

Licensing Sub-Committee 1 - 12th May 2009

Report of the Interim Director of Law and Property

**Application for Extension of Licensing Hours
(Public Holiday - Monday 28th December 2009) -
for a Sex Shop - Unit 4, 22-23 King Street/Flood Street, Dudley**

Purpose of Report

- 1 To consider the application on behalf of Darker Enterprises for the Extension of permitted hours (Public Holiday Monday 28th December 2009) in respect of the Sex Establishment Licence on behalf of Unit 4, 22-23 King Street/Flood Street, Dudley, West Midlands.

Background

2. On the 13th February 2006, Darker Enterprises made application for the grant of a Sex Establishment Licence in respect of Unit 4, 22-23 King Street/Flood Street, Dudley, for the following days and times:-

Monday – Saturday 9.30 am – 8.00 pm
Sunday 10.00 am – 4.00 pm
3. This application was circulated to the West Midlands Fire Service, West Midlands Police and the Directorate of the Urban Environment, none of the agencies raised objections.
4. The West Midlands Fire Service made recommendations, which were brought to the attention of the committee.
5. A letter of objection was received which was also brought to the attention of the committee.
6. Proof of publication of the requisite public notice was received.
7. The Committee was informed that should they resolve to grant that application the following standard conditions of licence would apply:-

8. Opening Hours

- (1) The licensed premises shall not be open nor used for the purposes for which the licence is granted except between the hours of 9 am and 6.30 pm on any weekday (including Saturday).
- (2) The licensed premises shall not be so open or used at all on Sundays, Good Friday, Christmas Day or any other general or public holiday.

Window, Fascia Board Advertisement and Displays

- (1) The interior of the premises shall not be visible to passers by and to that intent the licence holder shall obscure all windows and doors in a manner satisfactory to the Council
- (2) The window, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:-
 - The address of the premises
 - The licensed name of the premises
 - The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981
 - A notice stating the opening hours of the establishment

9. This matter was considered by the Committee on the 11th April 2006.

10. The Committee resolved that the application be granted and that all conditions apply, together with the additional condition as set out in paragraph 8 above.

11. That licence was subsequently renewed and bore the expiry date of 10th April 2008.

12. On the 7th August 2007, Darker Enterprises Ltd made application for the extension to the opening hours for the period prior to Christmas i.e. until 8.00pm Monday to Saturday from 10th December 2007 until 22nd December 2007.

13. That application was circulated as in paragraph 3 above. None of the agencies raised objections.

14. That application was considered by the Licensing Sub-Committee on 25th September 2007, the Sub-Committee resolved that the application be approved for the following days and times:-

Monday to Saturday from 10th December 2007
Until 22nd December 2007 until 8.00pm

15. On 26th March 2008, an application was received from Darker Enterprises Limited for the renewal of the licence and permanent extension of permitted hours (for the two weeks prior to Christmas) to Monday to Saturday until 8.00pm.

16. This application was circulated as set out in paragraph 3 above. None of the Agencies raised objections.

17. This matter was considered by the Licensing Sub-Committee on 13th May 2008, the Committee resolved that application for renewal be granted, the Committee further resolved that the application for permanent extension of hours also be granted for the following days and times only.

Monday to Saturday in the two weeks proceeding Christmas each year until 8.00pm.

18. On 23rd March 2009 Darker Enterprises Limited made application for the renewal of licence and variation of condition of licence to allow the premises to open on Bank Holiday Monday 28th December 2009, and for a further variation for 2010 when Christmas day falls on the Saturday and two Bank Holidays are therefore moved.

A copy of that application is attached to this report as Appendix 1.

19. That application was circulated as in paragraph 3 above, none of the agencies raised objections.

20. This application falls within the Council's responsibility for licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

21. There are no financial implications.

Law

22. The control of sex establishments is governed by the Local Government (Miscellaneous) Provisions Act 1982 Part II

23. Formalities of Applications under Part II of the Act:

An applicant for the grant, renewal or transfer of a licence must give public notice of the application in a local newspaper which is published not later than seven days after the application. Additionally public notice of the application must be displayed for 21 days on or near the premises. The public notice must be in a form prescribed by the Council. The applicant must also within seven days of the application send a copy thereof to the Police. Objectors must give written notice of grounds of objection within 28 days of the date of the application. The Council when considering an application must have regard to the observations of the Police and any objectors.

24. Refusal of Licences:

An application must be refused if the applicant:-

(a) is under 18;

- (b) has had a licence revoked and is disqualified. Where a licence is revoked its holder is disqualified from holding a licence for a period of twelve months;
- (c) is non-resident in the United Kingdom;
- (d) is a foreign company; and
- (e) has been refused a licence during the proceeding twelve months.

An application may be refused in the following circumstances:-

- (a) if the applicant is unsuitable by reason of criminal conviction or any other reason;
 - (b) if the applicant is acting on behalf of somebody who would be refused if he were to apply;
 - (c) if the number of sex establishments in the locality at the time is equal to or exceeds the number which the authority consider is appropriate for that locality. That number can be nil; and
 - (d) if a licence would be inappropriate having regard to:-

the character of the locality or the use to which any premises in the vicinity are put or the layout, character or condition of the premises, vehicle or stall in respect of which the application is made.
25. There is a right of appeal to the Magistrates' Court against a decision of the Council to refuse to grant, renew or transfer a licence, or to revoke a licence, and against a condition attached to a licence. However, there is no right of appeal in respect of a refusal to grant or renew a licence on the grounds that the number of sex establishments in the locality exceeds the number which the Council consider is appropriate for that locality or that the grant of a licence would be inappropriate to the area.

Equality Impact

- 26. This report takes into account the Council's policy on equal opportunities.
- 27. The licensing of premises will not impact on children as under 18 year olds are not permitted on such premises.
- 28. There has been no consultation or involvement of children and young people in developing these proposals.

Recommendation

29. That the Committee consider this application.

A handwritten signature in black ink, appearing to be 'P. J. Elliott', written in a cursive style.

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INTERIM DIRECTOR OF LAW AND PROPERTY

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List of Background Papers