

SUBJECT:	APPLICATION FOR A SEX ESTABLISHMENT LICENCE 72 HIGH STREET, LINCOLN, LN5 8QD
REPORT BY:	COMMUNITIES & ENVIRONMENT
LEAD OFFICER:	HANAN AWAJAN, LICENSING OFFICER

1. Purpose of Report

- 1.1 To determine an application for a sex establishment licence made by Simply Pleasure Limited in respect to premises known as Simply Pleasure situated at 72 High Street, Lincoln, LN5 8QD.

2. The Application

- 2.1 Under the provisions of Part II (section 2 and Schedule 3) of the Local Government (Miscellaneous Provisions) Act 1982 (the Act). A copy of the application can be seen at Appendix A.
- 2.2 The application seeks to authorise the premises to operate as a sex shop as defined in the Act to sell, hire, exchange, lend, display or demonstrate sex articles or other things intended for use with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity (paragraph 4 Schedule 3 or the Act).
- 2.3 The hours of operation sought are Monday to Friday 08:00 to 20:00, Saturday 10: to 18:00 and Sunday 10:00 to 16:00.
- 2.4 There are no other licensable activities applied for and to be used solely as a sex shop.

3 Background

- 3.1 These premises have been licensed a sex shop since 2001 and transferred into the current applicant's name in 2005/06.
- 3.2 Throughout that time there have been no problems, complaints or matters of concern during inspections.
- 3.3 The annual licence expires on the 26th December and has always been renewed on time.
- 3.4 The Licensing Committee's policy delegates the decision to renew licences subject to their being no issues during the previous licensing period. If there are, then the application must be referred to the Licensing committee.

- 3.5 New applications likewise, must be referred to the Licensing Committee.
- 3.6 The legislation provides for renewal and a continuation of business after the expiry of the previous licence provided the application to renew is made before the previous licence expires.
- 3.7 Unfortunately, it was not noticed by either the licensing authority or the applicant's staff that the renewal had not been made before the expiry date of 26th December 2017.
- 3.8 Therefore the licence expired on the 26th December 2017.
- 3.9 An application for renewal was made on the 9th January 2018 as soon as it was realised the licence renewal had not been made. This was accepted by the Licensing Authority.
- 3.10 Schedule 3, paragraph 7 of the Act permits the Licensing Authority to issue a waiver in order that trade can continue until an application for a licence has been determined.
- 3.11 A waiver was issued on the 11th January 2018 and trade could resume from then until the application is determined. (Appendix B)
- 3.12 All other procedures have been completed but by strict application of the Licensing Committee's policy, the application has to be determined by the Licensing Committee.

4. Representations

- 4.1 No representations or objections have been received.

5. Considerations

5.1 Human Rights

5.1.1 Article 1, Protocol 1 – peaceful enjoyment of possessions

“Every natural or legal 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 and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

The right to engage in commercial activities under the benefit of a licence or registration is a possession

Tre Traktorer Aktiebolag v Sweden 1989

- 5.1.2 As a licence issued under the Act is a possession and there have been no issues with the conduct of the business, there is no reason why the applicant should not have the licence granted.

5.2 **Other Considerations**

- 5.2.1 The application is made by a limited company and there has been no change in directors since the last application.
- 5.2.2 There is nothing known to the detriment of the Company.
- 5.2.3 Had the application been received by the Licensing Authority on or before the 26th December 2017, the application would have been granted by officers under delegated authority in exactly the same terms and conditions as previously granted.

7. **Options**

- 7.1 The Sub-committee must, having regard to the application (and representation(s) made, determine the application.
- 7.2 The following options are available to the Committee:
- Grant the application as applied for, with the standard conditions and no additional conditions;
 - Grant the application with additional conditions or modified conditions attached to alleviate the concerns raised through any objections or representations.
 - Refuse the application.
- 7.3 The Committee is required to give reasons for its decision. Such reasons need to be clear and include an explanation of why it has reached its decision including what it relied on to do so (e.g. what evidence was accepted, and what evidence was rejected, and why).
- 7.4 If the Sub-committee refuses the application, it must give reasons why it refused and why conditions would not have been effective in this instance.

8. **List of associated papers**

- 8.1 Appendix A: Application for sex establishment licence
Appendix B: Application and grant of waiver
Appendix C: Standard Conditions.

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Licensing Officer.
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