

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

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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.
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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:

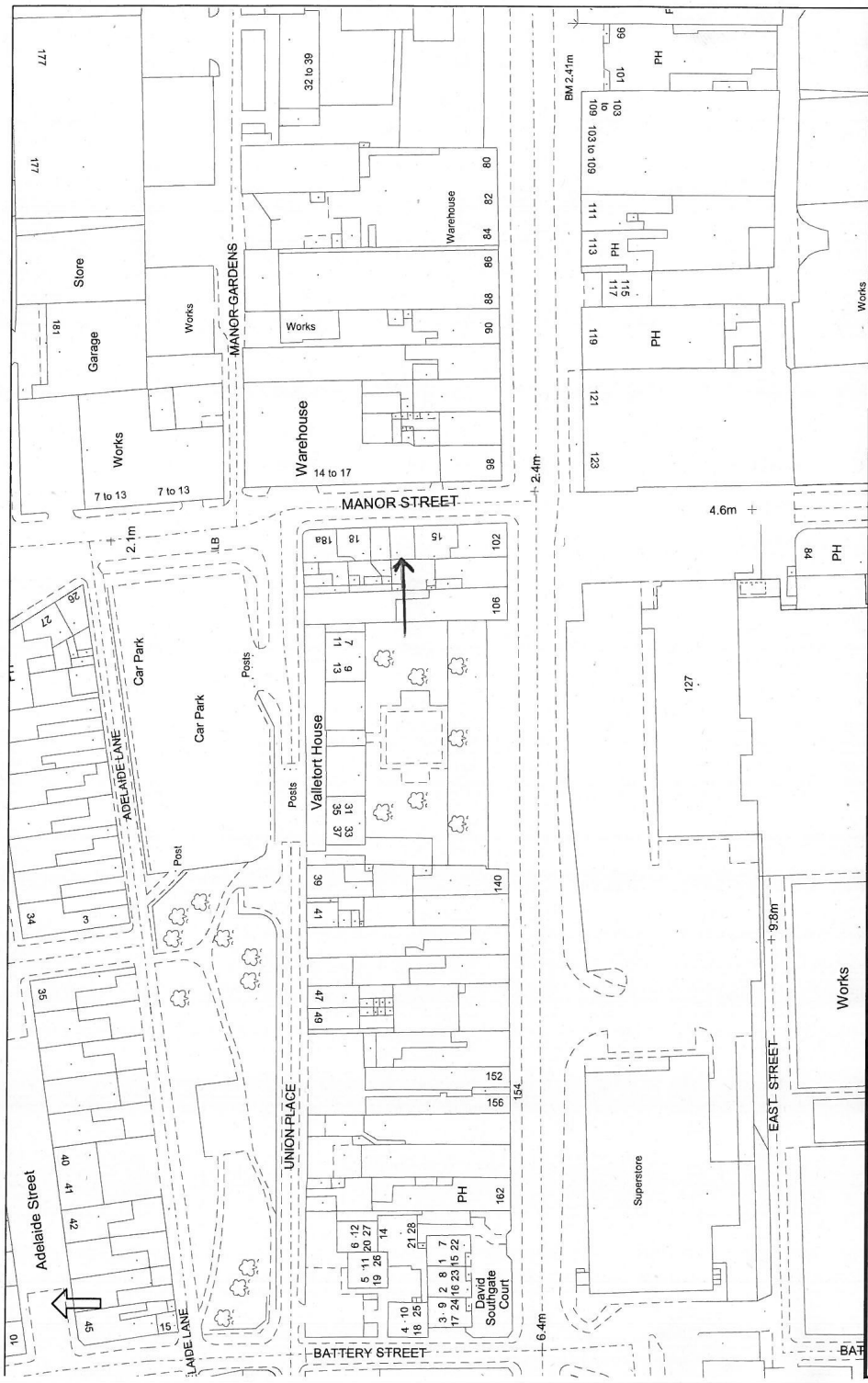
- (a) is a person under the age of 18; or
- (b) is a person who is for the time being disqualified under paragraph 17(3) below; or
- (c) is a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding 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