

Public Document Pack



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Date: 20 February 2012

Please ask for: Ross Johnston, Democratic Support Officer
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LICENSING SUB COMMITTEE

Date: Tuesday 28 February 2012

Time: 10am

Venue: Council House, Plymouth (next to the Civic Centre)

Members:

Councillors Browne, Rennie and Reynolds.

Fourth Member:

Councillor John Smith.

Members are invited to attend the above meeting to consider the items of business overleaf.

Members and officers are requested to sign the attendance list at the meeting.

Please note that, due to the nature of this Committee, we may need to send 'to follow' documents which were not expected at the time of the agenda publication. These documents may be considered under part I or part II.

Please note that unless the chair of the meeting agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used in meetings.

Barry Keel
Chief Executive

LICENSING SUB COMMITTEE

AGENDA

PART I – PUBLIC MEETING

1. APPOINTMENT OF CHAIR AND VICE-CHAIR

The Committee will appoint a Chair and Vice-Chair for this particular meeting.

2. APOLOGIES

To receive apologies for non-attendance submitted by Committee Members.

3. DECLARATIONS OF INTEREST

Members will be asked to make any declarations of interest in respect of items on this Agenda.

4. CHAIR'S URGENT BUSINESS

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. REVIEW OF PREMISES LICENCE - THE FALCON HOTEL, 22 MELVILLE ROAD, FORD, PLYMOUTH (Pages 1 - 16)

The Director for Place will submit a report on the review of a premises licence.

6. RENEWAL OF A SEX ESTABLISHMENT LICENCE (SEX SHOP) - SLINKIES, 16 MANOR STREET, PLYMOUTH (Pages 17 - 32)

The Director for Place will submit a report on the renewal of a sex establishment licence (sex shop).

7. EXEMPT BUSINESS

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph(s) 3 and 7 of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

PART II (PRIVATE MEETING)

AGENDA

MEMBERS OF THE PUBLIC TO NOTE

that under the law, the Panel is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

8. REVIEW OF PREMISES LICENCE - THE FALCON HOTEL, 22 MELVILLE ROAD, FORD PLYMOUTH (Pages 33 - 104)

The Director for Place will submit a report on the review of a premises licence. See report for relevant exemption paragraph.

9. RENEWAL OF A SEX ESTABLISHMENT LICENCE (SEX SHOP) - SLINKIES, 16 MANOR STREET, PLYMOUTH

If applicable, the Director for Place will submit a report on the renewal of a premises licence. See report for relevant exemption paragraph.

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PLYMOUTH CITY COUNCIL

Subject: Falcon Hotel, 22 Melville Road, Ford, Plymouth
Review of Premises Licence

Committee: Licensing Sub Committee (Miscellaneous)

Date: 28 February 2012

Cabinet Member: Councillor Michael Leaves

CMT Member: Director for Place

Author: Bev Gregory

Contact: Tel: 01752 307981
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Key Decision: None

Part: I

Executive Summary:

An application has been received from The Environmental Health Department under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of the Falcon Hotel, 22 Melville Road, Ford, Plymouth.

Corporate Plan 2011 – 2014:

This report links to the delivery of the City and Council priorities. In particular:
I. Delivering Growth

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

Not applicable

**Other Implications: e.g. Community Safety, Health and Safety, Risk
Management and Equality, Diversity and Community Cohesion:**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations & Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Background papers:

Application.

Licensing Act 2003.

Guidance issued under Section 182 Licensing Act 2003.

Council's Licensing Policy.

Sign off:

Fin		Leg	AG/13933 /15.2.2012	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

1.0 INTRODUCTION

1.1 On the 10 January 2012 the licensing department received an application from the Environmental Health Department under Section 51 of the Licensing Act 2003 for the review of the premises licence in respect of The Falcon Hotel situated at 22 Melville Road, Ford, Plymouth.

1.2 Review application.

The Environmental Health Department have applied for the review of the premises licence for the purpose of promoting the licensing objective in relation to the Prevention of Public Nuisance. A copy of this application has been served by the Environmental Health Department on each of the responsible authorities and the holder of the premises licence.

The Environmental Health Department have received a number of complaints from nearby local residents relating to excessive noise emanating from the premises.

Officers have visited the premises and in their opinion have witnessed unlicensed activities and breaches of the conditions of the Premises Licence.

In accordance with review proceedings at 12.15pm on 10 January 2012 a licensing officer from Plymouth City Council attended the premises and spoke to Mrs Linda Stevenson who is the designated premises supervisor and requested the site notice be displayed at the premises.

At 1.15pm the same day a similar notice was displayed on the public notice board at the Civic Centre, Armada Way, Plymouth.

1.3 Licensable Activities.

These premises have the following licensable activities and timings.

(C) <u>Indoor Sporting Event</u>	
Monday to Sunday	10am to 11pm
(E) <u>Performance of Live Music</u>	(Indoors)
Monday to Sunday	10am to 11pm
(F) <u>Playing of Recorded Music</u>	(Indoors)
Monday to Sunday	10am to 11pm
(G) <u>Performance of Dance</u>	(Indoors)
Monday to Sunday	10am to 11pm
(I) <u>Provision of Facilities for Making Music</u>	(Indoor)
Friday and Saturday	7pm to 11pm
(K) <u>Provision of Facilities for Entertainment of a Similar Description to that Falling Within I or J</u>	(Indoors)
Friday and Saturday	7pm to 11pm

(M) <u>The Sale by Retail of Alcohol for Consumption On and Off the Premises</u>	
Monday to Wednesday	10am to 1am
Thursday to Saturday	10am to 1.30am
Sunday	10am to 1am
<u>The Opening Hours of the Premises</u>	
Monday to Wednesday	10am to 1.30am
Thursday to Saturday	10am to 2am
Sunday	10am to 1.30am

1.4 Conditions currently attached to the licence (Appendix 1).

2.0 RESPONSIBLE AUTHORITIES

2.1 *Devon & Somerset Fire & Rescue Service* – no representations.

2.2 *Trading Standards* – no representations

2.3 *Planning Officer* - no representations.

2.4 *Child Protection* – no representations

2.5 *Health & Safety Executive* – no representations.

2.6 *Devon and Cornwall Police* – no representations.

3.0 INTERESTED PARTIES

3- letters of representation have been received one from a resident living within the vicinity of the premises and another from a local ward councillor (Appendices 2 to 4).

A further letter in the form of a petition was received (Appendix 5).

4.0 CONSIDERATIONS

4.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers necessary for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

4.2 The steps are :

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Where the committee takes a step in 4.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

ANNEX I - MANDATORY CONDITIONS

(1) The first condition is that no supply of alcohol may be made under the premises licence: -

- (a) At a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Following Mandatory Conditions came into force on the 6th April 2010

1.(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following

activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or

encourage, individuals to-

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for

consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or

reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a

sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The Following Mandatory Conditions came into force on the 01st October 2010

4.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that-

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

Conditions agreed with the Licensing Police Authority

Conditions relating to the prevention of crime and disorder

CCTV

1. CCTV system working and recording good quality images of the public areas (excluding lavatories)
2. The recorded image to be kept for a period of 14 days.
3. The Police licensing department will be informed if the CCTV system is not working properly.
4. A notice will be displayed at the entrance advising CCTV is in operation.
5. Lighting within the premises will not undermine the quality of the recorded image.

Bottles and Glasses

1. No open bottles or drinks containers will be taken from the premises.
2. Regular glass collection from all public areas.
3. No glassware will be allowed onto the dance floor.

Drugs

1. A secure facility to store controlled drugs will be available.
2. Zero tolerance to drug use and dealing.
3. Drugs warning notices on display.
4. Any suspicion of drug dealing or taking and the Police will be informed immediately.

General

1. No irresponsible drinks promotions or all inclusive.
2. No drinks hoarding.
3. A record will be kept of all material incidents inside and directly outside the premises.
4. Where the premises is within an area for which club/pub watch meetings operate then a representative from the premises should actively participate in those meetings.
5. All incidents of disorder both within and directly outside the premises will be reported to the Police at the earliest opportunity.
6. Police Officers will be afforded all possible assistance in the course of their investigations that relate directly to the premises.
7. All material evidence resulting from a criminal incident will be preserved for Police forensic examination.

Conditions relating to the protection of children from harm

1. Children under the age of 18 years will not be allowed entry when any entertainment of an adult or sexual nature is taking place.
2. A full range of reasonably priced soft drinks will openly be on offer.
3. Only a valid driving licence, passport or Proof of Age Standards Scheme will be accepted as proof of identification.
4. Any child in distress either within the premises or from outside will be afforded assistance to make contact with an appropriate adult of their choice.
5. Any child found to be buying, attempting to buy or consuming alcohol or being involved in any incident will be dealt with in a responsible manner.

Conditions relating to public nuisance

1. Where patrons exit onto residential area's notices will be displayed asking them to move away quietly.
2. At least 15 minutes prior to the terminal hour the atmosphere should be adjusted to create a calm period of wind down. Measures should include the turning up of lights and discernibly quieter and calmer music.

Conditions relating to public safety

1. A member of staff with first aid skill will treat any patron in need of medical assistance in the first instance.
2. Zero tolerance to homophobic and racist language.

Conditions agreed with Environmental Health Authority

Public Nuisance

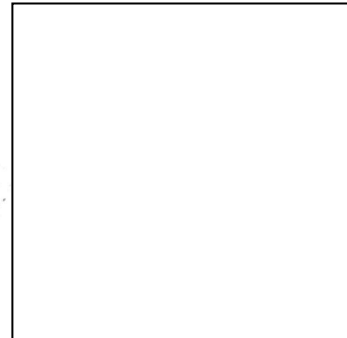
1. Doors and windows will be kept shut during entertainment.
2. To prevent entertainment being intrusive, noise emanating from the premises will not be clearly audible 1 metre from the façade of the nearest residential property.
3. A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring premises at the start of the activity/entertainment and periodically throughout the activity/entertainment and take action to

reduce noise levels if they are found to be excessive/ distinguishable above background levels at the nearest residential property.

4. Regulated entertainment will cease at 23:00 hrs.

Steps taken in order to promote the four Licensing objectives

1. Noise is kept to a minimum.
2. Windows are shut as from 23:00 hrs.
3. The side door - opposite residents is closed at 23:00 hrs. Exit in use after 23:00 hrs is opposite industrial estate.



29th January 2012

Dear Sir/Madam,

We are writing in regard to the licence review of The Falcon Pub, 22 Melville Rd, Ford- & wish to put forward our views of why the pub needs to have it's licence revoked & serious action taken against it/the owners.

Since we moved here in April 2011, we have had to put up with our sleep being disturbed on a Monday night as The Falcon would hold a karaoke night that would run on well past it's licensed time of 23.00pm for entertainment, doors & windows would be left open and the volume would be to such extent that you could clearly hear the songs & lyrics, as well as announcements via the PA system. I contacted the council who sent us a noise diary to record the times & dates of disturbances & have been filling them in on a regular basis.

We expected some noise from the pub, but was informed by the on-call team last night that we shouldn't be able to hear ANYTHING at all from the pub, & this certainly has not been the case!

The karaoke night has been moved to a Friday night, as it turns out that was a breach of their licence- & still the pub has continued with the noise levels. We have had the on call noise team out on various occasions so they can hear & record for themselves, the latest occasion being last night- 28th January 2012, where the pub was still playing music loud enough to be heard in our bedroom at 12.45am. We do have our window open very slightly all the time, but even so- we should not be able to hear ANYTHING from the pub & esp. at this time in the morning!

During the summer we couldn't have the downstairs window open as the noise levels would drown out the TV/Radio!

The noise has mostly affected our sleep as The Falcon plays music etc until well after their cut off time of 23.00pm, we have even approached our letting agents with the view of moving before our lease is up as we are fed up of having to put with the pubs anti social behaviour. There has also been the odd occasion where they have had a band or music on loud mid-week until well after 23.00pm.

We have contacted & spoken to the Ford community police team regarding the noise issues & other anti-social behaviour from the pub- who went in & spoke to the landlady who denied that was her pub causing the noise & issues!

There is also a petition going round by the residents of Kent Road, that we have signed, regarding the anti-social behaviour of the users of The Falcon- from urinating up against residents front walls, to blatant drug dealing in the street- something we witnessed and reported to Ford Police and the main police control station.

Action needs to be taken against The Falcon pub, it has gone on long enough- from speaking to our neighbours, they have had to put up with it for over 20years as they have reported it time & time again but no one has ever taken action!?! & even now the pub knows it's licence is under review but as proved last night/this morning- they don't care & clearly think they are untouchable.

We would like to attend the review meeting, as i'm sure other people & neighbours in Kent Road would- so if you would be able to let us know when & where it will be held, we endeavour to attend.

Regards

[Redacted signature box]

Written Submission Regarding The Falcon Public House

I have lived in Ford for 23 years but have only been a Councillor since May 2011. I have witnessed numerous incidents of nuisance but will keep my submission limited to my experience whilst a Councillor and what I have been told by neighbours.

The first part of my submission will concentrate on noise nuisance only as this is what this review is being called for. However, I will report further issues later as I have serious concerns about the safety of the neighbourhood.

I was first alerted to issues when I was out door step canvassing in May 2011, just before the elections. A number of residents in Kent Road and Julian Terrace complained to me about the noise from the pub (amongst other issues). After I was elected I contacted some of the neighbours but at that point they didn't want to pursue the matter. They wanted me to deal with the issue but when I explained, I couldn't, but I could support and advise them, with Environmental Health they said they were scared of the landlady's son.

In July 2011 we had a neighbourhood meeting (Have Your Say Meeting) and community day in Ford. I had visited the Falcon with the Neighbourhood Watch co ordinator and chatted to the landlady, Linda Stevenson. She informed me herself she had received a notice from Environmental Health as she had been playing music after 1100 pm and that the neighbours were "trying to get rid of her". I asked her if it was true that she had been playing music after 1100 and she admitted she had. I said I couldn't help her if she wasn't prepared to abide by the law but suggested she came to the meeting and tried to get to know the neighbours to discuss issues. She did attend but no one who had raised issues about the pub attended. Linda assured me she would not play music after hours and had done everything that had been asked of her. In fairness she has stopped customers using the Kent Road door and has moved the music to the back of the pub.

In October I was contacted by..... of Kent Road who reported numerous issues including noise nuisance and noise after hours. She had been dealing with Environmental Health and so I began to assist and support her and have been liaising with EH and the Police since then. I asked to tell neighbours to contact me so I could support them. I did not want to door knock as I did not want to be accused of a witch hunt of the pub. In November we organised a specific community door step session in Ford so that neighbours could raise issues with the pub, if they wished. Some residents were keeping noise diaries, some had been dealing with the Police but some said it had been going on for years and they had no faith in the Council. I assured them all that it could be dealt with but it needed the community to work together and to provide proof that the license was being breached, I could not just have the license revoked.

In December I witnessed noise nuisance myself on 28th December when I returned from a night out. The music could be heard from across the road at 1130. This is the same night that you also have a report from

This started the final action that has led to the hearing now.

The windows are not suitable for a premises where music will be played and would benefit from being replaced with double glazing. Linda (DPS for the premises) informed me they (Premises Licence Holder) would not pay the £500 suggested for a noise limiter so this does not bode well. The bar area itself has no proper flooring and would seem to increase noise. The kitchen area is not suitable for food preparation and the whole premises is in need of repair and redecoration. The outside area to the side of the pub is filled with wood and rubbish and is also a potential hazard.

Because the pub was purpose built in the 50's there is no area suitable for smoking and customers congregate outside on Melville Road. This causes additional noise and I have been verbally abused whilst running past in my running gear. Several women in the neighbourhood are too intimidated to walk past.

When the pub is playing music, or has singers, vehicles park on the pavements and this means those in wheelchairs and mum's with pushchairs have to walk on the busy road. Paving slabs have also been damaged causing trip hazards.

I have also witnessed customers urinating against the pub walls and neighbours walls. I challenged one man and he was verbally abusive to me. This is obviously not acceptable and is a health hazard.

Neighbours have also had damage to their properties and vehicles.

Neighbours are too afraid to challenge behaviour as they suffer intimidation and abuse and when they ring the Police the perpetrators have gone.

A pub that was built in the 1950's for a very different clientele and prior to the smoking ban has not been properly managed or physically updated to meet the needs of a 21st century neighbourhood. If someone tried to open a pub there now, I doubt a license would be allowed.

I will be attending the hearing in person and my hard signed copy will also include a signed letter from a neighbour to say I will be representing them and those who signed the petition.

If you require any further information please let me know

Philippa Davey
Stoke Ward Councillor

KENT RD
 FORD
 PLYMOUTH
 PL2-
 01752

FAO: MR PETER CLEMENTS

Dear Mr Clements,

I write in relation to the licence review of the Falcon Public House on Melville Rd, Ford, Plymouth.

As a resident of Kent Rd, I have seen the on going problems that the said establishment has caused to local residents since coming to live at our current address in 1985.

Although the levels of noise in the pub have not been excessive of recent, I still have concerns that things will slip back to the way things were and the proprietors start to run over their license times again. In view of discussions with other residents in the neighbourhood I still have concerns about the Falcons landlords ability to comply with the licensing objectives for the prevention of public nuisance.

Further more we have witnessed people dealing drugs out in Kent Rd. And we are fully aware that this is a result of the Falcon being in business. My wife and our neighbours even rang to police at one point as the offenders were at the scene of the crime - But disapointingly - No officers turned up. We have signed a petition as we know this drug dealing is continuing - So with regard to the prevention of Crime and disorder in the Street my wife and I also have grave concerns if the Falcon continues to trade.

Yours Sincerely -

(Resident of Kent Rd)
 Ford

PETITION

From the Residents of Kent Rd Ford
 Against FALCON PUB. We are Fed
 up with the Noise - Drugs - and People
 Using our garden Walls Car Toilets.

Sunday 29th January 2012

Kent Rd Ford
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RECEIVED
PUBLIC PROTECTION
02 FEB 2012
FA.O.

Cant get our cars Parked
 dogs BARKING DAY AND NIGHT
 Smelly chimneys
 Rubbish and Broken Glasses left in Gutter
 Damage to our Cars.

I went to my neighbours on Sunday to ask how
 they feel about the Pub and this is how we feel.
 thank you

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PLYMOUTH CITY COUNCIL

Subject: Slinkies, 16 Manor Street, Plymouth
Renewal of a Sex Establishment Licence (Sex Shop).

Committee: Licensing Sub Committee

Date: 28 February 2012

Cabinet Member: Councillor Michael Leaves

CMT Member: Director for Place

Author: Peter Clemens, Senior Licensing Officer

Contact: 01752 305465
e-mail: licensing@plymouth.gov.uk

Ref: ERS/LIC/PREM

Key Decision: No

Part: I

Executive Summary:

A licence renewal application has been received from Carole Reynolds in respect of a sex shop at Slinkies, 16 Manor Street, Plymouth. This is for the renewal of a Sex Establishment Licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Corporate Plan 2011 – 2014:

This report links to the delivery of the City and Council priorities. In particular:

1. Delivering Growth
 2. Raise Aspirations
-

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

None

**Other Implications: e.g. Community Safety, Health and Safety, Risk
Management and Equality, Diversity and Community Cohesion:**

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area. The local community and their diversity is a relevant matter when considering these applications.

Recommendations & Reasons for recommended action:

That Members consider this report and

1. Determine whether the licence should be renewed
 2. If the licence is to be renewed attach such conditions that are considered necessary.
-

Alternative options considered and reasons for recommended action:

None.

Background papers:

Application.

Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

Sign off:

Fin		Leg	AG/13763/ 7.2.2012	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

1.0 INTRODUCTION

- 1.1 On the 16 December 2011 the licensing department received an application from Carole Reynolds for the renewal of a Sex Establishment (sex shop) Licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in respect of Slinkies situated at 16 Manor Street, Plymouth.
- 1.2 The application was legally advertised in the Western Morning News on the 20 December 2011. The closing date for objections was the 13 January 2012.
- 1.3 The location of the premises is shown on the attached plan (Appendix 1).

2.0 BACKGROUND

- 2.1 This licence was originally granted by the licensing committee on the 4 February 2004 and has been renewed annually since that date without objections being received.
- 2.2 These premises operate under Sex Shop licence No SS0001 with standard conditions attached (Appendix 2). The renewal date is 7 February 2012. The Act allows the current licence to remain in force until the renewal application has been determined by the Council.
- 2.3 Appendix 3 shows photographs taken of the exterior of the premises during daylight hours on the 17 January 2012.
- 2.4 Appendix 4 shows photographs taken of the exterior of the premises shortly before dusk' on the 19 January 2012.
- 2.5 Appendix 5 shows photographs taken of the exterior of the premises during daylight hours on the 1 February 2012. These photographs show that the majority of the signage has been removed a decision taken by the management of the premises given the objections raised.

3.0 OBJECTIONS

- 3.1 Devon and Cornwall Police – have no objection to the application.
- 3.2 Two letters of objection have been received one from a strategic housing neighbourhood manager and another from a local ward councillor (Appendices 6 and 7).

4.0 CONSIDERATIONS

- 4.1 This licensed sex establishment has been in operation since 2004 with no previous objections or complaints made against the business. Article 1 of the first protocol of the Human Rights Act 1998 looks at the protection of property. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. Possessions may include not only the physical property in which a business is conducted, but arguably also the goodwill of the business and all rights attached to it such as the benefits of an existing licence. The licence may therefore be refused or conditions amended where it is necessary and in the public interest.

Since the original application and grant of the licence the nature of the locality has changed, including the introduction of the home zone and children activity groups nearby. It is a relevant matter to consider the external appearance, advertising and hours of operation. Given the changes to the locality officers believe that if granted the external appearance should be changed to minimise its visual impact..."

When making a decision for the grant or renewal of a licence the committee would have to consider the following grounds for refusal that are contained in the Act;

4.2 Mandatory grounds for refusal:

The five mandatory grounds for refusal of an application are that the applicant:

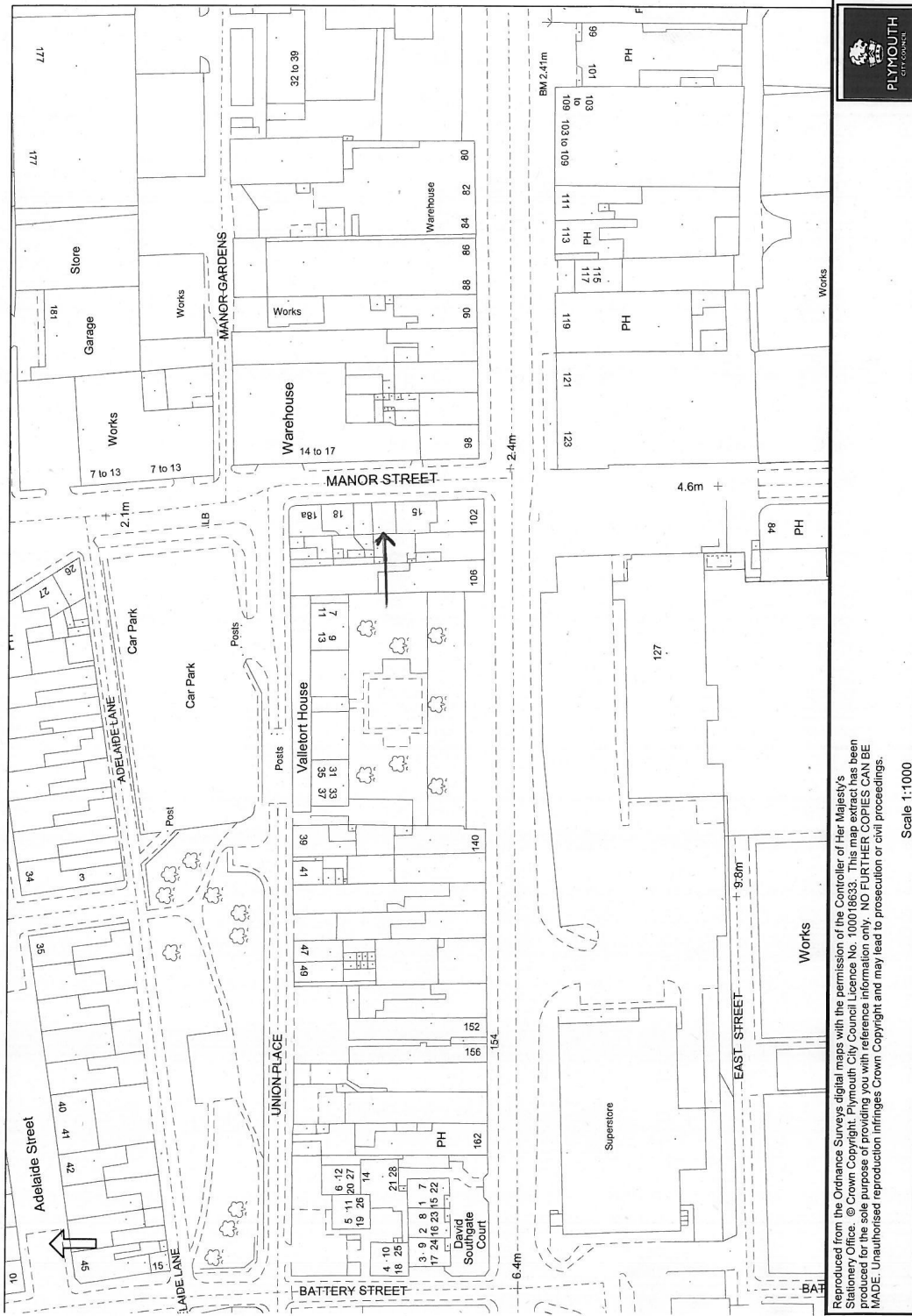
- (a) is a person under the age of 18; or
- (b) is a person who is for the time being disqualified under paragraph 17(3) below; or
- (c) is a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made: or
- (d) is a body corporate which is not incorporated in the United Kingdom; or
- (e) has within a 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, vehicle, vessel or shall in respect of which the application is made, unless the refusal has been reversed on appeal.

4.3 Discretionary grounds for refusal:

The discretionary grounds for refusal of an application are that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) if the licence were to be granted, renewed or transferred 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) 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) the grant would be inappropriate, having regard;
 - (1) to the character of the relevant locality;
 - (2) to the use to which any premises in the vicinity are put;
 - (3) to the layout, character or condition of the premises, in respect of which the application is made.

- 4.4 Should the Committee renew the licence, conditions may be added to mitigate or remove concerns. The standard conditions allow the Committee to consider the external appearance of the establishment. Members may wish to consider the photographs contained in this report.



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Scale 1:1000

Sex Establishment Conditions

Definitions

1. In these Regulations save where the context otherwise requires the following expressions shall have the following meanings:-

- (i) 'Sex Establishment' 'Sex Cinema' 'Sex Shop' and 'Sex Article' shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
- (ii) 'Premises' means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a Sex Establishment granted under the said Third Schedule'.
- (iii) 'Approval of the Council' or 'Consent of the Council' means the approval or consent of the Council in writing.
- (iv) 'Approved' means approved by the Council in writing.
- (v) 'The Council' means Plymouth City Council.
- (vi) 'Film' shall have the meaning ascribed to it in the Films Act 1960-1980.

General

2. In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.

3. The grant of a licence for a sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment bye-law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

4. The marginal notes inserted in these Regulations are inserted for the purpose of convenience only and shall not affect in any way the meaning or construction thereof.

Times of Opening

5. Except with the previous consent of the Council a Sex Shop shall not be open to the public before 9:00 am and shall not be kept open after 8:00 pm.

6. Except with the previous consent of the Council a Sex Establishment shall not be open on Sundays or any Bank Holidays or any public holidays.

Conduct and Management of Sex Establishments

7. Where the licensee is a corporate body or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director secretary or manager are to be furnished within 14 days of a request in writing from the Council.

8. The licensee or some responsible person nominated by him in writing for the purpose of managing the Sex Establishment in his absence and of whom details (including photographs)

have been supplied to and approved in writing by the Council shall be in charge of and upon the premises during the whole time they are open to the public.

9. The name of the person responsible for the management of a Sex Establishment be he the licensee or a manager approved by the Council shall be prominently displayed within the Sex Establishment throughout the period during which he is responsible for its conduct.

10. The licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the Sex Establishment in his / her absence and the names and addresses of those employed in the Sex Establishment. The register is to be completed each day within thirty minutes of the Sex Establishment opening for business and is to be available for inspection by the Police and by authorised officers of the Council.

11. The licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

12. The licensee shall maintain good order in the premises.

13. No person under the age of 18 shall be admitted to the premises or employed in the business of a Sex Establishment.

14. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

15. The licensee shall ensure that no part of the premises shall be used by prostitutes (male or female) for soliciting or for any immoral purposes.

16. Neither the licensee nor any employee or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation outside or in the vicinity of the premises.

17. The licensee shall comply with all statutory provisions and any regulations made there under.

18. The licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type approved by the Council indicating his / her name and that he / she is an employee.

19. The copy of the licence and these Regulations are required to be exhibited in accordance with paragraph 14 (1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these Regulations shall be retained in a clean and legible condition.

User

20. A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.

21. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.

22. No change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall be effected without the consent of the Council.

23. Neither sex articles nor 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 shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Cinema.

Goods available in Sex Establishments

24. All sex articles and other things displayed for sale, hire, exchange or loan within a Sex Shop shall be clearly marked to show to persons who are inside the Sex Shop the maximum prices being charged.

25. All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the Sex Establishment.

26. No film or video film shall be exhibited, sold or supplied unless it complies with the Video Recording Act 1974 and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

27. The licensee shall without charge, display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems published by any organisation as may be specified by the Council. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

External Appearance

28. No display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises except:

(i) Any notice of a size and in a form approved by the Council which is required to be displayed so as to be visible from outside the premises by law or by any condition of a licence granted by the Council.

(ii) Such display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council.

29. The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.

30. Windows and openings to the premises other than entrances shall not be obscured otherwise than with the consent of the Council but shall have suspended behind them, in a position and at an attitude approved by the Council, opaque screens or blinds of a type and size approved by the Council. This regulation shall not be constructed as lessening the obligation of the licensee under Regulation 28 hereof.

State, Condition and Layout of the Premises

31. The premises shall be maintained in good repair and condition.

32. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

33. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:

(i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "exit".

(ii) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "private".

(iii) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.

34. The external doors to the Sex Establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

35. The licensee shall make provision in the means of access both to and within the Sex Establishment for the needs of members of the public visiting the Sex Establishment who are disabled.

36. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.

37. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.

38. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

39. The licensee shall take all reasonable precautions for the safety of the public and employees.

40. The licensee shall comply with any fire prevention and safety measures that may be required of him / her by the Council.

41. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.











With respect to the application by Slinky's for renewal of their license as a Sex Entertainment License, although I understand that as an existing business, they have a stronger case, the location is deemed highly inappropriate by local residents and children's services providers. Their views are reflected as follows and wish for them to be registered as a challenge to the application on the following basis as set out in the license policy:

- Safeguarding children – the establishment is based not 50m away from a Children's centre providing childcare and support services for children aged 0-5yrs and their families, many of whom are considered vulnerable. It is also 50m away from 2 play parks, and 25m away from family social housing accommodation in Valletort House.
- Protecting the nature, amenity and character of a neighbourhood – local residents groups such as Adelaide Community Project and Stonehouse Action have long been campaigning to compel Plymouth City Council to take every possible action to narrow the gap in the quality of life, that exists for residents in the Stonehouse neighbourhood and especially the Union st vicinity as a result of the range of social pressures, including those caused by the Evening and Night Time Economy and Sex Establishment Trade. By not subjecting existing Sex Establishment businesses to the full consideration against the licensing criteria, it is viewed to be a missed opportunity to make significant step to narrowing this gap for local residents. It also appears to reflect the disregard of the significant housing stock located on/just off Union st – residents have expressed anxiety that Union Street is accepted by PCC as an area for lower end Evening and Night Time Economy provision, including Sex establishments without consideration to the impact on a sizeable residential community.
- Protecting the nature and amenity of both the neighbourhood and the city – Destination Plymouth and Positively Plymouth set out the city's priorities in improving the image of the city for visitors and residents alike. These objectives are undermined by this application for as residents feel that sustaining Sex Establishments on one of the main routes into the city centre, and specifically, the route from the ferry port, has a serious affect of undermining these aspirations and presents a negative first impression of the city to visitors whilst making local people question how they can feel Positive about Plymouth when we continue to allow sex establishments in inappropriate residential areas.

I appreciate the scope for influencing applications for renewal is somewhat, limited but would appreciate you logging the fact that these groups and local people generally do want these concerns registered as part of the process and want to see a change on the policy to remove the protection for existing businesses.

Best wishes,

Sue

Sue Rouse

Neighbourhood Manager
Strategic Housing
Plymouth City Council

Further to the objection, below, from Sue Rouse (Stonehouse Neighbourhood Manager) I would also like to object to the renewal of this licence.

It is my belief that locating a sex establishment within one of the most densely populated and deprived communities which is also a conservation area and a gateway to the city does not protect the nature, amenity and character of the Stonehouse neighbourhood. I believe that as a result of its presence there is increased risk of crime and disorder; that there is substantial risk of offending public decency; and that the wellbeing of children will be adversely impacted.

The premises are located within a densely populated area; in close proximity to, and on walking routes to local schools, play areas, youth club; children's centre; community facilities and listed buildings; it is close to local shops and a major gateway to the city centre and waterfront; it is on a gateway to the Adelaide Street Home Zone, an area with a history of specific social difficulties. All of these factors militate against this being a suitable site for a sex trade establishment.

Please refuse this application.

Kind Regards

Chris

Councillor Chris Penberthy
St Peter and the Waterfront ward

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