

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.

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? A

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 Caplen 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 Soton
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? A

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
Soton SO15 0HX

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; *07/07/71*
- (b) Place of birth; *Rowsey*
- (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.
MBC Smith	07/07/71	N/A	4 Tetney Close Wraybark SUTTON

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**
-
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**
-
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 **~~8~~ 9am - 8pm**
-

② Neil John Phillips, Kammez, Rawnhams lane, Rawnhams
SO17 1AN SO16 8AP.

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
Neil	Phillips		Kimmer Ranbours lane Ranbours SO17 0W SO16 8AP	06/06/72	SO17 0W	N/A	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
N/A. BOTH MORE THAN 5 YEARS IN THIS EMPLOYMENT.				

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 Conviction	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 2009.

Signature 

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

Designation of Signatory (BLOCK CAPITALS) MANAGER

Applicants are strongly recommended to seek professional legal advice before making an application for a sex establishment licence. Please note that members of the Licensing Team are not able to give such advice to applicants in any circumstances.

APPLICANTS ARE REFERRED TO THE ATTACHED NOTES

Appendix 3

The Licensing Team
Legal and Democratic Services
Southampton City Council,

14/04/09

Dear Sir,
Application for a Sex Establishment licence
at 439 Millbrook Road West, Southampton

In response to the notice in the window of Hidden Assets
I wish to object.

This shop is in the local shopping row and in
close proximity to family homes in Regents Park South.
These premises are in a family area, therefore
incompatible with Convenience-shopping and
specialist "walk-in" stores.

I wish to remain anonymous, thank you.



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" - means the Local Government (Miscellaneous Provisions) Act, 1982.
 - "the Council" - means Southampton City Council.
 - "the licensed premises" - means any premises, vehicle, vessel or stall licensed under the Act.
 - "licence holder" - means a person who is the holder of a sex establishment licence.
 - "permitted hours" - 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, Easter Monday, Christmas Day, Boxing and every Sunday 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 8:00 p.m.
Tuesdays	9:00 a.m. to 8:00 p.m.
Wednesdays	9:00 a.m. to 8:00 p.m.
Thursdays	9:00 a.m. to 8:00 p.m.
Fridays	9:00 a.m. to 8:00 p.m.
Saturdays	9:00 a.m. to 8:00 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) seeing any television broadcast or the replaying of any video tape or film or other like matter, except for a looped video recording, the content of which and location of the equipment shall be approved by the Licensing Officer, 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.
 - (c) A television, DVD player and video tape player may be installed in the licensed premises in a position approved by the Licensing Officer out of sight of customers for the sole purpose of quality control of recordings made available in the licensed premises.
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.
 - (a) The exterior of the licensed premises shall be of materials approved by the Council
 - (b) 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 licensed premises to be viewed from outside.
 - (c) Detailed proposals for the external appearance of the licensed premises shall be agreed with the Council's Licensing Officer within 14 days of the notification of the determination of the application for a licence and shall be subject to ratification by the Council's Licensing and Public Safety Panel prior to the commencement of business at the licensed premises.
17. No illuminated signs or exterior lights shall be affixed to the licensed premises unless approved by the Licensing Officer and subject to planning permission.
18. The holder of a sex cinema licence shall observe such regulations and conditions as may be approved by the Council from 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. A "lobby" area will be installed, the style and design to be approved by the Licensing Officer.
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 Solicitor to the Council 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.

29. A closed circuit television system shall be installed in the licensed premises to the satisfaction of the Council's Licensing Officer. The system shall efficiently record the operation of the licensed premises and shall automatically indicate the date and time of the events recorded to a standard that would be acceptable as evidence in the Courts. All closed circuit television recordings shall be retained for a minimum of 28 days and shall be made available at the licensed premises for inspection by a police officer or an authorised officer of the Council.
30. The licensee shall notify the Council and Hampshire Constabulary of the name, address and date of birth of any manager or employee involved in the operation of the business at the licensed premises within seven days of them commencing employment. The City Council shall reserve the right to object to any person being involved in the operation of the business at the licensed premises where it considers them unsuitable, in particular by reason of relevant unspent criminal convictions.
31. The licensee shall produce and maintain a list of all stock carried at the licensed premises and shall make it available to a police officer or authorised officer of the Council on demand.
32. The rear door of the premises will be closed to customers save as required as an emergency exit in pursuance to Fire and Health and Safety Regulations.