

**To:** Licensing and Registration Sub Committee

**Date:** 20 August 2013

**Report of:** Head of Environmental Development

**Title of Report:** Renewal of Sex Shop Licence

## Summary and Recommendations

**Purpose of report:** To provide information which will assist the Committee in hearing and determining an application for the renewal of a licence for a Sex Shop that has met with public objection.

**Report Approved by:**

**Legal:** Daniel Smith

**Policy Framework:**

**Recommendation:**

**i) to determine the application for the renewal of the licence for the Sex Shop known as the Private Shop, 54 Cowley Road, Oxford.**

### **1 The Application**

1.1 An application has been submitted for the renewal of a licence to use the premises known as Private Shop, 54 Cowley Road, Oxford, as a sex shop. The applicant is Darker Enterprises Limited.

1.2 The proposed trading hours of the premises are:

- 09.00 to 20.00 hours Monday to Saturday
- 10.00 to 16.00 hours Sunday & Public Holidays

1.3 A copy of the application can be found as **Appendix 1**.

## **2 Legislative Background: Adoption of Provisions**

2.1 Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 contain adoptive provisions for control, by licence, of sex establishments (sex cinemas sexual entertainment venues and sex shops). Once adopted any person proposing to use any premises, vehicle, vessel or stall as a sex establishment will need a licence from a local authority. Oxford City Council has already adopted the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (Control of Sex Establishments) by resolution on 17<sup>th</sup> February 2003 which came into effect on 1<sup>st</sup> April 2003. The current annual fee is £8000.00 and a licence lasts for one year or such shorter period as the Council may think fit.

## **3 Definition of a Sex Shop**

- 3.1 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.
- 3.2 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.
- 3.3 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.
- 3.4 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.

## **4 Public Notice**

- 4.1 The legislation sets out procedures regarding the form of application and requirements for public notices relating to the application. In addition, the Chief Officer of Police must be informed.
- 4.2 In considering the application, the Council must have regard to any relevant objections submitted to them, in writing, by the Police or other persons. Should the Council be minded to refuse an application it must give the applicant the opportunity of appearing before the appropriate Council committee to make representations. If, having heard the applicant, the Committee decides to refuse the application; it must give a statement, in writing, of the reasons for the decision.

## **5 Grounds for Automatic Refusal**

- 5.1 The legislation makes specific provisions as to whom a licence shall not be granted, for example to a person under the age of 18. It has been determined that none of these provisions apply in this instance.

## **6 Discretionary Grounds for Refusal**

- 6.1 The Council may only refuse the grant, renewal or transfer of a licence on specific grounds. These grounds are:

- a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
- b) That if the licence was to be granted, 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 of such a licence if he/she made the application him/herself.
- c) That the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality.
- d) That the grant of the licence would be inappropriate, having regard to;
  - I. the character of the relevant locality; or
  - II. the use to which any premises in the vicinity are put; or
  - III. the layout, character or condition of the premises in respect of which the application is made.

- 6.2 The legislation states that “nil” may be an appropriate number for the purposes of sub-paragraph (c) above.

- 6.3 Also in sub-paragraph (c) “the relevant locality” means, in relation to the premises, “the locality where they are situated.”

## **7. Consultations**

- 7.1 Where relevant objections have been received, there is the potential for an application to be refused, and a hearing should be listed and the applicant invited to make representations.

- 7.2 The Council when considering the application must have regard to any observations or objections submitted to them by the Chief Officer of Police and any objections submitted to them by others within the 28 day period permitted for representations to be made.

- 7.3 The Chief Officer of Police has not made any representation to the application

- 7.4 Ten objections have been received in respect of this application and are attached as **Appendix 2**.
- 7.5 The objections refer to the premises location, and the Committee's attention is drawn to Paragraph 6.1 (d) earlier in this report.
- 7.6 A map detailing the location of the premises and those listed in the letter of objection are shown as **Appendix 3**.

## **7. Conditions**

- 7.1 The Council may prescribe standard conditions applicable to all licences relating to hours of opening, displays or advertisements on or in the premises, visibility of the interior to passers by and change from sex shop to sex cinema. The Council has prescribed standard conditions to these premises, and these are attached as **Appendix 4**.
- 7.2 In addition the Council may in granting an application do so subject to such other conditions or restrictions as considered necessary.
- 7.3 If a licence is granted then the Council will have the power to inspect the premises.

## **8. Relevant History**

- 8.1 No complaints about the premises have been received by the Licensing Authority since the original grant of a licence on 23 July 2003.

## **9. Recommendation**

- 9.1 To determine the application for the renewal of the licence for the Sex Shop known as the Private Shop, 54 Cowley Road, Oxford.

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**Background papers:**

**Version: 1.0**