

<b>LICENSING COMMITTEE</b>	<b>AGENDA ITEM No. 3</b>
<b>2 DECEMBER 2010</b>	<b>PUBLIC REPORT</b>

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<b>APPLICATION:</b>	<b>APPLICATION FOR SEX ESTABLISHMENT LICENCE RENEWAL</b>
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<b>APPLICANT:</b>	Darker Enterprises
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<b>LOCATION:</b>	Private Shop, 75 Oundle Road, Peterborough, PE1 1HU
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**1. PURPOSE AND REASON FOR REPORT**

- 1.1 Members are asked to consider and determine an application made by Darker Enterprises for the renewal of a sex establishment licence, taking into account the representation received against the application.

**2. BACKGROUND**

- 2.1 The Council passed a resolution in 1983 to apply Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to its area and has laid down criteria for consideration before such a licence would be issued for a premises.
- 2.2 On 16 June 1983 the Environmental Health Services Committee determined that applications would be considered by the Licensing Committee and that the following criteria be considered in the determination of an application for a licence for a sex establishment:-
- (a) Sex Establishments should not occupy frontages in Upper Bridge Street, Cathedral Square, Church Street, Long Causeway, Westgate from its junction with Lincoln Road eastwards and Queensgate (including the Westgate Arcade), being streets within the centre of the city.
  - (b) Sex establishments should not be in the vicinity of schools, youth clubs, libraries, playgroups or similar places regularly visited by children.
  - (c) That in considering applications for sex establishment licences, due regard should be given to the character of the relevant location.
  - (d) Sex Establishments should not be in residential areas, including local shopping areas.
- 2.3 A sex shop is defined as any premises used for a 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 which are associated with sexual activity.

**3. DETAILS OF THE APPLICATION**

- 3.1 An application for the renewal of a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982 was received on 25<sup>th</sup> October 2010 from Darker Enterprises Limited in respect of the premises at 75 Oundle Road, Peterborough, PE1 1HU. A copy of this application is attached at **Appendix A – Page 5**.

3.2 Darker Enterprises have held a sex establishment licence at this premises since 18<sup>th</sup> September 2001. The current licence has the following conditions attached;

- The window display should not contain any items of a sexual nature and should be similar to that at the Leicester Shop as illustrated in the applicant's evidence (i.e. vertical window blinds obscuring views in the shop)
- Promotional posters only, that depict the names of promoters of films, can be displayed in the shop window
- Police checks to be carried out on employees within seven days of their employment
- The interior of the shop should not be visible from the street when the entrance door is opened
- The premises should not be used as a sex cinema
- Videos will only be previewed prior to purchase in accordance with the following conditions:-
  - No sound from the video will be audible in the shop
  - A maximum of 5 minutes only will be shown
  - Videos will only be previewed upon the customers request
  - No more than 2 persons may preview the video at any one time
  - The television screen will be so situated in the shop to prevent other customers watching the preview of the video

3.3 The persons responsible for the management of the establishment are given as Colin Charles Mason, Keith Lickley, Michael John Scrimshaw, Stephen Leinster, David Brunt, Barry Maltby, Leigh Emma Fisher, Randolph Ellery and Limetime Services Limited.

3.4 The application requests trading hours of;

- Monday to Saturday between 9.30am and 8pm; and
- Sunday between 10am and 4pm

The applicant has also applied to open on 27<sup>th</sup> and 28<sup>th</sup> December 2010 and 3<sup>rd</sup> January 2010. This additional application is to take into account the Bank Holidays on 26<sup>th</sup> and 27<sup>th</sup> December 2010.

3.4 An advertisement was placed in the Peterborough Evening Telegraph on 29<sup>th</sup> October 2010 by the applicant containing details of the application, and that representations should be made to the Council within 21 days. A similar notice was displayed on the premise for a period of 21 days.

3.5 One representation against the application was received. This representation was from a local resident and concerned the close proximity of the premises to the proposed Anglia Ruskin University campus and that the premises would not be conducive to the positive image of the locale. A copy of the residents censored representation can be found at **Appendix B – Page 15.**

3.6 A plan is attached at **Appendix C – Page 17** indicating the position of the premises.

#### **4. CONSULTATION**

4.1 Cambridgeshire Constabulary were consulted with and made no representations against the granting of the renewal licence.

#### **5. IMPLICATIONS**

5.1 The procedures specified in paragraph 10(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 have been followed in relation to the making of the application.

- 5.2 The applicant has been informed of the substance of the objections.
- 5.3 A licence may be granted subject to such conditions:-
- (a) The hours of opening and closing;
  - (b) Displays or advertisements on or in such establishments;
  - (c) The visibility of the interior of sex establishments to passers-by;
  - (d) Any change of a sex cinema to a sex shop or a sex shop to a sex cinema.
- 5.4 The Council can only refuse the application on the grounds specified in paragraph 12 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. Those which may apply to this application 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 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) 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 consider is appropriate for that locality;
  - (d) 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.

**NB:** Nil may be the appropriate number for the purposes of sub-paragraph (c) above. "The relevant locality" means – in relation to the premises, the locality where they are situated.

- 5.5 Where an authority refuses to grant a licence they shall, if required by the applicant, give a statement in writing of the reasons for their decision within 7 days of the request.

## 6. **BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Local Government (Miscellaneous Provisions) Act 1982  
Human Rights Act 1998

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