

14 NOVEMBER 2019

**NEW FOREST DISTRICT COUNCIL**

**LICENSING SUB-COMMITTEE**

Minutes of a meeting of the Licensing Sub-Committee held on Thursday,  
14 November 2019

**Councillors:**

- \* Steve Clarke
- \* David Harrison

**Councillors:**

- \* Joe Reilly

\*Present

**Also In Attendance**

Timothy Hemming – on behalf of Simply Pleasure Limited, Applicant

**Officers Attending:**

Christa Ferguson, Prosper Mwedzi, Karen Wardle and Amanda Wilson

**1 ELECTION OF CHAIRMAN**

**RESOLVED:**

That Cllr Clarke be elected as Chairman for the meeting.

**CLLR CLARKE IN THE CHAIR**

**2 DECLARATIONS OF INTEREST**

No declarations of interest were made by members in connection with an agenda item.

**3 APPLICATION FOR A SEX ESTABLISHMENT LICENCE - SIMPLY PLEASURE, FOREST GATE, SPRING LANE, RINGWOOD**

**Decision of the Sub-Committee**

- (a) The application for a sex establishment licence is granted to the Applicant for a period of one year on the terms applied for:
  - A sex shop
  - With trading hours: Monday to Friday, 09:00 to 17:00.
- (b) And subject to the standard conditions as prescribed by the New Forest District Council Control of Sex Establishments Regulations Made Under Paragraph 13 of Schedule 3 to the 1982 Act Prescribing Standard Conditions Applicable to Licences for Sex Establishments (attached) with the premises closing at 17:00 hours, as per a above.

**Reasons for the Decision**

The Sub-Committee carefully considered the application along with the evidence, both written and oral, supplied by the Applicant. The Sub-Committee noted that no objections were received in relation to the application from the public or from the Chief Officer of Police.

The Sub-Committee noted that the proposed premises was located on an industrial estate and that there were no schools or places of worship in the immediate vicinity.

The Sub-Committee heard submissions from Mr Hemming who stated that his business was currently a wholesale operation and that he wanted to open a retail outlet in the former wholesale showroom as a trial. Mr Hemming supported his application by setting out his track record in the industry and stated that he has other sites licensed for retail. Mr Hemming confirmed that he has worked in the sector for over 40 years.

When asked about expected traffic of customers to the business, Mr Hemming stated that he was not aware of the kind of demand in the area but hoped there would be some passing trade and he would advertise locally as well as online. The Sub-Committee questioned Mr Hemming whether parking could be an issue, however, he stated that he owned the site and that he considered there was sufficient parking for customers visiting the premises.

The Sub-Committee considered whether there were any mandatory or discretionary grounds for refusal of the application. It was concluded that none of the grounds were applicable to the application. The Sub-Committee made the decision to grant the application as applied for, for the period of one year subject to standard conditions made under Paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

CHAIRMAN

## APPENDIX 1



## LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT, 1982

### CONTROL OF SEX ESTABLISHMENTS

#### REGULATIONS MADE UNDER PARAGRAPH 13 OF SCHEDULE 3 TO THE 1982 ACT PRESCRIBING STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX ESTABLISHMENTS

#### EFFECTIVE FROM THE APPOINTED DAY

#### Definition

1. In these Regulations save where the context otherwise requires the following expressions shall have the following meanings:-
  - (i) "Sex Establishments", "Sex Cinema", "Sex Shop" and "Sex Article" shall have the meanings ascribed to them in Schedule 3 to 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 Schedule 3.
  - (iii) "Licensee" means the person to whom the licence has been granted or transferred under the said Schedule 3.
  - (iv) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
  - (v) "Approval" means by the Council in writing.
  - (vi) "The Council" means New Forest District Council.
  - (vii) "Film" shall have the meaning ascribed to it in the Films Act 1985.

#### 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, byelaw, order or regulation other than Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
4. The marginal notes inserted in these Regulations are inserted for the purposes of convenience only and shall not affect in any way the meaning or construction thereof.

#### Times of opening

5. Except with the previous consent of the Council a Sex Establishment shall not be open to the public before 9.00 a.m. and shall not be kept open after 6.00 p.m.

6. Except with the previous consent of the Council, a Sex Establishment shall not be open on Sundays or any Bank Holiday or any public holidays.

### **Conduct and management of Sex Establishments**

7. 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 fourteen 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 fourteen days of a request in writing from the Council.
8. The Licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his/her absence and of whom details have been supplied to and approved in writing by the Council shall be in charge of and upon the Premises during the whole time they open to the Public.
9. The name of the person responsible for the management of a Sex Establishment (whether the Licensee or a Manager approved by the Council) shall be predominantly displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.
10. The Licensee shall maintain a register in which he shall record the name and address of any person approved under Regulation 8 or 9 hereof by the Council who is to be responsible for managing the Sex Establishment in his/her absence and the names and addresses of those employed in the Sex Establishment. Any changes in the particulars shall be recorded forthwith in the register and the register shall be kept available for inspection by the Police and by authorised officers of the Council.
11. The Licensee shall retain control over all portions of the Premises and shall not let, licence or part with possession of any part of the Premises.
12. The Licensee shall maintain good order in the Premises.
13. No person under the age of 18 shall be admitted to the Premises or employed in the business of a Sex Establishment and a notice to this effect shall be prominently displayed at or near the entrance.
14. The Licensee shall ensure that the public are not admitted to any part or parts of the Premises other than those which have been licensed by the Council.
15. The Licensee shall ensure that no part of the Premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.
16. Neither the Licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of person solicitation outside or in the vicinity of the Premises.
17. The Licensee shall comply with all statutory provisions and any regulations made thereunder.
18. 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 indicating his/her name and that he is an employee.

19. The copy of the licence and of these Regulations required to be exhibited in accordance with paragraph 14(1) of Schedule 3 to 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 the copy of these Regulations shall be retained in a clean and legible condition.

### **User**

20. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
21. 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 has been obtained thereto.
22. 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.
23. 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 restraining which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

### **Goods available in Sex Establishments**

24. 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.
25. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be prominently displayed within the Sex Establishment.
26. No film or video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film so certified.
27. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

### **External appearance**

28. No display, advertisement, word, letter, model, sign, 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, placard, board, notice, device, representation, drawing, writing, or any matter or thing as shall have been approved by the Council.

29. The entrances to the Premises shall be of such a nature as will render the interior of the Premises invisible to passers-by.
30. 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 screens or blinds of a type and size approved by the Council. This regulation shall not be construed as lessening the obligation of the Licensee under Regulation 28 hereof.

#### **State, condition and layout of the premises**

31. The Premises shall be maintained in good repair and condition.
32. Lighting in all parts of the Premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.
33. 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".
  - (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.
34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
35. The Licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.
36. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
37. 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.
38. All parts of the Premises shall be kept in a clean and wholesome condition to the satisfaction of the Council

#### **Safety**

39. The Licensee shall take all reasonable precautions for the safety of the public and employees.
40. The Licensee shall comply with any fire prevention and safety measures that may be required of him by the Council.

41. The Premises shall be provided with fire appliances suitable to the fire risks of the Premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

#### **Notification of changes**

42. Where the consent of the Council is required to a change under Regulations 21, 22 or 37 hereof, the application for consent shall be accompanied by such specifications, including plans, of the proposed changes as the Council shall require in respect of their consideration of the application.
43. Where there is a material change in the particulars given or referred to in the application for the grant or, where the licence has been renewed, in the most recent application of the renewal of the licence, the Licensee shall notify the Council of the change as soon as reasonably practicable after it has taken place **PROVIDED THAT** it shall not be necessary for the Licensee to notify the Council of that change under this Regulation where the Council have given their consent under Regulation 21, 22 or 37, or where the Council have been notified of that change under Regulation 7.

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