
NAME OF DECISION – MAKER:	LICENSING (GENERAL) SUB-COMMITTEE
DATE OF DECISION – MAKING:	WEDNESDAY 4 th JULY 2007
SUBJECT:	APPLICATION FOR RENEWAL OF A SEX SHOP LICENCE – HIDDEN ASSETS, 439 MILLBROOK ROAD WEST
REPORT OF:	SOLICITOR TO THE COUNCIL
AUTHOR AND CONTACT DETAILS:	PAT WOOD (telephone 8083 3245 – e-mail: pat.wood@southampton.gov.uk)

RECOMMENDATION

The Sub-Committee is requested to determine the application for renewal of a sex shop licence from Mr. Matthew Barry Caplen Smith in respect of 439 Millbrook Road West.

BACKGROUND INFORMATION

1. Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16th March 1983.
2. In April 1984, the Council determined the relevant localities in respect of the premises then under consideration.
3. The plans of the two areas showing the relevant localities are held by the Licensing Team at Southbrook Rise, with the first area being Kingsland Place/St. Mary Street and the second area being East Street.
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 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.
5. No further applications were made for sex shop or sex cinema licences until 2002, when an application was received for premises at 131 Above Bar. The Licensing and Public Safety Committee agreed to the grant of a licence in respect of those premises, subject to conditions, on 5 February 2003.
6. The Licensing and Public Safety Committee subsequently considered two applications in respect of premises in Millbrook Road West in July 2003 and resolved to grant both licences subject to conditions. Applications were also granted for 103 St. Mary Street in December 2004, and 90 Howard Road in November 2005.

THE APPLICATION AND RELEVANT LOCALITY

7. An application (attached as Appendix 3) has been received for renewal of a sex establishment licence in respect of the premises at 439 Millbrook Road West. The premises occupy a prominent position within the parade of shops between the junctions of King George's Avenue and Whitehouse Gardens with Millbrook Road West (plan attached as Appendix 2)
8. The Planning & Sustainability Division of the Directorate of Development and Sustainability confirms that there is no specific planning development brief for this area.
9. The Committee (or its predecessors) has not previously considered the issue of determining an appropriate number of sex establishments within a relevant locality which would include these premises.

10. However two such areas (not including these premises) had previously been decided by the Council, and the background information relating to this is set out above.

APPLICATION DETAILS

11. A copy of the application for the renewal of a sex shop licence in respect of 439 Millbrook Road West is attached as Appendix 3, which includes a plan of the internal layout of the premises, and a photograph of the current frontage is attached as Appendix 4.
12. The applicant is Mr. Matthew Barry Caplen Smith, of whom further details are given in the application.
13. The applicant has informed the Licensing Officer that notice of the application was placed in the Southern Daily Echo on 26th March 2007. An original copy of the newspaper advert has been provided to the Licensing Officer.
14. The Applicant has informed the Licensing Officer that notice of the application, dated 19th March 2007, was exhibited on the front window of 439 Millbrook Road West for 21 days.
15. The applicant has been invited to attend the Sub-Committee's meeting.

PROPOSED TRADING ACTIVITIES

16. This is an application for renewal of a sex shop licence. Mr. Matthew Barry Caplen Smith has indicated he wishes to sell by retail goods including lingerie and other clothing items, videos, DVDs, magazines and other marital aids.
17. In addition, it is understood that the applicant also intends to stock and sell British Board of Film Classification (BBFC) Restricted 18 (R18) classified video recordings at the premises (such video recordings may contain pornographic images). The Video Recordings Act 1984 makes it an offence to supply an R18 classified video recording except in a licensed sex shop and also makes it an offence to supply an unclassified video recording.
18. Members should note that a sex establishment licence does not permit the sale of any goods that are prohibited in law, in particular by the Obscene Publications Act 1964.
19. Although no indication has been given in the application, it is likely that the applicant will wish to show BBFC R18 classified trailers on a television monitor within the display area. Such trailers would contain pornographic images and would be in the form of a loop (continuous) videocassette or DVD containing short clips advertising various films for sale in the premises. It would be likely that the television monitor would be sited close to the sales assistant's desk at the premises.
20. The applicant is also currently the manager of "Hidden Desires," a licensed sex shop on St. Mary Street.
21. If the Sub-Committee grant the application for renewal of the licence, it may be on such terms and conditions and subject to such restrictions as the Sub-Committee may specify.

THE LEGISLATION – DEFINITIONS

22. Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 sets out the framework for the consideration of applications for sex shop licences.
23. The legislation requires that no person shall, in any area in which the sex establishment licensing provisions have been adopted, use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted by the appropriate authority.
24. A "sex establishment" is either a sex shop or a sex cinema. This report concerns an application for a licence to use premises as a sex shop.

25. A “sex shop” is defined by the legislation as follows: "any premises, vehicle, vessel or stall 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".
26. A “sex article” is defined as: “anything made for use in connection with, or for the purpose of stimulating or encouraging—
 - (a) sexual activity; or
 - (b) acts of force or restraint which are associated with sexual activity; and
 - (c) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (d) to any recording vision or sound, which is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.”

THE LEGISLATION – NOTICES AND OBJECTORS

27. Applicants are required to display a public notice at the premises for 21 days and, in addition, publish in a local newspaper a notice inviting written objections. Only objections received in the notice period may be considered by the Sub-Committee when making its decision.
28. The names and addresses of objectors must be kept confidential unless the objectors indicate otherwise.
29. The Act does not provide objectors with a right to be heard in person by the Sub-Committee. Those persons from whom valid objections have been received have been advised of the date and time of the meeting and have also been advised that they may only address the meeting at the invitation of the Sub-Committee.
30. If granted, sex shop licences are in force for one year or for such shorter periods specified in the licence as the Sub-Committee may think fit.
31. Under the Council’s current scheme of delegation, the renewal of any such licence would be a matter for the Sub-Committee.

THE LEGISLATION – APPLICATION PROCEDURE

32. Paragraph 10 of Schedule 3 to the Act requires an application to be made in writing to the appropriate authority and to state the full name of the applicant, his permanent address and his age. In the case of an application made by a body corporate or an unincorporated body, the full name of the body, the address of its registered or principal office and the full names and private address of the directors or other persons responsible for its management are required to be provided.
33. In addition, the full address of the premises must be given.
34. The applicant is required to send a copy of the application to the Chief Officer of Police within seven days of the date of the application and any objections to the application must be made in writing to the City Council not later than 28 days after the date of the application.
35. The City Council is required, before considering the application, to give notice in writing of the general terms of any objection to the applicant. The Licensing Officer has forwarded transcripts of each objection (without identifying the objector, unless consent has been given) to the applicants.

36. The Act requires that, in considering any application for the grant of a licence, the Sub-Committee shall have regard to any observations submitted to them by the Chief of Police, and any objections of which notice has been sent to them within the 28-day period referred to above.
37. The City Council is required to give an applicant an opportunity of appearing before and being heard by the Sub-Committee before the application is determined.
38. A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as Appendix 1.

THE LEGISLATION – OBJECTIONS

39. The legislation requires the Sub-Committee, in considering an application, to have regard to any observations made by the Chief of Police and to any objections of which proper notice has been given.
40. The Sub-Committee has the discretion, subject to the restrictions mentioned below, to invite objectors, who have given written notice of their objections, to address the Sub-Committee.
41. It is clear from the numerous decided cases on this subject that only those written objections received before the end of the 28-day period can be considered.
42. At the hearing itself the Sub-Committee has a discretion to allow objections to be heard subject to:
43.
 - (a) only those objectors whose written objections have been received before the end of the 28 day period may be heard;
 - (b) those objections confined to putting forward only points which are relevant to consideration of the grounds of refusal and which were contained in written objections referred to in (a) above;
 - (c) if the objectors are heard this should precede the hearing afforded to the applicant and the applicant should be given the opportunity of hearing and noting what the objectors say.
 - (d) The objectors and the applicant may not ask questions of each other.
44. Members are encouraged to approach this application in three steps:
 - (a) Identify an area of reasonably consistent character within which 439 Millbrook Road West falls, and consider this application on its own merits.
 - (b) Consider whether the grant of a licence to the applicant for this use of the premises would be inappropriate given the character of that area.
 - (c) Identify any potential sensitive use of premises near to 439 Millbrook Road West, and consider whether the nature of that use and the use of 439 Millbrook Road West is such that the premises are too close.

THE LEGISLATION – LICENCE CONDITIONS

45. The City Council has a power under the Act to make regulations prescribing standard conditions on or subject to which sex shop licences are, in general, to be granted. The City Council has made such regulations.
46. These may include the hours of opening and closing of sex establishments, displays or advertisements on or in such establishments, the visibility of the interior of sex establishments to passers-by and any change of a sex cinema to a sex shop or vice versa. All such conditions are presumed to apply to every licence granted unless they have been expressly excluded or varied.
47. A copy of the standard conditions made by the City Council appears at Appendix 5 to this report.
48. In addition, the Indecent Displays (Control) Act 1981 prohibits the public display of any indecent matter unless access is only on payment or the display is in a shop that can only be accessed by passing beyond a warning notice. No person under the age of 18 may be permitted to enter.

49. The warning notice must contain the following words: “WARNING - persons passing beyond this notice will find material on display which they may consider to be indecent. No admittance to persons under 18 years of age”.

THE LEGISLATION – CRITERIA

50. Written reasons must be given to the applicant within seven days of the applicant requesting the information from the City Council.
51. Paragraph 12 of Schedule 3 to the Act sets out both mandatory and discretionary grounds for the refusal of an application for a licence.
52. A licence shall not be granted:
- (a) to a person under the age of 18; or
 - (b) to a person who has had such a licence revoked, within 12 months of that revocation; or
 - (c) to a person other than a body corporate who is not resident in the United Kingdom or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
 - (d) to a body corporate which is not incorporated in the United Kingdom; or
 - (e) to a person who has, within the period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises in respect of which the application is made, unless the refusal has been reversed on appeal.
53. The Sub-Committee may refuse an application for the grant of a licence on one or more of the following grounds:
54. (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, 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) that 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 in respect of which the application is made.
55. The Act provides that nil may be an appropriate number of premises in “the relevant locality.”
56. The “relevant locality” is defined by the Act as meaning, in relation to the premises, the locality in which it is situated.
57. Although the Council has, in the past, determined appropriate numbers of sex shops for specific localities, it is considered advisable to merely deal with this application on its merits and not to embark on an additional exercise of determining a “relevant locality” and an appropriate number of establishments in it. The entire report is structured on the basis that the application will be dealt with on its merits without such a locality and a number being determined.
58. In assessing the application, Members should consider any objections in the light of the statutory grounds of refusal. In doing so Members may call on their own moral sense in reaching a view as to what is appropriate in any particular location.
59. Members, in determining the application, should consider each of these issues and determine whether grant or refusal is appropriate and, if so, why.

60. However, it would not be lawful to refuse the application merely because Members consider sex shops are immoral or should not be permitted. Further, there are discretionary grounds of refusal. Members have a residual discretion to grant an application despite it falling within one of these grounds, but Members should only do so in these circumstances for good reasons, which would need to be specified.

THE LEGISLATION – APPEALS

61. An applicant for the grant of a sex shop licence, whose application has been refused, may appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.
62. However, there is no right of appeal if the refusal is on one of the mandatory grounds:
- (a) applicant under 18
 - (b) applicant disqualified
 - (c) applicant not resident in the United Kingdom
 - (d) body not incorporated in the United Kingdom
 - (e) licence refused for the premises within 12 months
- unless the applicant seeks to show that the ground did not apply to him.
63. In addition there is no right of appeal against a decision by the Sub-Committee 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 appropriate for that locality or that the grant of a licence would be inappropriate having regard to the character of the relevant locality, or to the use to which any premises in the vicinity are put, or to the layout, character or condition of the premises in respect of which the application is made.
64. Appeal against the decision of a Magistrates' Court may be made to the Crown Court.
65. Similarly, if a licence is granted, a right of appeal exists against any term, condition or restriction on or subject to which the licence is held.

THE LEGISLATION - CRIME AND DISORDER ACT 1998

66. 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.

THE LEGISLATION - HUMAN RIGHTS ACT 1998

67. 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.

OBJECTIONS

68. Two objections have been received from residential, business and institutional addresses within the period of notice.
69. It is appropriate for the Sub-Committee to recognise that the applicant's interest in this shop is to sell pornographic material, not merely sexy lingerie.

FINANCIAL IMPLICATIONS

70. There are no financial implications.

INDEX OF APPENDICES

Appendix 1	Procedure for hearing the application
Appendix 2	Plan of the location of the premises
Appendix 3	Application for renewal of a sex shop licence – Hidden Assets, 439 Millbrook Road West
	A Completed application form
	B Applicant's plans of premises (question 24)
Appendix 4	Photograph of current frontage of 439 Millbrook Road West
Appendix 5	Sex shop standard conditions
Appendix 6	Letters of Objection
Appendix 7	The existing condition attached to this licence currently departs from Condition 8. The existing licence and condition attached thereto will be available at the hearing for Members consideration.

Special Procedure for the Licensing (General) Sub-Committee – Applications for Sex Establishment licences

One of the Council's Corporate Legal Advisors will be in attendance throughout the proceedings and he/she is there to advise Members. Sub-Committee Members may seek clarification on points of procedure at any time.

Please note that the Sub-Committee will normally adjourn for lunch at 1:00 p.m. and that comfort breaks will be taken at the discretion of the Chair at appropriate points during the meeting.

1. INTRODUCTION

- ◆ Everyone to introduce themselves
- ◆ The Licensing Officer will introduce the report, including background information and any written objections received.
- ◆ Members' questions to the Licensing Officer

2. OBJECTORS

If Objectors (including Police) have attended indicating a wish to address the Sub-Committee the Sub-Committee will consider each request in light of its discretion to permit oral representations.

As a guide, such representations will only be permitted if appropriate in order to briefly summarise and expand upon the main points of objection as set out in written submissions. Mere recitation of previous written submissions will not be permitted, nor will the introduction of entirely new grounds of objection.

Questions of Objectors will not be permitted by any party (including Members).

3. APPLICATION

The applicant or their representative will outline the details of the application and call any witnesses in support.

Questions may be asked of the applicant or of any witnesses by:

Licensing Officer

Members of the Sub-Committee

The applicant may call supporting witnesses at their discretion during the presentation of their application. Questions may be asked by the Sub-Committee Members / Licensing Officer of such witnesses at any appropriate point in their presentation

If any written objections have been received the applicant or their representative will be invited to comment on them

4. SUMMING UP

The applicant or their representative will have a final opportunity to sum up their application.

5. CONSIDERATION OF DECISION - CONFIDENTIAL SESSION

Members of the Sub-Committee will retire to consider the decision. In doing so the Solicitor to the Sub-Committee and the Sub-Committee Administrator will retire with them, but will take no part in the discussion of the merits of the case or what the decision should be

Should the Solicitor to the Sub-Committee be required to clarify any points of law, these will be repeated in the public session.

6. ANNOUNCEMENT OF DECISION

Sub-Committee Members will return and the Chair of the Sub-Committee will deliver the decision in public session. The Licensing Officer will confirm this decision in writing to the Applicant within 7 days of the Sub-Committee decision, together with details of any relevant right of appeal.

Note: This procedure note is issued as a guide only – the order and conduct of business may be varied by the person presiding at any time in order to facilitate the determination of the matter, having regard to statutory restrictions and the rules of natural justice.



Siteplan®

1:1250 Scale



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Centre coordinates : 438966mE 112869mN

National Grid sheet reference at centre of this Siteplan: SU3812NE.

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Serial Number : 511458



Completed application form

APPENDIX 3A



MAR20/2007/001-1339 09:11 CHEMIE 11610.00

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SECTION 2

APPLICATION FOR THE GRANT*/RENEWAL*/TRANSFER* OF A LICENCE TO USE ANY PREMISES, VEHICLE, VESSEL OR STALL AS A SEX ESTABLISHMENT

1. Is the application being made:

- (a) by an individual; or
- (b) on behalf of a partnership; or
- (c) a body corporate?

2. Give the full names of the applicant (i.e. the individual, partnership, body corporate or unincorporated body making application). If the applicant is an individual any former names must also be given.

Matthew Barry Caplan Smith

3. Give the applicant's permanent home address (if an individual) or registered or principal office (if a partnership, body corporate, or unincorporated body) and a telephone number at which the applicant may be contacted during normal office hours.

4 Tetney close, Maybush, Southampton
SO16 9NJ

4. Is the application in respect of a sex shop or a sex cinema?

Sex shop

5. Is the application in respect of

- (a) premises; or
- (b) a vehicle; or
- (c) a vessel; or
- (d) a stall?

6. Where the Licence is sought in respect of a vehicle, vessel or stall state where it is to be used as a sex establishment.

N/A

7. Where the Licence is sought in respect of premises give the full address of the premises, including the postcode.

439 Millbrook Rd West
Southampton SO15 0MX

8. Are the whole of the premises described in response to Question 7 above to be used as a sex establishment?

yes

9. If the answer to Question 8 above is "No" please state

- (a) which parts of the premises are to be used for the purposes of a sex establishment;
- (b) the uses to which the remainder of the premises are to be put;
- (c) the names, addresses and dates of birth of those who are responsible for the management of the remainder of the premises.

10. Are the premises, vehicle, vessel or stall in use as a sex establishment at the date of this application?

yes

11. Were the premises, vehicle, vessel or stall in use as a sex establishment on 22nd December 1981?

NO

12. Under what names are or will the premises be known?

Hidden Assets

13. If the applicant is an individual give the following information:

- (a) Date of birth; 07/07/1971
- (b) Place of birth; Ramsey
- (c) Nationality. British

14. If the applicant is a partnership, body corporate or an unincorporated body complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body. In the case of a partnership details of all the partners must be given.

Forename	Surname	Former name (if any)	Home Address	Capacity	Date of Birth	Place of Birth	Nationality

15. Complete the table below in respect of each of the individuals whose names are given in response to questions 2 and 14 above.

Names	Date of Birth	If place of birth is not within UK give date when UK residence commenced.	Address or permanent residence throughout six months immediately preceding the date of this application.
Matthew B. C. Smith	07/07/71		4 Tetney Close, Maybush, Soton SO16 9NJ

16. This question need only be answered where the applicant is a Company.
- (a) Is the applicant a wholly or partly owned subsidiary of another Company?
 - (b) What type of Company is the applicant (e.g. public or private limited by share or guarantee etc.?)
 - (c) In which Country is the Company incorporated?
 - (d) What is the date of incorporation of the Company?
 - (e) Supply a certified copy of the applicant Company's Memorandum and Articles.
 - (f) If the applicant is a subsidiary of another Company give the following details and information:-
 - (i) A list of all other companies controlled by the holding company together with full details of any ultimate holding company.
 - (ii) A certified copy of the Memorandum and Articles of the parent company
 - (iii) The names and addresses of the Directors and Company Secretary of the parent company (use a separate sheet if necessary).

17. If applicant is a company give a full list of names, addresses and holdings of shareholders holding 10% or more of the issued share capital and the number of remaining shareholders.

Name	Address	Date of Birth	Holdings

18. Has the applicant a financial interest in the business which is the subject of this application? If 'yes' to what extent? **NO.**
-
19. Is the whole of the business owned by the applicant? **NO**
-
20. If the whole of the business is not owned by the applicant state the names and addresses of those who will share in the profits of the business. In each case state the percentage share to be taken by each individual.
-
21. Is the applicant concerned in any other way financially or otherwise with any other business? **NO yes**
-
22. If the answer to Question 21 is 'yes' give full details of the other business and the nature and extent of the connection.
-
23. Is the business required to purchase merchandise from a particular company, person or body? If 'yes' supply a copy of any agreement and state what is to be purchased and from whom. **NO**
-
24. Supply scale plans of the premises clearly showing the interior layout and the use of each part (see note C). **N/A**
-
25. What means are to be taken to prevent the interior of the premises being visible to persons outside the premises? **N/A Already taken care of.**
-
26. Give details of the times during which it is proposed to open the premises:-
- (a) Days of the week **mon - sat**
- (b) Hours of the day **9.00am - 8.00pm**
-

(20) Neil J. Phillips, Kammez, Rawnhams lane, Rawnhams
SO16 8AP — 100% of profits

(21) Sex shop licensee + manager for:
Hidden Desires, 103 St Mary St SO14 1PF
Hidden Pleasures, 129 Albert Rd, Seethsea, Portsmouth PO5 2SQ

27. In respect of each individual who is to be responsible for the management of the premises in the absence of the licence holder please supply the following details:-

Forename	Surname	Former name (if any)	Permanent Home Address	Date of Birth	Place of Birth	Date upon which became resident in the UK (if place of birth outside UK)	Nationality
Justin	Smith		8, Portelet house lower braunhill rd Soton SO16 9JY	15/02/72	Soton		British
Neil	Phillips		Kammes. Rounhams lane Rounhams Soton SO16 8AP	6/6/72	Soton		British

28. In respect of each of the persons whose names are given in response to Question 2, 14, 16 and 27 give details of their occupations during the 5 years immediately prior to this application. These must include the names and addresses of all employers and the nature and dates of employment.

Forename	Surname	Former name (if any)	Employers Name and Address	Description of nature of work
Justin	Smith	(Details already provided in previous application)		
Neil	Phillips	Business owner for 5 years +		

29. In respect of each of the persons or bodies whose names are given in response to Questions 2, 14, 16, 17 and 27 give details of their previous convictions and of any previous convictions of any of their spouses:-

Forenames	Surname	Former Name	Date of Conviction	Place of Conviction	Nature of Offence	Sentence

30. Have you any reason to believe that a prosecution may be pending against any of the persons or bodies whose names are given in response to Questions 2, 14, 16, 17 and 27? If 'Yes' give full details. *NO*

31. Has any person or body named in this application been associated in any way with any other application for a licence for a sex establishment? *yes*.

32. Is there in force against the applicant or any of the persons or bodies named in answer to Questions 14, 19, 27 and 29 a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act 1982?

If 'Yes' give full details. *NO*

33. Is there any further information which the applicant would wish the Council to take into account when considering this application?

(This space may also be used to amplify any replies to other questions.)

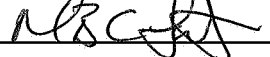
APPLICANTS ARE WARNED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT, OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING £20,000.00

DECLARATION

I M. B. C. SMITH

declare that the information given above is true and complete in every respect

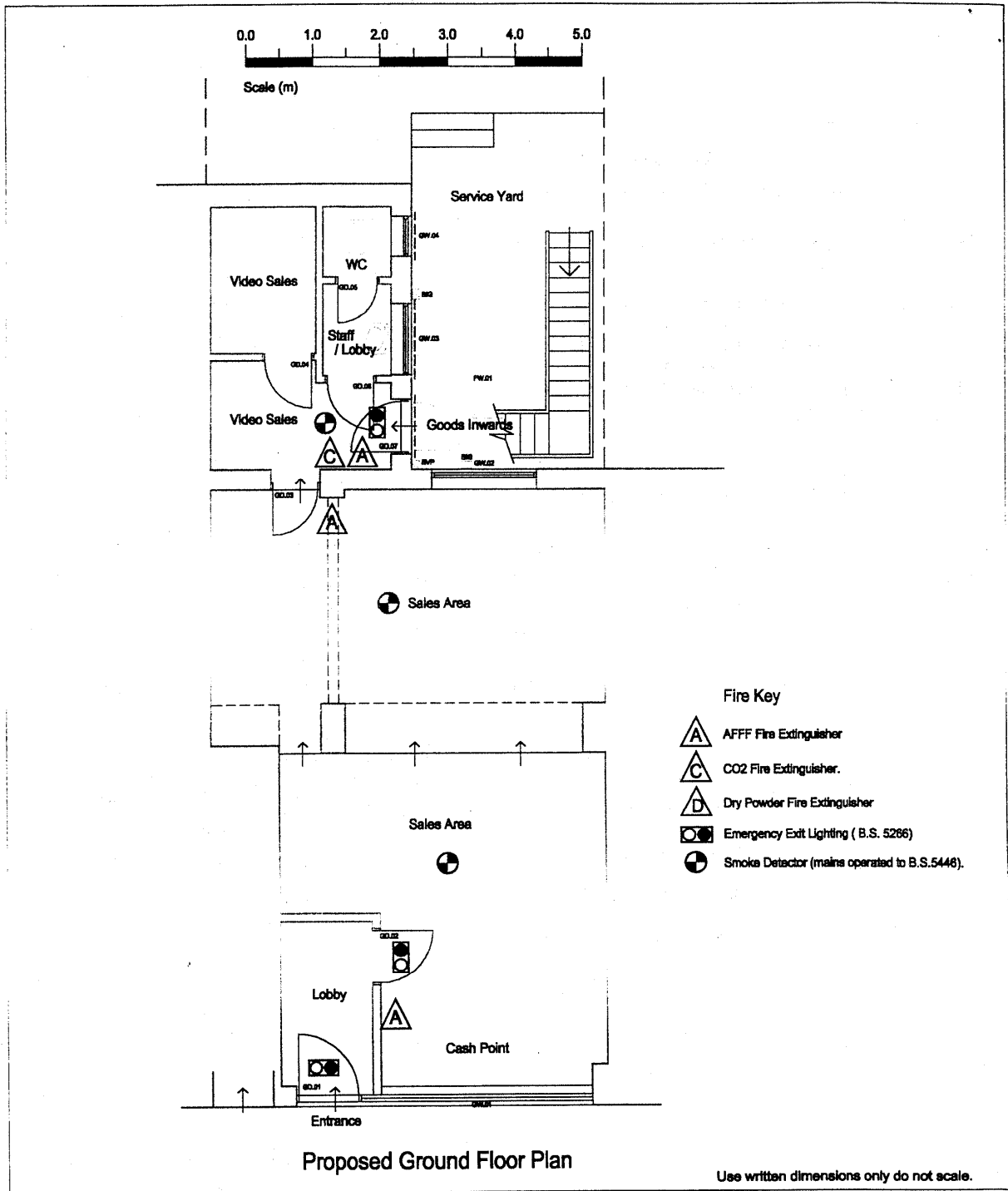
Dated this 19th day of March 2007

Signature 

Name of Signatory (BLOCK CAPITALS) M. B. C. SMITH

Designation of Signatory (BLOCK CAPITALS) MANAGER

THE APPLICANT IS REFERRED TO THE ATTACHED NOTES



Address :
Hidden Assets
439 Millbrook Road West
Millbrook
Southampton.

Title :
Licence Application

Drawing Content :
Ground Floor Plan

Scale :
As Shown

Date :
Oct 2002

Job No :
MRW / 355

Drwg :
355/02/02

Rev
 *

Photograph of frontage of 439 Millbrook Road West



Regulations for Sex Establishments

Southampton City Council, in exercise of the powers conferred upon them by paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act, 1982 and of all other powers enabling them in that behalf make the following Regulations:

- 1 (a) In these Regulations the following expressions that is to say "Sex Establishment", "Sex Shop", "Sex Cinema", "Sex Article", and "Vessel" shall have the meanings respectively assigned to them by Schedule 3 of the Act.
- (b) In these Regulations the following expressions shall have the meanings hereby respectively assigned to them namely:-
 - "the Act" -
 - "the Council" - means the Local Government (Miscellaneous Provisions) Act, 1982.
 - "the licensed premises" - means Southampton City Council.
 - "licence holder" - means any premises, vehicle, vessel or stall licensed under the Act.
 - "permitted hours" - means a person who is the holder of a sex establishment licence.
 - "sex establishment licence" - means the hours during which the licensed premises are permitted under Regulations 2 and 3 hereof to be open to the public.
 - "sex establishment licence" - means a licence granted pursuant to Schedule 3 of the Act.

Conditions applicable to licences for Sex Establishments

2. The licensed premises shall be closed throughout Good Friday, Christmas Day and every Sunday and public holiday and may be open only during the permitted hours prescribed in Regulation 3 hereof.
3. The permitted hours of opening, unless varied by special condition, shall be as follows: -

Mondays	9:00 a.m. to 6:00 p.m.
Tuesdays	9:00 a.m. to 6:00 p.m.
Wednesdays	9:00 a.m. to 6:00 p.m.
Thursdays	9:00 a.m. to 6:00 p.m.
Fridays	9:00 a.m. to 6:00 p.m.
Saturdays	9:00 a.m. to 6:00 p.m.
4. The licensed premises shall not be used for any purpose other than the business of a sex establishment.
5. The licensed premises shall not be open for the purposes for which the sex establishment licence is granted on any occasion when the Council may signify in writing to the licence holder, occupier or other person having at the time the care and management of the premises, that the same should not be open.

6. No person who is or appears to be under the age of 18 or is known by the licence holder or any servant or agent of his present on the licensed premises to be under that age shall be admitted to or shall be permitted to remain on the licensed premises.
7. The licence holder:-
 - (a) shall display on the licensed premises in a conspicuous position his sex establishment licence;
 - (b) shall exhibit on those premises such notices in such form and in such position as may be prescribed;
 - (c) shall comply with any prescribed restriction with respect to the exhibiting of other written matter or of signs of any description on the licensed premises.
8. No facilities shall be provided in a sex shop for:-
 - (a) see any television broadcast or the replaying of any video tape or film or other like matter nor;
 - (b) hearing any sound broadcast tape or other like matter other than facilities for the reception of radio programmes broadcast by the British Broadcasting Corporation or the Independent Broadcasting Authority.
9. No music, dancing or other entertainment whether of a like kind or not shall be provided or permitted, other than as permitted by Regulation 8 of these Regulations, and no refreshment of any kind shall be served on nor shall any facilities for the taking of such refreshment be provided upon the licensed premises.
10. The licence holder shall exhibit on the exterior of the licensed premises in a position visible to persons outside the premises a notice, in addition to his name, in not more than one place, in characters not exceeding three inches in height and consisting only of the words "licensed sex shop" or "licensed sex cinema" (as the case may be) and such indication, if any, as he thinks fit to give of the times at which the licensed premises are open. No other notices, unless pursuant to these Regulations, may be exhibited.
11. The licence holder shall exhibit in a conspicuous manner and in some conspicuous place inside the licensed premises and at the point of access to the licensed premises a notice stating that persons under the age of eighteen years are not admitted thereto.
12. The licence holder shall not display in any position visible to persons outside the premises any matter which does not comply with the Indecent Displays (Control) Act 1981.
13. The licence holder shall not permit any person other than persons employed by him, his servant or agent, statutory undertakers or, if applicable, his landlord to enter upon any part of the premises which are not available to the public in connection with the display, sale, hire, exchange, loan or demonstration of sex articles.

14. The licence holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any article or thing intended for use in connection with or for the purpose of stimulating or encouraging acts of force or restraint which are or may be associated with sexual activity.
15. The licence holder shall ensure that the interior of the sex establishment shall not be visible to persons outside the premises.
16. The exterior of the licensed premises shall be of materials approved by the Council.
17. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Council.
18. The holder of a sex cinema licence shall observe such regulations and conditions as may be approved by the Council from time to time for cinemas having a licence under the Cinemas Act 1985 as shall be applied by the Council by special condition to the sex establishment licence, giving such reference to the said cinema licence conditions as may be deemed appropriate and the regulations and conditions shall have the same force and effect as if the same were severally contained in these regulations.
19. The licence holder shall not knowingly allow the licensed premises to be the habitual resort of a reputed prostitute or the habitual resort or meeting place of reputed prostitutes, whether the object of their so resorting or meeting is or is not prostitution.
20. If the Council notifies the licence holder, occupier or other person having at the time the care and management of the premises in writing by delivering notice at the licensed premises that any particular sex article, advertisement or matter shall not be displayed the same shall be withdrawn from view forthwith.
21. No film or video material shall be kept at the sex establishment except such film or video material that bears a reproduction of the Certificate of the British Board of Film Certification.
22. The licence holder shall comply with all fire and safety requirements of the Council and maintain and keep available for use all specified fire fighting equipment and extinguishers.
23. The external doors of the licensed premises shall be fitted with self closing mechanisms and such mechanisms shall be maintained in good order. No external door shall be fixed in the open position at any time during the permitted hours.
24. Applicants for the grant, renewal or transfer of a sex establishment licence or waiver thereof shall make their application on the form approved from time to time by the Council returnable to the office of the Head of Legal & Democratic Services together with the approved fee (where a sex establishment licence is required). A copy of the application in all cases shall be sent to the Chief Constable of Hampshire Constabulary, West Hill, Winchester, not later than 7 days after the date of the application to the Council.

25. Applicants for the grant, renewal or transfer of a sex establishment licence shall advertise notice of their application in the form approved by the Council and in accordance with the prescribed dimensions by publishing the advertisement in a local newspaper circulating in Southampton not later than 7 days after the date of the application. A copy of the advertisement as published and date of publication shall be lodged with the Council forthwith.
26. Applicants for the grant, renewal or transfer of a sex establishment licence shall display a notice in the form approved by the Council and furnish two completed copies to the Council forthwith so that a copy may be sent to the appropriate public library. The Notice shall be displayed at the premises to be licensed for 21 days beginning with the date of the application to the Council and in a place where the notice can be inspected and conveniently read by the public from outside the premises.
27. A police officer or an authorised officer of the Council may at any reasonable time enter and inspect any premises in respect of which a sex establishment licence is for the time being in force.
28. The licence holder or some responsible person, being 21 years of age or over, nominated by him in writing shall be in attendance at the premises at all such times as the premises are open to the public and any nomination shall be produced to any police officer or authorised officer of the Council and give the name and address of the person nominated.

BACKGROUND PAPERS

If any of these Background Papers are considered to be confidential, please insert into the right-hand column the paragraph number by which the document is exempt/confidential as set out in the Councils Access to Information Procedure Rules paragraph 10.4 as set out in the Constitution or by reference to the relevant section of Schedule 12A of the Local Government Act 1972

Title of Background Paper

Application for a sex shop licence

Responses from Officers, Police and Fire & Rescue Service

Objections (consent to identification)

Transcripts of objections (no consent to identification)

Documents available for inspection at:

Licensing
Office,
Southbrook
Rise

Dear Sir,

439 Millbrook Road West, Southampton
Renewal of Sex Establishment Licence
(Schedule 3 to the Local Government (Misc. provisions) Act 1982)

With regard to the above application of these premises, I wish to record my objections.

1. This kind of business activity is most unusual and unsuitable in a local shopping parade, situated near the area's schools, among family homes.
2. I have not noticed or heard about any offending incidents or contravention of the Licence Conditions.

At this point, however, I wish to express disapproval of the trading of R18 videos which could be viewed by children on home-video well away from the location of the shop.

Yours faithfully,

Dear Sir,

It has recently come to my attention that the Sex Establishment at 439, Millbrook Road West, Southampton is applying for renewal of it's license.

As expressed on previous occasions, we believe it is a wholly unsuitable site for such an establishment to be sited, located as it is in a neighbourhood shopping row and close to nearby schools and amenities used by families. It is along the route they we and a large number of families use to travel to the cub-scout building at Whitehouse Gardens. It seems entirely inappropriate for such a business to operate in this area and we would urge you to seriously reconsider issuing the license to trade at this location.

Yours Faithfully