF A SEX SHOP LICENSE, 181 COWLEY ROAD, OXFORD, OX4 1UY

17 - 54

The Head of Environmental Development has submitted a report which details an application submitted by Simply Pleasure Com for the renewal of a Sex Shop Licence for its premises at 181 Cowley Road, Oxford, OX4 1UY.

The Sub-Committee is asked to determine the application, taking into

account the details in the report and any representations made at the Sub-Committee meeting.

8 MINUTES

55 - 58

Minutes of the meeting held on 26th November 2013.

9 MATTERS EXEMPT FROM PUBLICATION

If the Sub Committee wishes to exclude the press and the public from the meeting during consideration of any aspects of the preceding agenda items it will be necessary for the Sub Committee to pass a resolution in accordance with the provisions of Section 100A(4) of the Local Government Act 1972 specifying the grounds on which their presence could involve the likely disclosure of exempt information as described in specific paragraphs of Part 1 of Schedule 12A of the Act if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

DECLARING INTERESTS

General duty

You must declare any disclosable pecuniary interests when the meeting reaches the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you.

What is a disclosable pecuniary interest?

Disclosable pecuniary interests relate to your employment; sponsorship (ie payment for expenses incurred by you in carrying out your duties as a councillor or towards your election expenses); contracts; land in the Council's area; licences for land in the Council's area; corporate tenancies; and securities. These declarations must be recorded in each councillor's Register of Interests which is publicly available on the Council's website.

Declaring an interest

Where any matter disclosed in your Register of Interests is being considered at a meeting, you must declare that you have an interest. You should also disclose the nature as well as the existence of the interest.

If you have a disclosable pecuniary interest, after having declared it at the meeting you must not participate in discussion or voting on the item and must withdraw from the meeting whilst the matter is discussed.

Members' Code of Conduct and public perception

Even if you do not have a disclosable pecuniary interest in a matter, the Members' Code of Conduct says that a member "must serve only the public interest and must never improperly confer an advantage or disadvantage on any person including yourself" and that "you must not place yourself in situations where your honesty and integrity may be questioned". What this means is that the matter of interests must be viewed within the context of the Code as a whole and regard should continue to be paid to the perception of the public.

¹ Disclosable pecuniary interests that must be declared are not only those of the member her or himself but also those of the member's spouse, civil partner or person they are living with as husband or wife or as if they were civil partners.

OXFORD CITY COUNCIL

LICENSING and REGISTRATION SUB-COMMITTEE

HEARING PROCEDURES:

Housekeeping Matters

- Mobiles must be switched off
- No smoking throughout the building
- Consumption of food is not permitted

The Meeting

1. The Licensing Casework Sub-Committee will usually consist of four members of the Council (councillors) who are also members of the Council's General Purposes Licensing Committee. In some circumstances it may sit with a quorum of 2 councillors. At the start of each Sub-Committee meeting a Chair shall be elected from among the members. The Sub-Committee is responsible for reaching a decision upon the application having heard representations and considering all relevant material presented.

The Paperwork

2. Officers of the licensing authority (the City Council) will prepare the paperwork for the application that is to be heard by the Sub-Committee. The paperwork will include:-
 - A summary of the application, the representations received and of any other relevant material
 - The application and any other supporting material supplied by the applicant
 - Any observations on the application made by the Police or other technical advisor to the Sub Committee
 - Any representations of objection to the application

Introductions

3. The Chairman will commence the hearing by introducing her or himself and the other Sub-Committee members. The Chair will then ask all of the other parties present to introduce themselves and explain in what capacity they are attending.

Conduct of Proceedings

4. The role of the Chair is to control the proceedings. All questions must be put through the Chair.
5. The Chair will indicate that the members of the Sub-Committee have read and familiarised themselves with the papers and issues. The Chair will stress that the Sub-Committee does not therefore require points to be made or repeated at length.
6. The hearing shall take the form of a discussion. Formal cross-examination shall not be permitted unless the Chairman considers that cross-examination in a particular circumstance would assist. In exercising this discretion to permit cross-examination, the Chairman must have regard to the rules of natural justice and the right to a fair hearing.
7. Members of the Sub-Committee may ask questions to any party to elicit further information. The representative of the licensing authority may also ask questions of any party in order to clarify the evidence and any issues in the case.
8. In considering the application or any representation made by a party the Sub-Committee may take into account documentary or other information relied on by a party in support of their application or representation - provided that copies of the information have been supplied to the Licensing Authority at least seven working days before the hearing or, with the consent of all the other parties, after that time.
9. Where a person attending the hearing is acting in a manner that the Sub-Committee consider is disruptive, the Sub-Committee may require that the person leave the hearing and may:
 - (a) refuse to permit that person to return; or
 - (b) permit him / her to return only on such conditions as the authority may specify.

10. Before the end of the hearing any person who was required to leave the hearing under paragraph 11 may submit in writing any information which they would have been entitled to give orally had they not been required to leave.

Order of Proceedings

11. Any party may be assisted or represented by any person whether or not that person is legally qualified.

The Licensing Authority

12. The representative of the licensing authority shall present the paperwork relating to the application to be heard by the Sub-Committee. The representative shall say who the applicant is, what the application is for and explain the paperwork before the Sub-Committee.

Applicant's case

13. The Applicant will outline their application and present their case and may call witnesses if desired.
14. The Sub Committee may ask questions of the Applicant.
15. Other parties may ask factual questions of the Applicant. Cross-examination will only be permitted with the consent of the Chair.

Observations of Police and/or Technical advisors

16. Where appropriate the police or technical advisers to the Sub Committee may make their observations.
17. The Sub Committee may ask questions of the Police and/or technical advisors.
18. Other parties may ask factual questions of the Police and/or technical advisors. Cross-examination will only be permitted with the consent of the Chair.

Objector's case

19. Where written representations of objection have been received the Sub Committee will have regard to those representations. Any

Objectors attending the hearing may make oral representations in support of their objection and call witnesses if they wish. However, the Sub Committee will not require repetition of points already made in written representations.

20. Where a number of objectors have made representations which are similar in nature the Sub Committee will expect a spokesperson to be appointed to represent the group.
21. The Sub Committee may ask questions of any objector.
22. Other parties may ask factual questions of any objector. Cross-examination will only be permitted with the consent of the Chair.

Closing submissions

23. All parties will then be given the opportunity briefly to summarise their key points. The order shall be:-
 - Objectors
 - Police and/or technical advisors
 - Applicant

Determinations

24. At the end of the submissions, the Chair will announce that the hearing is adjourned while the Sub-Committee deliberate in private. The Sub Committee will be accompanied by the Committee Clerk and Legal Advisor during their deliberations.
25. If it is necessary to recall any party for clarification of any point, then all parties should be recalled.
26. The Chair will either:
 - Announce the decision of the Sub Committee and confirm that a written determination with reasons will be sent to the parties by a given date.

or

 - Close the hearing and confirm that once a decision has been made a written determination with reasons will be sent to the parties by a given date.

27. In any event a written determination setting out the reasons for the decision will be sent to the parties within five working days of the hearing.

Closed hearing

28. The hearing shall normally take place in public. However, the Sub-Committee may exclude the press and the public from all or part of a hearing where exempt information (*section 100A(4) Local Government Act 1972*) is concerned and the Sub Committee considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

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To: Licensing & Registration Sub Committee

Date: 16th December 2013 **Item No:**

Report of: Head of Environmental Development

Title of Report: Breach of Street Trading Consent Conditions – Mr Haroon Khan

Summary and Recommendations

Purpose of report: To consider a Street Trading Consent where the street trader has not adhered to the conditions of the Street Trading Policy.

Report Approved by:

Finance: Paul Swaffield
Legal: Daniel Smith

Policy Framework: Street Trading Policy
A vibrant and sustainable economy

Recommendation(s):

Committee is recommended to determine what action to take in relation to Mr Haroon Khan's Street Trading Consent, taking into account the details in this report and any representations made at this Sub Committee meeting.

Legislative Background/Legal Framework

1. In 1986 the Council resolved that Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 should apply to its area. Under Schedule 4 the Council can manage street trading by designating streets as "consents streets", "licence streets" or "prohibited streets". All streets within Oxford are currently designated "consent streets" and any trading requires the grant of a street trading consent. Street trading consent may be granted as the Council "thinks fit". When exercising the power to grant and enforce consents the Sub Committee should only take into account relevant considerations; must give each applicant or consent holder a fair hearing and should give reasons for their decision.

2. Street trading consent is granted subject to the Council's standard conditions. The Sub Committee may amend or attach any additional conditions to a Consent that it considers "reasonably necessary".

Policy Considerations

3. The Street Trading Policy was adopted by Council in July 2010 and came into force on 1st January 2011 for existing traders. Paragraph 5.2 of the Policy states that the Head of Environmental Development is authorised to:

"5.2(c) refer applications to the Licensing and Registration Sub Committee; (i) when there has been a complaint about the trader or the trader has broken the conditions of their Street Trading Consent."

Reasons for Referral to Licensing & Registration Sub Committee

4. Mr Haroon Khan holds the Street Trading Consent for Street Trading Site 7, New Road opposite County Hall Car Park. The Consent was issued on 1st April 2013 and will expire on 31st March 2014. Mr Khan is permitted to trade Monday to Sunday 18:30 – 03:00hrs and sells hot food and soft drinks.
5. The Consent has been referred to the Sub-Committee in accordance with paragraph 5.2 of the Policy as Mr Khan has been observed by Council Officers trading outside of his permitted hours on three separate occasions over a three month period. Mr Khan is therefore in breach of Condition 2 of the General Conditions for Annual Street Trading Consents.

"2 The operational hours shall be:
Between the hours of 18:30 and 03:00 on Monday
Between the hours of 18:30 and 03:00 on Tuesday
Between the hours of 18:30 and 03:00 on Wednesday
Between the hours of 18:30 and 03:00 on Thursday
Between the hours of 18:30 and 03:00 on Friday
Between the hours of 18:30 and 03:00 on Saturday
Between the hours of 18:30 and 03:00 on Sunday"

A full copy of Mr Khan's Street Trading Consent and General Conditions for Annual Street Trading Consents can be found at Appendix A of this report.

6. On 4th April 2013 a letter was sent to all Street Trading Consent holders regarding an allegation of Street Trading Consent Holders trading longer than their permitted hours (see Appendix B). The letter reminded all traders of the implications if they were caught trading out of hours. The letter also urged traders to contact Miscellaneous Licensing if they were

unclear about the letter. No contact was received from Mr Khan following the letter.

7. On Sunday 18th August 2013 at 03:10hrs two Council Officers from Environmental Development's out of Hours Service observed Mr Khan trading outside of his permitted hours. As a result Samantha Howell, Licensing Officer wrote to Mr Khan on 28th August setting out the offence committed (see Appendix C). The letter offered an appointment to discuss the matter further and discuss the option of extending the current trading times if necessary.
8. Mr Khan attended an appointment on Tuesday 10th September with Samantha Howell. At this meeting both Mr Khan's Street Trading Consent and Premises Licence were discussed and it was confirmed that Mr Khan only had permission to trade until 03:00hrs Monday to Sunday. Samantha Howell gave advice on how to apply to extend the hours on Mr Khan's Premises Licence by way of a variation under the Licensing Act 2003. It was explained that if the variation was successful the Street Trading Consent would then be amended to reflect the extended hours. Mr Khan left with the appropriate application form, guidance and contact details for the General Licensing Team.
9. On Sunday 13th October 2013 at 03:28hrs two Council Officers from Environmental Development's out of Hours Service observed Mr Khan Trading outside of his permitted hours. No application had been submitted or approved to extend his hours of trading.
10. On Saturday 26th October 2013 at 03:20hrs two Council Officers from Environmental Development's out of Hours Service observed Mr Khan Trading outside of his permitted hours.
11. To date no application has been received by the General Licensing Team to extend the hours on Mr Khan's Premises Licence.

Financial Implications

11. The Council collects fees for the Street Trading function. Predicted income from licence fees are included in the Council's budget.

Legal Implications

12. Street Traders cannot be said to enjoy security of tenure. A Consent may be revoked at any time. There is no legitimate expectation in law that a Consent will be indefinitely renewed and there is no requirement for the Council to give compensation for the loss of any consent (other than any refund of consent fees paid in advance). However, any decision to terminate a street trading consent or refuse an application may be subject to a judicial review and if the decision were held to be unreasonable then compensation may result.
13. Any decision to revoke a consent or refuse a renewal application must be proportionate taking into account all relevant circumstances and the

applicants, or Consent holder's, right to a fair hearing. An application should not be refused, or consent revoked, arbitrarily or without clear reasons.

Breach of a condition of a street trading consent is an offence for which the holder may be separately prosecuted.

Human Rights Act Considerations

14. Article 1 of the first Protocol of the European Convention on Human Rights provides that every person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law. However a street trading consent is not generally considered to be a possession in law and the protection in Article 1 is therefore not directly engaged.
15. Nevertheless, with the advice of Law & Governance and in the interests of fairness, the Sub Committee should consider whether any proposed action would be proportionate, in the public interest and subject to the conditions provided for by law.

Name and contact details of author: Samantha Howell
Tel: 01865 252558
Email: showell@oxford.gov.uk

Background papers:

Appendix A – Consent and Conditions

Appendix B – Letter to all Traders re Trading out of Permitted Hours 4th April 2013

Appendix C – Letter re Breach of Street Trading Consent Conditions 28th August 2013

Version number: 3

Environmental Development

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 CERTIFICATE OF STREET TRADING CONSENT

Oxford City Council grant a Street Trading Consent to:

Licence Holder: Mr Haroon Khan

Consent Number: 13/00784/STREET

Consent Issued: 9th April 2013

Valid From: 9th April 2013

Valid To: 31st March 2014

Fee: £7490

Vehicle/Stall Details: BX60 EUU Renault

Area/Site: Street Trading Site 7 (opposite County Hall Car Park), New Road, Oxford

Permitted Trading Days and Hours: Trading between the hours of 18:30 and 03:00 Monday - Sunday

Articles Sold: Hot Food and Soft Drinks

This certificate of Street Trading Consent is issued subject to the standard street trading conditions and any other additional conditions attached to this certificate.

Possession of this document does not guarantee that the consent is in force. Its validity may be established by referring to the Councils Licensing Department.

Conditions of Consent are attached to this certificate.

Authorised Officer

Head of Environmental Development



General Conditions for Annual Street Trading Consents

1. No trading to which the attached consent relates shall take place except between the dates of: 9th April 2013 to 31st March 2014.
2. The operational hours shall be:
Between the hours of 18:30 and 03:00 on Mondays
Between the hours of 18:30 and 03:00 on Tuesdays
Between the hours of 18:30 and 03:00 on Wednesdays
Between the hours of 18:30 and 03:00 on Thursdays
Between the hours of 18:30 and 03:00 on Fridays
Between the hours of 18:30 and 03:00 on Saturdays
Between the hours of 18:30 and 03:00 on Sundays
3. The street trading consent relates to the following area/site only: Street Trading Site 7 opposite County Hall Car Park, New Road, Oxford.
4. The street trading consent relates to the following vehicle/stall only: BX60 EUU
5. Street trading can only be carried out from the stall or vehicle authorised under the conditions of the consent. Any changes to or replacement of the stall or vehicle must be approved by the Head of Environmental Development.
6. The Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force. Consent Holders must pay particular attention to the requirements of the Health & Safety at Work Act, 1974, the Food Safety (General Food Hygiene) Regulations 1995. Advice on these requirements is available from the Environmental Health Department. The Consent Holder shall not drive or park a vehicle on any part of a footway. (It is an offence to drive other than on a road)
7. The Consent Holder shall not be the cause of any nuisance or annoyance to any other user of the highway, the occupier of any land or building or the Oxford City Council. Consent Holders shall have special regard to and must take positive action to prevent excessive noise.
8. The Environmental Protection Act 1990 places a duty of care on businesses to dispose of waste originating from their trade in a certain manner. The Consent holder shall ensure refuse originating from their trade is disposed of by a licensed waste carrier and shall leave the site clear of refuse at the completion of trading. No water or waste material shall be discharged on to the highway or any adjacent property. The Consent Holder shall ensure that the area in the vicinity of the stall/vehicle is kept clear of all refuse at all times.
9. Consent Holder's vehicle/stall shall be kept in a clean, safe and well maintained condition and be of a presentable appearance. The Street Trading Consent bearing the name of the consent holder shall be

- displayed conspicuously on the stall/vehicle so that members of the public can clearly see it during hours of business.
10. The Consent Holder's vehicle shall be maintained in a roadworthy condition, taxed, insured and with a current MOT Certificate.
 11. The Consent Holder shall ensure that the stall/vehicle is positioned only in the allocated space (which may be marked on the ground) in the Consent Street for which the Street Trading Consent is issued. All goods shall be displayed on the stall and no freestanding racks or displays are permitted. If a Consent Holder or operator/assistant is requested to move the vehicle/stall by an authorised Council Officer or Police Officer they shall immediately comply with that request.
 12. The Consent Holder's stall shall not exceed 2.3 metres in height nor occupy an area greater than 2 metres x 1 metre.
 13. The Consent Holder must take adequate precautions to prevent the risk of fire at the stall or vehicle. All hot food vans/trailers are required to comply with current legislation on fire safety. Where gas cylinders are used an annual gas safety certificate is required to ensure the safety of all gas cooking and heating equipment. A serviceable fire blanket and a foam fire extinguisher shall be provided in all vehicles selling hot food.
 14. All hot food vans/trailers are required to carry a basic first aid kit. The Consent Holder and others operators should know how to give first aid to treat victims of burns and cuts. All hot food vans should have access to a minimum of one mobile phone that must be serviceable at all times.
 15. All staff involved in the preparation of food shall hold a current Level 2 food safety certificate that is accredited by the Chartered Institute of Environmental Health, or the Royal Society of Health, or the Royal Institute of Public Health and Hygiene.
 16. A Street Trading Consent cannot be transferred or sold to another person except that the Consent may be transferred to a member of the Consent Holder's immediate family in the event of the Consent Holder's death or incapacity on payment of a fee. The sub letting of a pitch is prohibited.
 17. The Consent Holder must be the principal operator and have day to day control of the stall/vehicle. The Consent Holder may employ any other person to assist in operating the stall/vehicle and shall notify the Head of Environmental Development of the name and address of that person. An administration fee will be payable.
 18. Anyone who operates a stall/vehicle other than the Consent Holder must be authorised by the Head of Environmental Development.
 19. A Consent Holder may terminate a Street Trading Consent by written notice to the Head of Environmental Development. A refund of the portion of the fee equal to the remaining full months will be payable, less £50 which the Council will retain to cover administrative costs.
 20. Consent holders shall ensure that disabled people and wheelchair users can be adequately served. This may involve serving persons from outside the vehicle.

21. A copy of the Consent shall be carried by the operator when trading and must be produced on demand to a Council Officer or Police Officer.
22. Consent Holders shall have and maintain a proper insurance policy against public liability and third party risks. The minimum insurance cover shall be £10,000,000 and shall cover the operator's vehicle, or stall and any additional equipment under their control. If food is sold the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate or cover note shall be produced to the City Environmental Health Officer before the Street Trading Consent is issued. Proof of cover must be produced to an officer of Oxford City Council as required.
23. These general conditions, which apply to all Street Trading in Oxford, may be varied, having regard to a particular location. They are termed Special Conditions and listed on the Consent Certificate. These Special Conditions must also be complied with.
24. Instalments are required quarterly, in advance. On or before the following dates; 1st April, 1st July, 1st October and 2nd January. Annual fees may be paid in advance.

Failure to comply with these conditions

If a Consent Holder fails to comply with any of the conditions attached to a Street Trading Consent, the Consent may be suspended for an indefinite period or revoked. The Consent Holder may also be prosecuted.

Environmental Development
 Direct Line: 01865 252558
 Fax: 01865-252344
 E-mail: licensingmisc@oxford.gov.uk

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Mr H Khan

4th April 2013
 Our ref: 13/00784/STREET

Dear Mr Khan,

**Street Trading Consent Holders Trading out of Hours
 Local Government (Miscellaneous Provisions) Act 1982**

An allegation has been made that many Street Trading Consent holders are trading longer than their permitted hours in the evening/early morning. Oxford City Council must remind all traders that by trading after the hours permitted on your Street Trading Consent you are committing an offence under the Local Government (Miscellaneous Provisions) Act 1982 and the Licensing Act 2003.

Regular checks will be made to ensure compliance with conditions of Street Trading Consent. Any Consent holders caught trading out of hours risk revocation of their Consent and prosecution for the offences of trading without Street Trading Consent or a Premises Licence.

If you are unclear about any of the above information please contact the Licensing Team on 01865 252558 or by emailing licensingmisc@oxford.gov.uk.

Yours sincerely,

P.P. S. Howell

Dawn Cox
 Miscellaneous Licensing Team Leader



INVESTORS
 IN PEOPLE



Environmental Development
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Mr H Khan

28th August 2013
 Our ref: 13/00784/STREET

Dear Mr Khan,

Local Government (Miscellaneous Provisions) Act 1982
Breach of Street Trading Consent Conditions

On Sunday 18th August at 03:10hrs two Council Officers observed you trading outside the permitted hours of your Street Trading Consent. By trading outside of these hours you have committed an offence under the Local Government (Miscellaneous Provisions) Act 1982 and the Licensing Act 2003.

Regular checks are made to ensure compliance with conditions of Street Trading Consent. If you are caught trading outside your current hours of Consent again you risk revocation of Consent and prosecution for the offences of trading without Street Trading Consent or a Premises Licence. A copy of this letter has been sent to General Licensing who may contact you separately regarding the breach of your Premises Licence.

If you wish to look at extending your hours of trading or to discuss this matter further please contact me on the above contact details to arrange an appointment.

Yours sincerely,

Samantha Howell
Licensing Officer
Miscellaneous Licensing

Cc. Julian Alison - General Licensing Team Leader



**INVESTORS
 IN PEOPLE**



To: Licensing and Registrations Sub-Committee

Date: 16 December 2013 **Item No:**

Report of: Head of Environmental Development

Title of Report: Simply Pleasure Com – Application for the Renewal of a Sex Shop Licence: Simply Pleasure Com, 181 Cowley Road, Oxford, OX4 1UY.

Application Ref: 13/03060/SEL

Summary and Recommendations

Purpose of report: To inform the determination of an application submitted by Simply Pleasure Com for the renewal of a Sex Shop Licence for its premises at 181 Cowley Road, Oxford, OX4 1UY.

Report Approved by:

Legal: Daniel Smith

Policy Framework: Vibrant Sustainable Economy

Recommendation(s):

Committee is requested to determine this application taking into account the details in this report and any representations made at this Sub-Committee meeting.

Appendix One: Application for the Renewal of a Sex Shop Licence

Appendix Two: Sex Shop Licence 12/03672/SEL

Appendix Three: Representation from an Interested Party

Appendix Four: Location Map

Appendix Five: Standard Conditions applicable to licences for Sex Establishments

Introduction

1. This report is made to the Licensing & Registration Sub-Committee so it may determine in accordance with its powers and the Local Government (Miscellaneous Provisions) Act 1982 whether to renew the Sex Shop Licence to Simply Pleasure Com.

Definition of a Sex Shop

2. A Sex Shop is defined as being any premises, vehicle, vessel or stall used for the business which consists “to a significant degree” of selling, hiring, exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with, or for the purpose of, stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity.
3. Sex articles are anything made for use in connection with, or for the purpose of, stimulating or encouraging sexual activity or acts of force or restraint associated with sexual activity and include writing, pictures and recordings.
4. Any shop can legally sell sex articles (except videos rated 18R which can only be sold in a licensed Sex Shop). It is only when the sale of sex articles forms a significant part of the business that a licence is required.
5. The Courts have been reluctant to define what constitutes “a significant degree”. Other factors, such as the nature of the other goods stocked, have to be taken into consideration.

Application Summary

6. An application for the renewal of a Sex Shop Licence has been submitted by Simply Pleasure Com. A summary of the hours and days proposed for the licensable activities can be found detailed below, and a copy of the application is attached at **Appendix One**.

Proposed Timings:

Monday - Saturday	10:00	Until	19:00
1 Night Per Week (Monday – Saturday)	19:00	Until	21:00

7. In order to assist the Sub-Committee, a copy of the most recent licence granted for the premises that highlights the currently permitted hours and days and conditions is attached at **Appendix Two**.

Representations

8. No representation has been received from the Chief Officer of Police.
9. A representation has been received from one Interested Party. The names and addresses of Interested Parties are not be disclosed to applicants or published in public reports in accordance with the Local Government (Miscellaneous Provisions) Act 1982. A copy of the representation is attached at **Appendix Three**.

Grounds for Refusal of a Licence

10. Paragraph 12 of Schedule 3 of the 1982 Act sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

11. A licence **must not** be granted:
- (a) to a person under the age of 18;
 - (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
 - (c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - (d) to a body corporate which is not incorporated in an EEA State; or
 - (e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.
12. A licence **may be refused** where:
- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate, having regard:
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
13. Any decision to refuse a licence **must** be relevant to one or more of the above grounds.

Relevant Locality

14. Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow the Licensing Authority to refuse applications on grounds related to an assessment of the “relevant locality”.

15. Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:
 - (a) in relation to premises, it is the locality where they are situated; and
 - (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.
16. The decision regarding what constitutes the ‘relevant locality’ is a matter for the Licensing Authority. However, such questions must be decided on the facts of the individual application.
17. In considering the characteristics of a locality the Licensing Authority shall particularly take account of the density and proximity of:
 - (i) Historic buildings or tourist attractions
 - (ii) Schools, play areas, nurseries, children’s centres or similar premises
 - (iii) Shopping complexes
 - (iv) Residential areas
 - (v) Places of Worship

Relevant Case Law

18. In *R. v Birmingham City Council ex parte Sheptonhurst Limited*, the Court of Appeal heard a number of linked appeals following refusals to renew licences where there had been no change in circumstances. Lord Justice O’Connor found that where there was no evidence of change in the character of the locality to justify refusal to renew a sex shop licence, the decision to refuse the renewal application was ‘wayward and irrational’.

Location

19. A map is attached at **Appendix Four** detailing the general location of the applicant’s premises, and those establishments referred to by those who have made representations.

Compliance History

20. Licensing Officers carry out regular compliance checks of licensed Sex Establishments within Oxford. No enforcement actions have been instigated, nor have any complaints been received by the Licensing Officers in relation to this establishment since the renewal of the last licence.

Other Relevant Considerations

21. The Sub-Committee is reminded that the role of the Licensing Authority is not to seek to take a moral stand in licensing sex establishments. The duty of the Sub-Committee is to administer the licensing regime in accordance with the law.
22. The Sub-Committee is reminded of its responsibilities under the Crime and Disorder Act 1998 (to co-operate in the reduction of crime and disorder in

Oxford) and the Human Rights Act (which guarantees the right to a fair hearing for all parties in the determination of their civil rights, and also provides for the protection of property, which may include licences in existence, and the protection of private and family life) when considering the fair balance between the interests of the applicant and the rights of local residents.

23. In determining the application, the Sub-Committee must take such of the following steps as it considers appropriate:
 - a) **Grant the licence in accordance with the application and attach to the licence the Standard Conditions applicable to licences for Sex Establishments.**
 - b) **Grant the licence and attach to the licence such other conditions and / or restrictions as it considers necessary.**
 - c) **Grant the licence for a maximum duration of one year (or less if deemed applicable).**
 - d) **Refuse the application on one or more of the grounds detailed within this report.**
24. A copy of the Standard Conditions applicable to licences for Sex Establishments is attached at **Appendix Five**.
25. If having considered an application for the grant, renewal or transfer of a licence, the Sub-Committee decides to refuse it on one or more of the grounds detailed within this report, it must provide the applicant with reasons for the decision in writing.
26. In the event that the Licensing Authority refuses an application for the grant, renewal or transfer of a Sex Establishment licence the applicant may appeal the decision in a Magistrates' Court, unless the application was refused under 12(3)(c) or (d) of the 1982 Act, in which case the applicant may challenge the refusal by way of judicial review.

Name and contact details of author: **Julian Alison**
Licensing Manager
Environmental Development
Tel: 01865 252381
Email: jalison@oxford.gov.uk

OXFORD CITY COUNCIL

22 OCT 2013

**Local Government (Miscellaneous Provisions) Act 1982
Part II, Schedule 3**

**Application for grant / renewal / variation / transfer of a
Sex Establishment Licence**

Applications may be made by individuals, corporate bodies or unincorporated bodies.

- 1. Application is hereby made and the necessary fee enclosed for a
 - New Licence ()*
 - Renewal of Licence (✓)*
 - Variation of Licence ()*
 - Transfer of Licence ()*
 *Tick as appropriate
 - Sex Shop*
 - Sex Cinema*
 - Sexual Entertainment Venue*
 *Delete as appropriate

- 2. Name and address of premises to which this application relates.
 - SIMPLY PLEASURE, COM
 - 181 COWLEY ROAD
 - OXFORD
 - OX4 1UY

If the application relates to a vehicle / vessel / stall give description and state where it is to be used as a sex establishment.

 - N/A

- 3. Full Name of Applicant.
 - TIMOTHY HENNING
 - OF SIMPLY PLEASURE LTD
 Date of Birth.
 - 8/10/1960
 Occupation (during preceding six months).
 - DIRECTOR

- 4. Address for Correspondence (If different from permanent address)
 - ABS HOLDINGS
 - UNIT B STIRLINGS
 - BUSINESS PK
 - 6 NIMROD WAY
 - EAST DORSET TRADE PK
 - WIMBORNE
 - DORSET
 - BH21 3SH
 Telephone No.
 - 01202 868825

If application is made on behalf of a corporate or unincorporated body.

5. Name of applicant body: SIMPLY PLEASURE LTD
- State whether a corporate or unincorporated body. CORPORATE
6. Address of registered or principal office. HEAD OFFICE
UNIT 6 STIRLING BUSINESS PK
6 MILKED WAY
EAST DORSET DORSET
WIMBORNE DORSET
BH21 7SH
7. Full names of all directors and other persons responsible for the management of the body, including if applicable the names of managers, company secretary and similar officers and the manager of the establishment.
(You will be required to complete a statutory declaration sheet for each person)
- TIMOTHY HEMMINGS - DIRECTOR
- DEBBIE COPPINS - MANAGER
8. What hours and days to you require the licence to cover? MON - SAT 10AM - 7PM
PLUS 1 LATE NIGHT
PER WEEK FROM 7PM - 9PM
9. If the premises are not open between 9.00 am and 4.00 pm, state name, address and telephone number of person responsible for keys to the premises. N/A
10. If only part of the building is to be licensed, give details. SHOP ONLY
11. Will any part of the premises be used for the exhibition of moving pictures? Yes / No

12 Does the applicant presently use the premises or the vehicle, vessel or stall as a sex establishment?

Yes / No

If not, what is the present use?

If yes, give details of any person, other than the applicant(s) who has run the premises, vehicle, vessel or stall as a sex establishment since that date?

14 If the premises or the vehicle, vessel or stall are presently used as a sex establishment, when did the use commence?

UNKNOWN

15 Give full details of the type of business to be conducted at the establishment.

SEX ESTABLISHMENT
SELLING RIB DVD'S/LINGERIE
ADULT NOVELTIES/CLOTHING

16 I declare I have checked the information given on this application and attached statutory declaration forms and to the best of my knowledge and belief it is correct.

17 I enclose payment of the appropriate application fee (see fees list)

Date: 24/10/2013 Signature:

[Signature]

All applicants are required to send with this application (a) two plans showing the area to be licensed, (b) statutory declarations in the form shown in the attached document in respect of (i) the applicant, (ii) directors of any company applying for a licence and (iii) any other person who will be responsible for the management of the licensed premises.

Return to:
Licensing Authority
Oxford City Council
St Aldate's Chambers
109 St Aldate's
Oxford
OX1 1DS

OXFORD CITY COUNCIL

Statutory declaration sheet for application for grant / renewal / variation / transfer of a Sex Establishment licence

To be completed by the applicant for (i) the applicant, (ii) directors of any company applying for a licence and (iii) any other person who will be responsible for the management of the licensed premises.

Full name.

TIMOTHY HEMMINGS

Position held.

DIRECTOR

Date of birth.

Place of birth.

Permanent address.



Address(es) at which person has been resident during the five years preceding the date of this application.

AS ABOVE

Details of any relevant previous convictions and/or cautions

Please give details of any "unspent" convictions or cautions (see overleaf)

Date of conviction	Court of conviction	Nature of offence	Sentence
	N/A		

Please photocopy extra sheet for each declaration

**LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1982
SEX ESTABLISHMENT LICENCE**

This Licence is granted

To: **Simply Pleasure Limited**

of: **Head Office
ABS Holdings
Unit B Stirling Business Park
6 Nimrod Way
East Dorset Trade Park
Wimborne
Dorset
BH21 7SH**

authorising the use of the premises situated at:

181 Cowley Road, Oxford, OX4 1UX

for the purpose of a sex establishment comprising a sex shop as defined in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

This Licence is issued subject to the standard terms, conditions and restrictions contained in regulations made by the Oxford City Council, a copy of which is attached.

This licence shall continue in force until 31st October 2013 unless previously revoked.

Issued on the 29th November 2012

Licence No. 12/03627/SEL

Head of Environmental Development

NOTE: This licence must be prominently displayed on the premises. Failure to do so is an offence.

Schedule 1, paragraph 17 of the Local Government Miscellaneous Provisions Act 1982 allows the applicant to appeal to a Magistrates Court within 21 days from the date of receipt of this licence against any of the terms, conditions or restrictions attached to this licence.

OXFORD CITY COUNCIL

SEX SHOP LICENCES

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1982
STANDARD CONDITIONS**

1. Premises licensed as a Sex Shop under the provisions of Schedule III of the Local Government (Miscellaneous Provisions) Act, 1982, shall be used only for the purpose of a Sex Shop as defined in Paragraph 4 of the said Schedule 3 and shall not be used, wholly or in part, for any other purpose during the period the premises are licensed as a Sex Shop.
2. The hours of opening for this premises are the following:

Monday to Saturday	10:00 hours until 19:00 hours.
One night per week	19.00 hours until 21:00 hours

3. Over each entrance to the premises, in a position approved by the Council, the Licensee shall affix and maintain in a permanent form a notice stating that the premises are licensed as a Sex Shop under the provisions of the Local Government (Miscellaneous Provisions) Act, 1982. Such a Notice shall also carry the full name of the Licensee and the number of the license and if the Licensee is a private or public company the notice shall also carry the address of the registered or principal office and the full name of the Secretary of the Company. The lettering on such a Notice shall be 75mm tall and at least 6.25mm thick and shall be in white on a dark background.
4. At each entrance there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons under 18 years of age. Such a Notice shall be in letters at least 50mm high and 6.25mm thick and shall be in dark letters on a light background.
5. The Licensee of every premises licensed as a Sex Shop shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
6. The Licensee shall not display outside, near to, or within the premises any advertising material, sign or pictorial display referring to the licensed premises or the goods, articles or services provided at the premises, in such a position or manner that it is visible to any person using adjacent highways, streets, footpaths or forecourts except any notice displaying the name or trading title of the Licensee, any Notice indicating the times of opening of the premises for business, any Notice required by an statute, regulation or bylaw applicable to the premises or business carried thereon or any notice prescribed by these conditions.

The use of loudspeakers and displays on business vehicles is strictly prohibited.

7. The licensed premises shall be so arranged by screening or obscuring windows, doors and other openings so that the interior of the licensed premises and the displays of articles sold at the premises shall not be visible at any time to persons outside the building. The external doors shall be fitted with automatic closing devices which shall be maintained in good working order.
8. Except as allowed by a premises licence issued permitting regulated entertainment under the Licensing Act 2003 no music of any kind shall be played on the licensed premises and no regulated entertainment of any nature shall be provided or permitted by the Licensee to take place on the premises.
9. The Licensee shall not at any time keep or allow to be used on the premises any gaming or amusement machine whether for prizes or not.
10. No moving picture or display or recorded sound of any description or however provided shall be permitted on the licensed premises except for a period of not more than one minute for the sole purpose of demonstrating to a prospective purchaser or hirer of the article in question and such display shall be in a booth to which there shall only be permitted the prospective purchaser or hirer and any one person employed by the Licensee to sell or hire such articles. The Licensee shall not make any charge or permit any charge to be made for such a display.
11. The Licensee shall not supply or permit to be supplied to any person, other than a person employed to work on the premises, any article of food or drink whether for consumption on or off the premises.
12. All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
13. The Licensee shall make such provision for the reception of goods and articles for sale, hire, exchange, loan, demonstration or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard nor in any vessel or vehicle, etc.
14. The Licensee or some responsible person nominated by him in writing for the purpose and approved by the Council shall be in charge of and upon the licensed premises during the whole time they are open to the public. Such written nominations shall be continuously available for inspection by authorised officers of the Council or the Police. During the hours that the premises are open the person in charge shall wear a form of visible photographic identification.

15. A daily register of persons employed shall be kept stating names, addresses, position and times worked. The register is to be completed each day within thirty minutes of the premises opening for business and must be kept at the premises and be open for inspection by authorised officers of the Council or the Police.
16. No part of the premises shall be used by prostitutes (male or female) for the purpose of solicitation or of otherwise exercising their calling or profession.
17. The Licensee shall ensure that no employee or other person shall seek to obtain custom for the premises by means of personal solicitation outside or in the vicinity of the premises.
18. The Licensee shall not in the conduct of the business employ any person:-
 - (a) Whose application for a licence to carry on a sex establishment, or renewal thereof, has been refused by the Council or any other licensing authority;
 - (b) Whose licence to carry on the business of a sex establishment has been revoked by the Council or any other licensing authority;
19. The Council shall approve the external appearance of the premises and neither the interior nor the exterior of the premises shall be altered without the approval of the Council.
20. All sex articles and other things displayed for ;supply, sale, hire, exchange or loan within the premises shall be clearly marked to show to persons who are inside the premises the respective prices being charged.
21. No advertisements, other than advertisements relating to other licensed sex establishments or relating to goods sold from the premises, shall be displayed at the premises.
22. No part of the premises shall be used as a sex cinema.
23. The Licensee shall not contravene the Unsolicited Goods and Services Act, 1971.
24. The licence and a copy of these conditions shall be conspicuously displayed on a part of the premises to which the public has access as specified by the Council.
25. A record shall be kept of all mail order transactions (if any) in such form as agreed by the Council.

26. The licence is not transferable by the Licensee.
27. The Licensee shall forthwith notify the Council of his ceasing to carry on the business.
28. The Licensee shall inform the Council if he is convicted under the Obscene Publications Act, 1959, the Protection of Children Act, 1978, or the Customs and Excise Management Act, 1979 or if an order for forfeiture is made under the Obscene Publications Act, 1959 following the service of a summons on the Licensee. The Council will take into consideration any such conviction or orders for possible revocation or non-renewal of the licence.
29. Where the Licensee is a company, any change of Director, Company Secretary or other person responsible for the management of the company is to be notified in writing to the Council within 14 days.
30. Any breach of or failure to comply with the Conditions attached to this Licence may result in the revocation of the Licence.

[REDACTED]

Head of Environmental Development,
Oxford City Council,
3rd Floor,
St Aldates Chambers,
109, St Aldates,
Oxford,
OX1 1DS

21st November 2013

Application reference 13/03060/SEL 181 Cowley Road

Dear Sir,

I write with reference to the renewal of a sex shop license for the above premises. Running a business nearby I have noticed the presence of women dressed in the manner of prostitutes outside the shop. As it is near a supermarket frequented by families I don't consider it to be an appropriate location and is bound to be a bad influence.

I note that the application for a similar establishment at 54 Cowley Road was recently approved but would like to point out that this area is not near any such retail outlet.

As a matter of policy I don't approve of this kind of retail establishment as I believe it promotes an attitude of using women as a commodity and therefore leads to their general abuse.

I would appreciate a reply if possible.

Yours faithfully,

[REDACTED]

Environmental Development
Oxford City Council
22 NOV 2013
Received

[REDACTED]

The Licensing Authority
Oxford City Council

21 NOV 2013

[REDACTED]



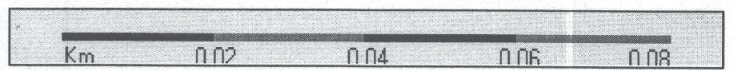
Simply Pleasure 181 Cowley Road

Sex Establishment Licence



Legend

Scale: 1:1000



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Organisation	Oxford City Council
Department	Environmental Health
Comments	
Date	25 November 2013
SLA Number	100019348

OXFORD CITY COUNCIL

**REGULATIONS PRESCRIBING STANDARD CONDITIONS APPLICABLE
TO LICENSES FOR SEX ESTABLISHMENTS**

**THESE REGULATIONS ARE MADE BY THE OXFORD CITY COUNCIL
UNDER PARAGRAPH 13(1) OF THE THIRD SCHEDULE OF THE LOCAL
GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AND COME
INTO EFFECT ON 10TH JUNE 2010**

Notes

- (i) Except where the context demands otherwise the singular includes the plural and the masculine includes the feminine.
- (ii) Nothing in these rules shall be construed as interfering with (i) the discretion of the licensee or his representative regarding the admission of any person or (ii) the need to strictly comply with all relevant statutory requirements.
- (iii) These rules are divided into three Parts as follows:
 - Part I General
 - Part II Rules which apply to all premises
 - Part III Rules which apply to Sex Shops
 - Part IV Rules which apply to Sex Cinemas
 - Part V Rules which apply to Sexual Entertainment Venues
- (iv) In these rules all references to a British Standard (BS) shall be deemed to refer to the current standard.
- (iv) A Premises Licence may also be required for the operation of a Sex Cinema.

Part I General

Definitions

1. In these Regulations save when the context otherwise requires the following expressions shall have the following meanings:
 - i) “Sex Establishment”, “Sex Cinema”, “Sex Shop”, “Sex Article” and “Sexual Entertainment Venue” shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
 - ii) “Premises” means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Third Schedule.
 - iii) “Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.
 - iv) “Approved” means approved by the Council in writing.
 - v) “The Council” means the Oxford City Council.

General

2. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
3. The grant of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment, by law, order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

Part II Rules which apply to all premises

Exhibition of Licence

4. The copy of the Licence and these Regulations which are required to be exhibited in accordance with paragraph 14(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the Licence required to be displayed as aforesaid shall be suitably framed and exhibited in a position that it can easily be seen by all persons using the premises. The copy of these Regulations shall be retained in a clean and legible condition.

Times of Opening

5. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9 a.m. and shall not be kept open after 6 p.m. unless otherwise permitted.
6. The premises shall not open on Sundays or any Bank Holidays or any public holidays, unless otherwise permitted.

Responsibility of Licensee

7. The licensee shall take all reasonable precautions for the safety of the public and employees and, except with the consent of the Council, shall retain control over all portions of the premises
8. The premises shall not be used for regulated entertainment, exhibition or display of any kind unless the Council's consent has first been obtained and any necessary licence granted.

Conduct and Management of Premises

9. The Licensee or some responsible person over 18 years of age nominated by him in writing for the purpose of managing the Sex Establishment in his absence shall be in charge of and upon the Premises during the whole time they are open to the public. Such written nomination shall be continuously available for inspection by an officer authorised in writing by the Council. The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge shall be conversant with these rules a copy of which shall be held on the premises.

10. The Licensee or the responsible person approved under Regulation 9 shall maintain a daily register to be kept on the Premises in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his absence and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within 30 minutes of the Sex Establishment opening for business and is to be available for inspection by the police and by authorised officers of the Council.
11. The Licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council bearing the photograph of the employee and indicating his name and that he is an employee.
12. A notice showing the name of the person responsible for the management of a Sex Establishment shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
13. Where the Licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.
14. The Licensee shall maintain good order in the premises.
15. The Licensee shall ensure that no part of the premises is used by prostitutes (male or female) for the purposes of soliciting or any other immoral purposes.
16. The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been approved by the Council.
17. Neither the Licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.
18. No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment
19. The Licensee shall comply with all statutory provisions and any regulations made thereunder.

External Appearance

20. No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the Premises except:
 - i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the Premises by law, or by any condition of a licence granted by the Council.
 - ii) Such display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.
21. The entrances to the Premises shall be of a material or covered with a material which will render the interior of the Premises invisible to passers by.
22. Windows and openings to the Premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council opaque curtains of a type and size approved by the Council. This regulation shall not be construed as lessening the obligations of the Licensee under Regulation 20 hereof.

State Condition and Layout of the Premises

23. The Premises shall be maintained in good repair and condition.
24. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements :
 - (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit"/graphic type.
 - (ii) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked, "private".
 - (iii) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.
25. The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good

working order.

26. The Licensee shall make provision in the means of access both to and within the premises for the needs of members of the public visiting the premises who are disabled.
27. No fastening of any description shall be fitted upon any booth or cubicle within the premises nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
28. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
29. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

Maintenance of mean of escape

30. The means of escape provided for all persons on the premises shall be maintained unobstructed, immediately available and clearly identifiable in accordance with the approved arrangements.
31. All fire-resisting and smoke stop doors shall be maintained self-closing and shall not be secured open.

Fire Appliances

32. Fire appliances and equipment as approved by the Fire Officer shall be efficiently maintained in satisfactory working order and kept available for instant use. They shall be in the charge of a suitable person specially nominated for the purpose.
33. Portable fire appliances shall be examined at least once a year and periodically tested in accordance with the current British Standard by a competent person and the date of such test shall be clearly marked on the appropriate extinguishers or on stout tabs securely attached to them. Extinguishers which incorporate an anti-freeze agent shall be examined and recharged in compliance with manufacturer's instructions.

Lighting

34. The Licencee or any other person concerned in the conduct or management of the licensed sex establishment shall, in the absence of adequate daylight, ensure that adequate lighting is maintained to the

satisfaction of the Council in all parts of the premises to which the public and staff have access and is in operation continuously during the whole time the premises are open to the public.

35. The normal lighting shall be maintained alight and the lighting to 'EXIT' notices shall not in any circumstances be extinguished or dimmed while the public are on the premises, provided that so long as there is sufficient daylight in any part of the premises, artificial light need not be used in that part.

Electrical Installations

36. The electrical installation for the premises shall be maintained in a safe working condition, as prescribed in the current edition of the Regulations for electrical installations issued by the Institute of Electrical Engineers.
37. Unless the Council decide otherwise an inspection certificate, as prescribed in the current edition of the Regulations for electrical installations issued by the Institution of Electrical Engineers, for the electrical installation associated with the premises shall be submitted to the Council at least once every five years or such other time specified on the certificate. The certificate shall be signed by a qualified engineer.

Change of Use

38. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council and Thames Valley Police has been obtained thereto.
39. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council and Thames Valley Police
40. Neither Sex Articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema or a Sexual Entertainment Venue.

Admission of Authorised Officers

41. Officers of the Council, Thames Valley Police, and other authorised agencies who are furnished with authorities which they will produce on request, shall be admitted immediately at all reasonable times and at any time the premises are open for business to all parts of the premises.

Part III Conditions Applying to Sex Shops

Goods Available in Sex Establishments

1. All Sex Articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
2. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase, hire, exchange or loan and a notice to this effect is to be prominently displayed within the Sex Establishment.
3. No film or video film shall be exhibited, sold or supplied unless it has (a) been passed by the British Board of Film Censors and bears a certificate to that effect or (b) approved by the Council and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

Part IV Conditions Applying to Sex Cinemas

Film Categories

1. The categories U, PG, 12, 15, 18 and RESTRICTED 18 have the following effect:

U	Universal.- Suitable for all
PG	Parental Guidance. Some scenes may be unsuitable for young children.
12	Passed only for persons of 12 years and over.
15	Passed only for persons of 15 years and over.
18	Passed only for persons of 18 years and over.
RESTRICTED (18)	Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Exhibition of Films

2. 'Film exhibition' means film exhibitions as defined in the Cinemas Act 1985; i.e. any exhibition of moving pictures which is produced otherwise than by the simultaneous reception and exhibition of (a) television programmes, broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority or (b) programmes included in a cable programme service which is or does not require to be licensed under Section 4 of the Cable and Broadcasting Act 1984.
3. No film shall be exhibited at the premises unless:
 - (a) it is a current news-reel; or
 - (b) it has been passed by the British Board of Film Classification as a U, PG, 12, 15, 18 or RESTRICTED (18) film and no notice of objection to its exhibition has been given by the Council; or
 - (c) it has been passed by the Council as a U, PG, 12, 15, 18 (Oxford) or RESTRICTED (18) (Oxford) film.

RESTRICTED (18) films

4. Films in the RESTRICTED (18) category may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Unclassified Films

5. Not less than twenty-eight days notice in writing shall be given to the Council of any proposal to exhibit any other film which has not been classified as specified in rules 45 and 47 above. Such a film may only be exhibited if the Council's prior written consent has been obtained and in accordance with the terms of any such consent.

Persons under 18 Notice

6. No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.

Category notices

7. A representation or written statement of the terms of any certificates given by the British Board of Film Censors or the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates and the representation or statement shall be shown for long enough and in form large enough for it to be read from any seat in the auditorium.

Timetable of films

8. The licensee shall display in a conspicuous position, to the satisfaction of the Council, at each entrance to the premises, during the whole time the public are being admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Advertisements

9. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Censors or the British Board of Film Classification or approved for exhibition by the licensing authority, as the case may be.
10. Where the licensing authority has given notice in writing to the licensee of the premises objecting to an advertisement on the ground, that, if displayed, it would offend against good taste or decency or be likely to encourage or incite to crime to lead to disorder or to be offensive to public

feeling, that advertisement shall not be displayed at the premises except with the prior consent in writing of the licensing authority.

Objection to exhibition of film

11. Where the licensing authority has given notice in writing to the licensee of the premises prohibiting the exhibition of a film on the ground that it contains material which, if exhibited, would offend against good taste or decency or would be likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling, that film shall not be exhibited in the premises except with the prior consent in writing of the licensing authority.

Additional conditions for 'Club' Cinemas showing films in the restricted classification

12. (i) No club showing films in the 'restricted 18' category may operate in a multi-screen complex whilst persons under 18 are being admitted to any performance in the complex unless the Council's written consent has first been obtained.

(ii) When the programme includes a film in 'restricted 18, category the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

"CINEMA CLUB - MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME".

(In case of a multi-screen complex where consent has been granted the notice shall specify the particular part of the premises in which films in the 'restricted 18' category are being exhibited).

(iii) The timetable of films required by rule 52 shall include the following addition to the categories shown;

"Category 'RESTRICTED 18' passed only for persons of 18 years and over who are either members of the cinema club or who are guests of a member".

(iv) All registers of members and all visitors, books of their guests shall be available for immediate inspection by the Council's Officers during any performance, or at any other reasonable time.

(v) Tickets shall in no circumstances be sold to persons other than members.

(vi) No persons under 18 years of age shall be employed in any capacity at licensed premises which are operating as cinema clubs.

(vii) Subject to prior written consent by the Council, a subscription may entitle the club member to attend other clubs under the same management.

(viii) Membership rules for these club cinemas shall include the following:

(a) The club rules must be submitted to the Council 14 days before the club commences operations and notice of all rule changes shall be given to the Council within 14 days of the change.

(b) Only members and their guests shall attend exhibitions of moving pictures classified in a restricted classification

(c) Membership shall be open to persons of both sexes of not less than 18 years of age. Applications for membership, including both name and address, shall be in writing, signed by the applicant, and if deemed necessary such applicants shall provide satisfactory references and proof of age.

(d) No person shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the licensed proprietors.

(e) New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.

(f) An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the licensed proprietors may refuse to renew any membership without assigning reason for such refusal.

(g) Members shall be entitled on any day to bring not more than one guest to accompany the member, and the name of the guest shall be entered in the visitors' book and counter-signed by the member.

(h) On admission a member and his guest shall be bound by the rules of the club and by any by-laws and regulations made thereunder.

(i) Tickets shall be sold only to members on the production of a membership card, and members shall, if required, sign an acknowledgement for the ticket or tickets issued.

(j) Membership cards shall be personal to the member and shall not be transferable to any other person.

(k) Neither membership tickets nor guest tickets shall be transferable.

(l) No member shall introduce as a guest any persons under the age of 18 or any persons whose application for membership has been refused. The proprietors will reserve the right to refuse admission to any person.

(m) Proof of identify, or of age, or of any particulars of any guest shall be produced by any member or guest if demanded by the licensed proprietors.

(n) Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of sex articles

13. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'sex cinema'.

Part V Conditions Applying to Sexual Entertainment Venues

Times of Relevant Entertainment

1. Relevant entertainment shall be permitted at the premises on the following days....
And between the following times.....

Performances of Relevant Entertainment

2. The performance of relevant entertainment within the premises shall not be visible from any area outside of the premises at any time.

Age Restrictions

3. A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.
4. All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a “PASS” logo.

Staff

5. All staff employed to work at any premises licensed as a Sexual Entertainment Venue shall be required to provide an Enhanced Criminal Records Bureau disclosure to the Licensing Authority in which the premises is located.

Club Rules

6. The premises must provide a copy of it's Club Rules to the Council and Thames Valley Police.
7. All performers and staff shall be aware of the Club Rules
8. All dancers, staff and door supervisors shall read a copy of the rules relating to operating relevant entertainment. They shall sign and date a copy which shall be retained by the premises as part of their due diligence.

Management Operation Manual

9. A Management Operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by Thames Valley Police. This document shall be on going and under constant review.

Performers

10. Performers shall be aged not less than 18
11. All performers shall be aware of the Management Operation
12. A log book shall be maintained on the premises detailing the names, start and finish times of individual performers involved in all forms of adult entertainment.
13. At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.
14. On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location.

Performances

15. Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement.
16. There shall be no physical contact between customers and the dancers except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.
17. No performances shall include any sex act with any other performer, persons in the audience or with the use of any object.
18. No audience participation shall be permitted.
19. Signs displaying the rules on the performance relevant entertainment will be displayed throughout the premises and be clearly visible to patrons. This will include any private individual booth area.

20. In the event of the relevant entertainment be performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment, and the details shall be specified in a clearly visible notice in each area designated for private relevant entertainment.

Door Supervisors

21. An adequate number of registered Door Supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one Door Supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.
22. The Door Supervisors shall be on duty at the premises at all times when the premises provides relevant entertainment.
23. All Door Supervisors working outside the premises or whilst engaged in the dispersal of patrons at the close of business shall wear 'High Visibility Clothing' supplied the NightSafe Manager.
24. The premises shall be a member of the Radiolink scheme

Closed Circuit Television (CCTV)

25. A CCTV system shall be installed to cover all entrances and exits to the premises, and areas where relevant entertainment will take place. This system must be installed and fully operational before the premises opens for the licensable activity applied for. All cameras shall continually record whilst the premises are open to the public and video recordings shall be kept available for a minimum of 28 days with date and time stamping.
26. At the time of installation or upgrading of any CCTV system it shall comply with the current and relevant Thames Valley Police guidelines for Standard Minimum Closed Circuit Television Requirements (Issue 1, July 2004). To obtain a clear head and shoulders image of every person entering the premises on the CCTV system, persons entering the premises should be asked to remove headwear, unless worn as part of religious observance.
27. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential

legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

28. A plan shall be submitted illustrating the position of all cameras and shall be with the approval of Thames Valley Police
29. A member of staff who is fully trained in the use of the system shall be on duty at all times when the premises is open till the premises is clear of customers, cleared of staff and closed.
30. The premises will provide any footage upon request by Thames Valley Police or the Licensing Authority within 24 hrs of the request
31. The recordings for the preceding two days shall be made available immediately upon request, and recordings outside this period shall be made available within 24 hours

Crime Survey

32. Upon completion of a crime survey by Thames Valley Police, the Licence Holder shall act accordingly with all reasonable recommendations of the survey in so far as they relate to licensable activities.

Layout of premises

33. The approved activities shall take place only in the areas designated by the Licensing Authority and Thames Valley Police.
34. All dance booths are to be equipped with a panic alarm for safety
35. Arrangements shall be put in place to restrict access to the dressing room at all times when the relevant entertainment is taking place, and until such time as all performers have vacated it.
36. The approved access to the dressing room(s) shall be maintained whilst striptease or entertainment of a like kind is taking place
37. The layout within areas used by customers shall not under go substantial change without the prior written consent of both Thames Valley Police and the Licensing Authority

Change of Use of Premises

38. The Licensing Authority and Thames Valley Police must be informed should the licensee seek to change the use of the establishment to another form of sex establishment.

Sale of Goods

39. Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a 'Sexual Entertainment Venue'.

LICENSING AND REGISTRATION SUB COMMITTEE

Tuesday 26 November 2013

COUNCILLORS PRESENT: Councillors Coulter, Royce, Humberstone and Cook.

OFFICERS PRESENT: Daniel Smith (Law and Governance), Mathew Metcalfe (Democratic and Electoral Services) and Samantha Howell (Licensing Officer)

26. ELECTION OF CHAIR

The Sub-Committee agreed not to elect a Chair for the remainder of the Council Year 2013/14 at this meeting, but to elect Councillor Van Coulter as Chair of the Sub-Committee for this meeting only.

27. ELECTION OF VICE-CHAIR

The Sub-Committee agreed to defer electing a Vice-Chair for the remainder of the Council Year to a future meeting.

28. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Mary Clarkson.

29. DECLARATIONS OF INTEREST

None declared.

30. PROCEDURE TO BE FOLLOWED

The Sub-Committee agreed to note the procedure.

31. BREACH OF STREET TRADING CONSENT CONDITIONS - MR HAROON KHAN

The Head of Environmental Development submitted a report (previously circulated, now appended) which detailed a Street Trading Consent where the street trader had not adhered to the conditions of the Street Trading Policy.

The Sub-Committee was informed that Mr Haroon Khan was unable to attend due to illness.

The Sub-Committee agreed to defer consideration of the report to a special meeting of the Sub-Committee to be held on Monday 16th December 2013 at 5.30pm, and to inform Mr Haroon Khan accordingly.

32. APPLICATION FOR 12 MONTH STREET TRADING SITE - MR MULLER

The Head of Environmental Development submitted a report (previously circulated, now appended) which sought determination of an application which proposed a new street trading location.

Samantha Howell (Environmental Development) introduced the report.

Erik Muller, the applicant, attended the meeting.

Councillor Royce raised concerns on the siting and size of the proposed location and considered it to be unsuitable.

Samantha Howell in response to further comments and questions by the Sub-Committee said that the products offered were of a good quality and of a standard expected in Oxford.

At this point the Sub-Committee withdrew to deliberate and make its decision in private, accompanied by its Legal Advisor and Committee Clerk.

The Sub-Committee then returned and having taken into account all of the evidence before it, both written and oral, Councillor Coulter announced that the new Street Trading location outside of 221 Banbury Road, Oxford had been granted.

Members of the Sub-Committee felt the application met the criteria in the Street Trading Policy and in the absence of any representations against, it should be granted. The Sub-Committee noted that the concerns raised by the Highway Authority appeared to have been addressed but advised the Applicant that if highway problems occurred as a result of his operation his consent could be revoked.

The Sub-Committee resolved:

- (1) To grant the application as applied for, subject to the Oxford City Council general conditions applicable to street trading consents.

33. MINUTES

The Sub-Committee agreed to approve the minutes of the meeting held on 7th October 2013.

34. SPECIAL MEETING

The Sub-Committee agreed to hold a special meeting on Monday 16th December 2013 at 5.30pm in the Town Hall to consider the following items:

- (1) Breach of Street Trading Consent Conditions – Mr Haroon Khan
- (2) Simply Pleasure Com – Application for the renewal of Sex Shop License at 181 Cowley Road, Oxford

(3) Minutes of the meeting held on 26th November 2013

35. MATTERS EXEMPT FROM PUBLICATION

The meeting started at 5.30 pm and ended at 6.05 pm

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