

DECISION-MAKER:	Licensing (General) Sub - Committee		
SUBJECT:	Application for Variation of a Sex Shop Licence - Private Shop, 16 Hanover Buildings, Southampton.		
DATE OF DECISION:	7 October 2015		
REPORT OF:	Head of Legal and Democratic Services		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY		
None.		
BRIEF SUMMARY		
The Sub-Committee is requested to determine the application for the variation of a sex shop licence from Darker Enterprises Limited in respect of the Ground Floor, 16 Hanover Buildings, Southampton.		
RECOMMENDATIONS:		
1.	(i)	For the Sub-Committee to consider and determine the application for the variation of the sex shop licence in respect of the Ground Floor, 16 Hanover Buildings.
REASONS FOR REPORT RECOMMENDATIONS		
2.	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		
3.	None.	
DETAIL (Including consultation carried out)		
4.	Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16 th March 1983.	
5.	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 10 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 5 and 12 May 1995.	

6.	Darker Enterprises Limited, has held a sex shop licence in Southampton since 2003, with the licence being renewed annually since. A licence was initially held at 131 Above Bar Street until the premises were subject to a compulsory purchase order and the business relocated to its current site on the Ground Floor of 16 Hanover Buildings in July 2008.
7.	On 10 th August 2015, an application was made by Darker Enterprises Limited to vary the sex shop licence in respect of the Ground Floor of 16 Hanover Buildings. The application submitted is a request to vary the conditions of the licence to permit changes to the current shop frontage.
8.	In summary, the applicant has requested to make the following changes to the shop frontage; (i) Change of name on fascia board to 'Private Shop'. (ii) Change of style and colour of name on fascia board to purple and white. (iii) Wording "Your ultimate lifestyle" on window with blue wave effect background. (iv) Two dark blue shield decals approx. 53-60 x 53.60 cm. One with wording 'Be who you want to be. Love who you want to love' and one with the wording 'Private shop The adult store you can trust.' (v) Change the door warning to a warning of the text displayed in a shield design.
6.	The applicant has submitted a covering letter listing the proposals along with an impression of the proposed changes. These are attached to this report as Appendix 1 . A photograph of the appearance of the current shop frontage has also been supplied by the applicant and is attached as Appendix 2 .
7.	In proposing these changes, the applicant would be seeking to vary conditions 16(c) and 17 of the current licence. A copy of the current licence containing all the conditions relating to this premises is attached as Appendix 3 .
8.	There is no requirement under the Act to advertise a variation of the licence, only for the application, renewal or transfer of a licence. However, the applicant did advertise in the Daily Echo on the 12 th August 2015. 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.
9.	The Hampshire Constabulary Western Licensing Unit have advised that they have no objection to this application. A copy of the email sent by Hampshire Constabulary is attached as Appendix 4 .
10.	Section 18 of the Local Government (Miscellaneous Provisions) Act 1982 provides that the holder of a sex shop licence may at any time apply for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
11.	The authority may: <ul style="list-style-type: none"> • Make the variation specified in the application; or • Make such variations as they think fit; or • Refuse the application.
12.	Should the Sub-Committee be minded to grant any variation to the appearance of the current shop frontage, it is recommended that the applicant be advised of the need to check with the Planning department as to whether planning permission is required before any changes are implemented.

13.	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.
14.	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	
<u>Capital/Revenue</u>	
15.	There are no financial implications.
<u>Property/Other</u>	
16.	Not applicable.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
17.	Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the City Council's power to determine an application to vary the terms, conditions or restrictions of a sex shop licence.
Other Legal Implications:	
CRIME AND DISORDER ACT 1998	
18.	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.
HUMAN RIGHTS ACT 1998	
19.	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	
20.	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?	No
WARDS/COMMUNITIES AFFECTED:	N/A

SUPPORTING DOCUMENTATION

Appendices

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| 1. | Covering letter outlining proposals and impression of proposals |
| 2. | Photograph of current shop frontage |
| 3. | Copy of current licence |
| 4. | Email response from Hampshire Constabulary |
| 5. | Procedure for hearing the application |

Documents In Members' Rooms

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| 1. | None |
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out?	No
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Privacy Impact Assessment

Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out?	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)
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| 1. | None |
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