

CITY OF PLYMOUTH

Subject: Private Shop 31, Athenaeum Street, Plymouth
Application for consent

Committee: Licensing Committee (Miscellaneous)

Date: 13 October 2009

Cabinet Member: Councillor Brookshaw

CMT Member: Director of Community Services

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Ref: ERS/LIC/PREM

Part: I

Executive Summary:

An application has been received from Darker Enterprises Limited in respect of the Private Shop 31, Athenaeum Street, Plymouth to open on Bank Holiday Monday 28th December 2009.

Corporate Plan 2009- 2012:

This report links to the delivery of the corporate improvement priorities. In particular:

1. Informing and involving residents.
 2. Providing more and better culture and leisure activities.
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Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

Not applicable.

Other Implications: eg. Section 17 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

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 and 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:

Head of Fin		Head of Leg		Head of HR		Head of AM		Head of IT		Head of Strat Proc	
Originating CMF Member											

1.0 BACKGROUND

- 1.1 An application has been received from Darker Enterprises Limited in respect of the Private Shop situated at 31, Athenaeum Street, Plymouth to open on Bank Holiday Monday 28th December 2009.
- 1.2 As the 26th December 2009 falls on a Saturday, the Bank Holiday is transferred to Monday 28th December. The company would prefer to allow their staff to be off on the 26th December and wish to adopt a common approach nationwide. They therefore request to be open on bank holiday Monday 28th December 2009.
- 1.3 Sex shops are governed under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (c.30)
- 1.4 Paragraph 13 (1) of Schedule 3 states:
Subject to the provisions of the Schedule, the appropriate authority may make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms, conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred by them.
- 1.5 Paragraph 13 (3) of Schedule 3 states:
Without prejudice to the generality of sub – paragraphs (1) and (2) above, regulations under this paragraph may prescribe conditions regulating –
 - (a) the hours of opening and closing of sex establishments
 - (b) displays or advertisements on or in such establishments
 - (c) the visibility of the interior of sex establishments to passersby; and
 - (d) any change of a sex cinema to a sex shop or a sex shop to a sex cinema.
- 1.6 These premises operate under Sex Shop licence No SS0002 issued by Plymouth City Council and have standard conditions attached as (Appendix 1).
- 1.7 The relevant condition under ‘Times of Opening’ states:
‘except with the previous consent of the Council a Sex Establishment shall not open on Sundays or any Bank Holidays or any Public Holidays’.
- 1.8 The licence was renewed on the 17th August 2009 for a period of 12 months.

2.0 OBJECTIONS

- 2.1 The Police have no objections to this application.

3.0 CONSIDERATIONS

- 3.1 When deciding the grant or renewal of a licence the committee would have consideration of the following:

whether the grant would be appropriate having regard to

(a) to the character of the relevant locality; or

(b) to the use to which any premises in the vicinity are put; or

(c) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

(d) the applicant is unsuitable having been convicted of an offence or for any other reason.

(e) the business to which the application 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.

3.2 Committee may wish to have regard to the above when considering the application today.

STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A
Sex Shop Licence

LICENCE No: SS0002

Licence commences 17/08/2009 Expires 16/08/2010

Licensee Darker Enterprises Limited

Times of Opening

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.

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

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.

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.

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.

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.

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.

The licensee shall maintain good order in the premises.

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

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.

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.

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.

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

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.

**STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A
Sex Shop Licence**

LICENCE No: SS0002

Licence commences 17/08/2009 Expires 16/08/2010

Licensee Darker Enterprises Limited

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

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

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.

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.

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

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.

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.

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.

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

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.

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.

**STANDARD CONDITIONS ATTACHED TO THE ISSUE OF A
Sex Shop Licence**

LICENCE No: SS0002

Licence commences 17/08/2009 Expires 16/08/2010

Licensee Darker Enterprises Limited

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

The premises shall be maintained in good repair and condition.

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.

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.

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.

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.

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.

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.

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

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

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

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.