

## LICENSING SUB COMMITTEE – 14 NOVEMBER 2019

### APPLICATION FOR A SEX ESTABLISHMENT LICENCE

#### SIMPLY PLEASURE, FOREST GATE, SPRING LANE, RINGWOOD.

#### 1. INTRODUCTION

- 1.1 The purpose of the report is to provide Members of the Sub-Committee with information at the hearing to enable them to determine an application for a new sex establishment, a sex shop, named Simply Pleasure at Forest Gate, Spring Lane, Ringwood, BH24 3FH.

#### 2 BACKGROUND INFORMATION

- 2.1 This Council had a discretionary power contained in section 2 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act'), to adopt Schedule 3 of that Act to control sex establishments by licence. The date of adoption of Schedule 3 of the Act by New Forest District Council ('NFDC') was 1 March 1999 and NFDC is the appropriate authority for the purposes of the legislation.
- 2.2 In accordance with Schedule 3 of the Act, the term sex establishment means a 'sexual entertainment venue, sex cinema, or a sex shop'.
- 2.3 A sex shop is defined as 'any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating—
- (a) sex articles; or
  - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging—
    - (i) sexual activity; or
    - (ii) acts of force or restraint which are associated with sexual activity.
- 2.4 No person is able use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted under the Act by the appropriate authority.
- 2.5 NFDC, as the appropriate authority, may grant an application for a licence under Schedule 3 of the Act for the use of any premises vehicle, vessel or stall as a sex establishment on such terms and conditions and subject to such restrictions as may be specified.
- 2.6 Since adoption of the Act there has only been one sex shop licensed by NFDC which was situated on Rumbridge Street in Totton. This premises has closed so there are currently no licensed sex shops operating in the New Forest area.

#### 3. THE APPLICATION

- 3.1 On 31 July 2019 Licensing Services at NFDC received an application for a new sex establishment, namely a sex shop known as Simply Pleasure at Forest Gate, Ringwood. The Applicant is Simply Pleasure Limited. The application and plans are provided in **Appendix 1**.

- 3.2 There is an established wholesale operation at the site, however the wholesale business does not require a licence under the legislation.
- 3.3 The Applicant proposes to open a retail outlet in a former wholesale showroom office within the main building. As the retail unit will be open to the public, an application for a sex establishment licence is now required.
- 3.4 The premises is situated on the Forest Gate Business Park in Ringwood. There are no schools or places of worship in the immediate vicinity. The site has a large Lidl store at the entrance to the business park, a Premier Inn, a gym and several other businesses with associated car parking. (see 6.4(d))
- 3.5 The trading hours of the premises sought are Monday to Friday, 9:00 to 17:00.
- 3.6 **Appendix 2** provides a plan of the location of the site.
- 3.7 Photographs of the current site are in **Appendix 3**.
- Photo 1 - Entrance path to shop.  
Photo 2 - View from shop entrance to front of building.  
Photo 3 - Lobby area with shop entrance to right side, warehouse door and CCTV camera.  
Photo 4 - Proposed sales area (currently used for storage).  
Photo 5 - View of the entrance to the business park from outside the premises.  
Photo 6 - Side of main building and entrance to shop.  
Photo 7 - Side of main building.  
Photo 8 - Parking, front of building and Premier Inn.  
Photo 9 - Road to the premises.
- 3.8 The Applicant has obtained planning permission in order to open the retail unit to the public and this is provided in **Appendix 4**. This permission was required before the application for the sex establishment licence could be determined. This is the reason for the time taken to bring this application before Members.
- 3.9 The entrance to the shop will be from a designated door situated to the side of the building and signage will be provided to assist customers with its location. When the door is opened, a buzzer will alert staff in the wholesale area behind the shop, that a customer has arrived and may need assistance. Customers will be unable to access the wholesale area.
- 3.10 There is a CCTV camera positioned above the door which monitors all activity including arrival of customers in the lobby area. Customer car parking will be provided to the front and side of the building.

#### **4. THE APPLICANT**

- 4.1 The Applicant, Simply Pleasure Limited and the Directors of the Company, meet the applicant requirements specified by the Act. The company is incorporated in the United Kingdom and has not been refused the grant or renewal of a licence for the premises licence, nor had a licence revoked in the last 12 months. The registered company office is in Poole.

## 5. CONSULTATION

- 5.1 Applicants for a sex establishment licence are required to give public notice of the application. This application has been correctly advertised on the premises by way of a notice and in addition, a public notice has also been published in a local newspaper. This meets the legal consultation requirement of the legislation.
- 5.2 NFDC has also informed local Members, the Town and Parish Councils, the Police Authority, the Fire Officer, and officers within the Council's planning and environmental health services.
- 5.3 There have been no objections to this application from any Agency or member of the public.

## 6. CONSIDERATION OF THE APPLICATION

- 6.1 Paragraph 12 of Schedule 3 of the Act sets out the circumstances when a licence shall not be granted and the issues that may be considered when determining an application.
- 6.2 Mandatory grounds for refusing an application.

A licence shall not be granted to an applicant who:

- a) is under the age of 18;
- b) is for the time being disqualified from holding a sex establishment licence;
- c) is not a body corporate, and is not in resident or has been resident in a European Economic Area (EEA) state for six months immediately preceding the date of the application;
- d) is a body corporate (a corporation) which is not incorporated in an EEA state;
- e) has in the period of twelve months preceding the date of application 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 reversal has been reversed on appeal.

- 6.3 Information available indicates that there are no mandatory grounds for refusing this application.

### 6.4 Discretionary grounds for refusal of an application

An appropriate authority may refuse an application for the grant of a licence on one or more of the following grounds:

- (a) 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 were 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 if he made the application himself;
- (c) that 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.

6.5 Otherwise, the licence should be granted subject to such, on such terms and conditions and subject to restrictions as may be specified.

## **7. GRANT OF A LICENCE**

7.1 A sex shop licence will remain in force for one year, or for such shorter period specified in the licence as the appropriate authority may think fit. The license may be renewed after this period.

7.2 NFDC, as the appropriate authority, has made regulations prescribing standard conditions applicable to licences for sex establishments. A copy of these regulations is attached as **Appendix 5**.

7.3 Conditions 28-30 prescribe how the external appearance of the shop must look and are intended to ensure that the premises are not overtly sexual or cause offence.

7.4 The proposal for external signage for the premises is provided in **Appendix 6** and this signage will be positioned on the front and side of the building. The front window will be obscured so there will be no direct view of the internal sales floor. A clearly visible age warning will also be displayed on the side entrance door.

7.5 The premises licence must be displayed on the premises and the conditions easily accessible to staff and Officers, if required.

7.6 There is no fee set for the issue of a sex establishment licence. The Applicant will be advised of the final costs to the Council for the administration of this application, which will be a reasonable fee in accordance with the Act.

## **8. FINANCIAL, ENVIRONMENTAL, EQUALITY & DIVERSITY IMPLICATIONS**

8.1 None

## **9. CRIME & DISORDER AND DATA PROTECTION IMPLICATIONS**

9.1 None

## **10. RECOMMENDATION**

10.1 That the Sub- Committee determine the application, and either:

- (a) grant the application for the period of 12 months and attach appropriate conditions; or
- (b) grant the application for a shorter period than 12 months as it thinks fit and attach appropriate conditions; or
- (c) refuse the application for one or more of the reasons set out at paragraph 6.4 above.

## 11. APPENDICES

Appendix 1- Application form and plans

Appendix 2- Location plan

Appendix 3- Photographs of the site

Appendix 4- Planning permission

Appendix 5- Licence conditions

Appendix 6-Proposed signage

### Further information:

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### Background papers:

Schedule 3, Local Government

(Miscellaneous Provisions) Act 1982