

DECISION-MAKER:	LICENSING (GENERAL) SUB-COMMITTEE		
SUBJECT:	APPLICATION FOR VARIATION OF A SEX SHOP LICENCE – HIDDEN ASSETS, 439 MILLBROOK ROAD WEST, SOUTHAMPTON, SO15 0HX		
DATE OF DECISION:	8 MAY 2014		
REPORT OF:	HEAD OF LEGAL AND DEMOCRATIC SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

Not applicable

BRIEF SUMMARY

The sub-committee is requested to consider and determine the application for the variation of the sex shop licence in respect of 439 Millbrook Road West, Southampton. SO15 0HX

RECOMMENDATIONS:

- (i) The Sub-Committee to consider and determine the application for the variation of the sex shop licence in respect of 439 Millbrook Road West, Southampton, SO15 0HX.

REASONS FOR REPORT RECOMMENDATIONS

1. The determination of applications for variation of sex shop licences is not delegated to officers, therefore it is for the sub-committee to consider and determine the application.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. N/A

DETAIL (Including consultation carried out)

3. Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16th March 1983.
4. Following High Court challenges to other local authorities' adoption of the legislation, the City Council was advised by Counsel in 1995 that it would be appropriate to readopt the provisions. The Council resolved the adoption of schedule 3 to the Local Government (Miscellaneous

Provisions) Act 1982 on 10th April 1995, with the provisions coming into effect from 3 July 1995. Notices setting out the effect of the provisions were published in the Southern Daily Echo on 5th and 12th May 1995.

5. Mr. Matthew Barry Caplen Smith, has held a sex shop licence in Southampton since 2003, with the licence being renewed annually since.
6. On 17th March 2014 an application was made by Mr. Matthew Barry Caplen Smith to renew the sex shop licence in respect of 439 Millbrook Road West, Southampton, SO15 0HX. At the same time as making this renewal application, the applicant submitted a request to change the trading name of the premises and vary the current shop frontage.
7. The renewal of the licence was unopposed and in line with the scheme of delegation, which gives the Licensing Manager the power to determine such applications in those circumstances, the renewal of the licence has been deemed granted. Therefore, the renewal application is not presented for the consideration of the Committee.
8. In summary, the applicant has requested to make the following changes;
 1. For the premises to change the trading name to 'Adult Superstore'; and
 2. For the shop front to vary to a blue frontage with a double door and a single window either side of each door, with the lobby area relocated to a central position
9. A description of the variation was supplied on page 11 of the application form and is attached as Appendix 1. The applicant has supplied an impression of the proposed changes. This is attached to the report as Appendix 2. A photograph of the current appearance of the premises is attached as Appendix 3. A copy of the current licence is attached as Appendix 4.
10. In proposing these changes, the applicant would be seeking to vary conditions 16(b) and 16(c) of the current licence. Condition 16(b) states;

'The exterior of the premises shall consist of material and colours of a discreet nature appropriate to the character of the locality and shall be in keeping with the appearance of other premises in the vicinity. There shall be no external advertisements nor shall the frontage contain displays of advertisements of any nature or permit the interior of the place licensed to be viewed from outside'

In addition condition 16 (c) currently sets out the requirements of the licensing authority in terms of agreed appearance and signage for these premises.

A copy of the current licence containing all the conditions relating to this premises is attached as Appendix 3.

11. There is no requirement under the Act to advertise a variation of the licence, only for the application, renewal or transfer of a licence. Therefore, there is no formal mechanism of consultation for this process, although a copy of the proposed variation was served on Hampshire Constabulary by the applicant.
12. The Hampshire Constabulary Western Licensing Unit has advised that they have no objection to this variation.
13. Section 18 of the Local Government (Miscellaneous Provisions) Act 1982 permits the holder of a sex shop licence to apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
14. The authority may;
 - Make the variation specified in the application; or
 - Make such variations as they think fit; or
 - Refuse the application.
15. Should the Committee be mindful to grant any variation to the appearance of the current shop frontage, it is recommended that the applicant be advised of the need check with the Planning department as to whether planning permission is required before any changes are implemented.
16. An applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.
17. A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as Appendix 5.

RESOURCE IMPLICATIONS

Capital/Revenue

18. There are no financial implications

Property/Other

19. N/A

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

20. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the City Councils power to determine an application to vary the terms, conditions or restrictions of a sex shop licence.

Other Legal Implications:

21. **CRIME AND DISORDER ACT 1998**

Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

22. **HUMAN RIGHTS ACT 1998**

The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.

POLICY FRAMEWORK IMPLICATIONS

23. The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.

KEY DECISION? Yes/No

WARDS/COMMUNITIES AFFECTED:

SUPPORTING DOCUMENTATION

Appendices

1.	Covering application (Page 11) outlining proposals.	
2.	Impression of proposed shop frontage	
3.	Photograph of current shop frontage	
4.	Copy of current licence	
5.	Procedure for hearing the application	

Documents In Members' Rooms

1.	None

Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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Other Background Documents**Equality Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.		
2.		