

PLYMOUTH CITY COUNCIL

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

Committee: Licensing Sub Committee

Date: 5 March 2013

Cabinet Member: Councillor Brian Vincent

CMT Member: Anthony Payne (Director for Place)

Author: Linda Perez – Licensing Officer

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Ref: ERS/LIC/SEV

Key Decision: No

Part: I

Purpose of the Report:

An application has been received from Mrs Carole Reynolds in respect of the premises known as Slinkies, 16 Manor Street, Plymouth for the renewal of a sexual establishment licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Corporate Plan 2012 – 2015:

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

Delivering Growth: The Sex Establishments Licensing Policy provides a balance between the need to protect residents against enabling legitimate businesses to operate within a necessary and proportionate regulatory framework.

Reduce Inequalities: The Sex Establishments Licensing Policy has put in place an appropriate framework that will allow decision-makers, when considering applications, to reduce the impact on safety, wellbeing and local amenity on the local community.

Value to Communities: The licensing system must minimise the burdens on business and to allow communities the opportunity to influence decisions.

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:

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 Policy has a key role in protecting workers in sex establishments and reducing the risk of sexual offences linked to the operation of sex establishments.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? ~~Yes~~ /No

Recommendations & Reasons for recommended action:

That Members consider this report.

Alternative options considered and reasons for recommended action:

None.

Published work / information:

None

Background papers:

Application.

[Council's Sex Establishment Licensing Policy.](#)

[Home Office Sexual Entertainment Guidance for England and Wales](#)

Sign off:

Fin		Leg	16846/ag/ 14.2.13	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											
Have you consulted the Cabinet Member(s) named on the report? Yes /No											

1.0 INTRODUCTION

- 1.1 On the 2 January 2013, the licensing department received an application from Mrs Carole Reynolds for the renewal of a sexual establishment licence made under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act), in respect of the premises known as Slinkies, 16 Manor Street , Plymouth.
- 1.2 Council resolved to adopt Schedule 3 of the Act on the 30 January 2012, to be effective from the 5 March 2012. Council also resolved to adopt a Sex Establishment Licensing Policy (the Policy) to provide a framework within which all applications and other decision-making will be considered.

2.0 THE APPLICATION

- 2.1 The premises are known as Slinkies and are situated at 16 Manor Street, Plymouth. The location of the premises is shown on the attached plan (Appendix 1).
- 2.2 The application is to renew a Sex Establishment Licence (Sex Shop) under Schedule 3 of the Act.
- 2.3 The application was advertised in the Western Evening Herald on 2 January 2013 and by way of public notice at the premises for a period of 21 days as required by the Act.
- 2.4 The current conditions attached to the licence are attached at Appendix 2.
- 2.4 The premises is located off Union St, an area governed by a quantity limit statement as defined in the policy which is a factor that should be considered when determining this application. The Policy states:

‘The Act allows the Council to determine a number of sex establishments in a specific locality. This can include determining that the appropriate number is **nil**. The Council considers that there is an over-riding public interest to justify quantity limits for the areas known as Union St and the City Centre to avoid an excessive build up of sex establishments, thereby undermining the character and nature of the designated areas.

Whilst applications will be determined based on their individual merits there will be a presumption against granting additional licenses in areas where the number considered appropriate for that locality have already been granted.

The Council will not take account of commercial need. This is a matter for market forces and may be a relevant consideration for planning applications. The existence or absence of suitable planning approval is not a relevant consideration for the Council, but is a matter for the applicant.

For each of the following areas the number of sex establishments considered as appropriate is;

Location	No of Sex Shops/Cinemas	No of Sexual Entertainment Venues
Union Street	1	2
City Centre	1	Nil

For all other localities the appropriate number will be **nil**.

This is the only licensed sex shop currently located in the Union Street area.

- 2.5 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention of Human Rights.

3.0 REPRESENTATIONS

- 3.1 One letter of objection has been received to this application within the 28 day consultation period. (Appendix 3)

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. 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's activity groups nearby.

Since the last renewal in 2012 there is a proposal for a school launching in September 2013 with 150 pupils. At this times Years 1 & 2 pupils will be temporarily housed in the Cargo Building, Phoenix Street, extending in so that by September 2014 there will be a purpose built school with 420 Primary pupils and 600 Secondary pupils. The site plan at Appendix 1 shows the proposed site of the school and the Cargo Building. Given the changes to the locality, officers believe that if granted external appearance should be changed to minimise its visual impact. Photographs have been taken recently at intervals during the day and night and are attached marked Appendix 4. Members will note that the applicant has taken steps which he believes will reduce the external impact of the façade by removing the lights and awnings. This is reflected in the photos taken at night.

- 4.2 The Committee must have regard to the Council's Sex Establishments Licensing Policy in its decision-making. In particular the following licensing objectives will be taken into account when determining an application and any conditions attached will be necessary and designed to achieve these licensing objectives
- Prevention of crime and disorder
 - Protection of safety, health and public decency
 - Prevention of nuisance
 - Protection form children from harm
 - Protecting the nature, amenity and character of a neighbourhood
- 4.3 Members should be aware that Licensing Committee resolved to adopt a pool of licensing conditions that provides applicants, responsible authorities and Members with a resource from which conditions can be attached to a licence granted under Schedule 3 of the Act. This pool of conditions is not exhaustive and may be altered, amended or varied depending on the individual circumstances of each particular application, the relevant part are attached marked Appendix 5.
- 4.4 Following receipt of two letters of objection to last years renewal application, Members, after careful consideration resolved to grant the application subject to a special condition being place on the licence that stated that 'the signage at the premises should only display the business name and no reference to licensed adult shop or other description of products sold are to be included in the signage'. The applicant complied

with this condition

- 4.5 Paragraph 12 of Schedule 3 of the Act sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

Mandatory grounds for refusal:

A licence **must** not be granted:

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State: or
- (e) to a person who 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 stall in respect of which the application is made, unless the refusal has been reversed on appeal.

None of the above applies to the licence applied for.

Discretionary grounds for refusal:

A licence **may be refused** where:

- (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, or of sex establishments of a similar kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard;
 - (1) to the character of the relevant locality; or
 - (2) to the use to which any premises in the vicinity are put; or
 - (3) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

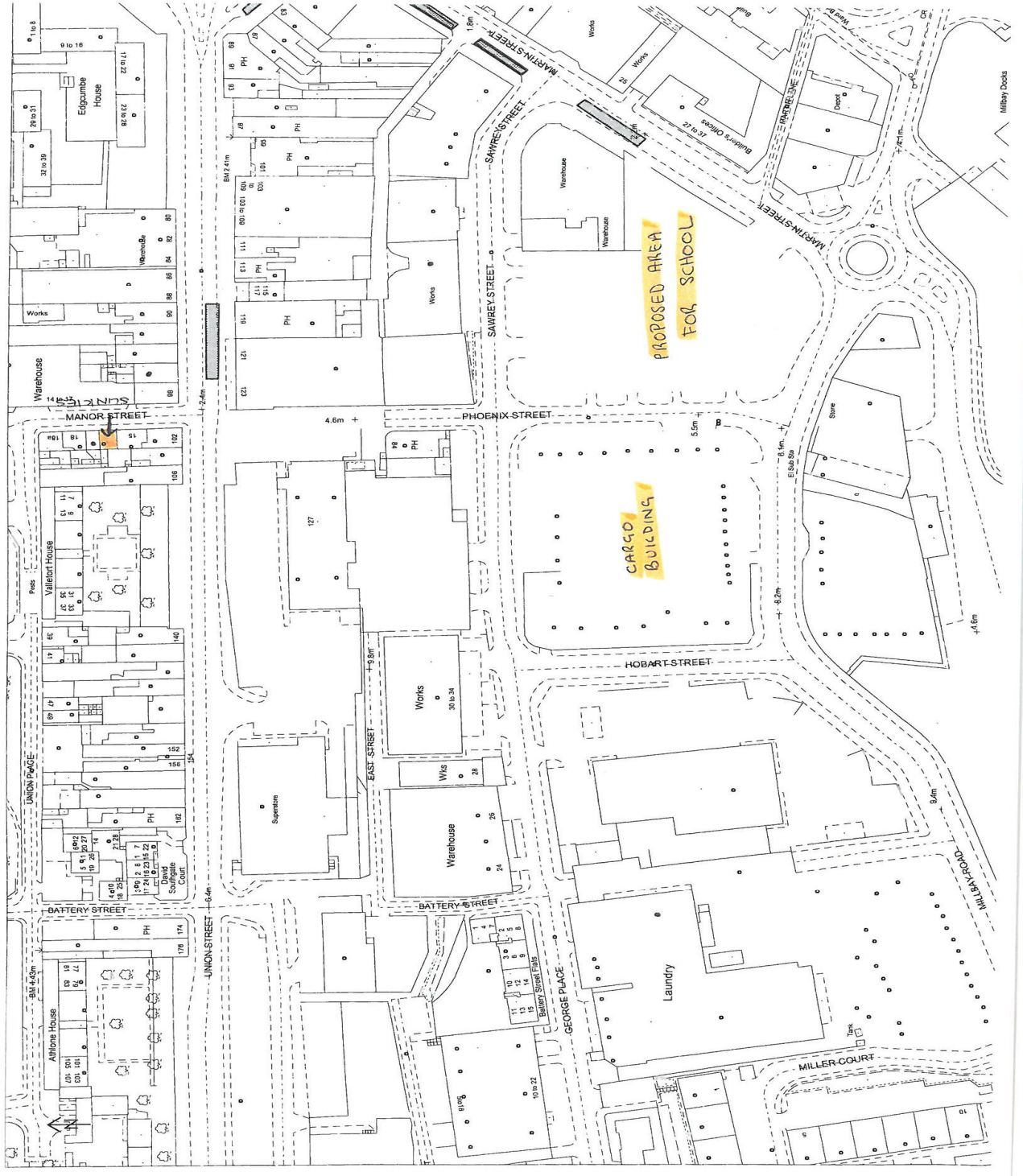
A decision to refuse a licence must be relevant to one or more of the above grounds.

- 4.6 The Provision of Services Regulations 2009 amended Schedule 3 to the Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

4.7 Having considered the application and representations, the Sub-Committee may;

- Grant a licence in accordance with the application
- Grant a licence subject to additional and/or varied conditions
- Reject the application.

R. Carton
Manager of Public Protection Service



Appendix 1

Sex Establishment Conditions

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.

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.

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 construed 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.

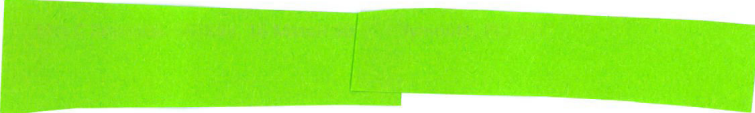
CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

At the Sub Licensing Committee held on 28 February 2012 the following condition was added.

The signage at the premises should only display the business name and no reference to a licensed adult shop or other description of products sold, are to be included in the signage.



Re: application to renew a licence for a sex shop



Dear Sir or Madam

I am writing in my capacity as Director of the Plymouth School of Creative Arts Trust to object to the renewal of the above licence. Plymouth School of Creative Arts is a 4-16 all-through mainstream Free School sponsored by Plymouth College of Art launching in September 2013. On 9 January 2013, we signalled our intention, with the support of Plymouth City Council, English Cities Fund and Kier, to locate in Millbay, subject to planning and final government approval on funding. The planning application for the school will be submitted in the spring.

We intend to launch in September 2013 with 150 pupils in the Cargo building, Phoenix Street, PL1 3DG with an intake of Reception, Year 1 and Year 2. In September 2014 we aim to move into a brand new campus between Phoenix Street and Martin Street. At that point the Secondary school will take 240 Year 7 and 8 pupils and a further 90 pupils into the Primary years. Within 5 years the school will be full with 420 Primary pupils and 600 Secondary pupils.

With the introduction of a 1020 pupil school to the area we believe that the activities that were once considered appropriate on Union Street need to be re-examined. The Council's Sex Establishment Licencing Policy clearly states on page 10 that:

'(c) Premises that were previously granted a licence cannot automatically expect re-issue where, for example, the medium and long term aspirations for the locality have changed and the continuation of that licensed premises would undermine the revised aspirations of that locality and as a consequence re-issue would not be justified.'

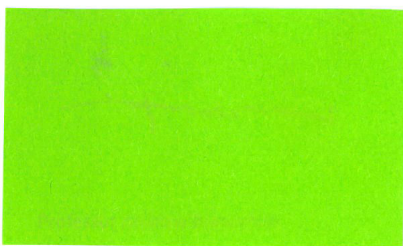
The proposed location of the school is under 400 ft from the applicant's shop, directly across Union Street and a likely route into the school for local families living north of Union Street. Page 7 of the Council's Sex Establishment Licencing Policy outlines the Relevant Locality Statement highlighting the appropriateness of having a sex establishment with a school in the vicinity, in particular if it's 'on the way to the' school:

'A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the Council considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use of any premises in the vicinity or the layout, character or condition of the premises. Nil may be the appropriate number.'

'Material decisions that might be relevant to a local community could include a licensed premises that is 'on the way to the' local shops, school or places of worship.'

In view of this we are concerned about the protection of children from harm in travelling to and from the school and the impact on safeguarding of attracting customers to the Union Street area. Should the Council consider it appropriate to reissue the licence we would be happy to work with you on mitigation including reviewing the opening hours and signage, in line with the Policy's aims in *Prevention of Nuisance and Protection of Children from Harm*.

Yours sincerely



Director, Plymouth School of Creative Arts Trust

Photos taken at 8.30am









Photos taken at Midday









Opening hours
9am - 8pm
Mon / sat
Closed
Sundays



OPEN

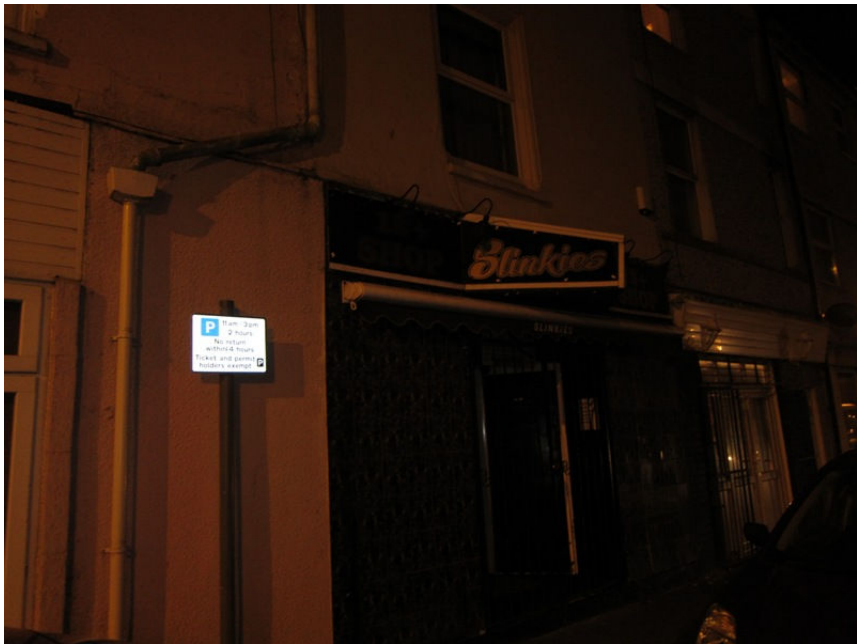


18+
SHOW

Photos taken after dark







**Sex Shops
Hours of Opening**

- 2.1 Except with the prior consent of the Council the premises shall not be open to the public before 09:00 and shall not be kept open after 20:00
- 2.2 Except with the prior consent of the Council the premises shall not be open on Sundays, Good Friday, Easter Sunday, Christmas Day, Bank Holidays or other Public holidays.

Conduct and Management of Sex Shops

- 2.3 The licensee shall inform the Council, in writing within 14 days, of any change of director, company secretary or other person responsible for the management of the premises.
- 2.4 The name of the person responsible for the management of a Sex Shop or a manager approved by the Council shall be prominently displayed within the Sex Shop throughout the period during which he is responsible for its conduct.
- 2.5 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 Shop in his / her absence and the names and addresses of those employed in the Sex Shop. The register is to be completed each day within thirty minutes of the Sex Shop opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
- 2.6 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.
- 2.7 The licensee shall maintain good order in the premises.

User

- 2.8 A Sex Shop shall be conducted primarily for the purpose of the sale of goods by retail.
- 2.9 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.
- 2.10 No change from a Sex Shop to a Sex Cinema or from a Sex Cinema to a Sex Shop shall be effected without the consent of the Council.
- 2.11 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 Shops

- 2.12 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.
- 2.13 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 Shop.

- 2.14 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.
- 2.15 The licensee shall without charge, display and make available in the Sex Shop 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 Shop
- 2.16 All goods 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 premises.
- 2.17 No video film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.

External Appearance

- 2.18 The entrances to the premises shall be constructed of a material and/or covered with a material which will render the interior of the premises invisible to passers by.
- 2.19 Windows and openings to the premises shall be obscured with a material which will render the interior invisible to passers by.
- 2.20 No display or advertisement or any matter shall be exhibited so as to be visible from the outside the premises except:-
- (i) Any notice required to be displayed by law and / or approved by the local authority.
 - (ii) The trading name of the operator of the sex shop or sex cinema, such trading name not to include any sexually explicit wording or implication.
 - (iii) A sign incorporating letters not more than 12 inches in height bearing the inscription "sex shop" or "sex cinema" or similar phrase approved by the local authority.
 - (iv) Notice of opening hours.
 - (v) Any regulatory or warning notice approved by the local authority.
 - (vi) A copy of the licence.
- 2.21 No such signs or notices shall be illuminated in any other way than to provide illumination during hours of darkness to the satisfaction of the local authority.
- 2.22 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 premises are open to the public.
- 2.23 The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be to the satisfaction of 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 other than exits 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) No access shall be permitted through the premises to any other premises adjoining or adjacent except in the case of emergency.
- 2.24 The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

State, Condition and Layout of the Premises

- 2.25 The premises shall be maintained in good repair and condition.
- 2.26 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 Shop is open to the public.
- 2.27 The licensee shall make provision in the means of access both to and within the Sex Shop for the needs of members of the public visiting the Sex Shop who are disabled.
- 2.28 No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Shop nor shall more than one person (including any employee) be present in any such booth or cubicle at any time.
- 2.29 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.
- 2.30 All parts of the premises shall be kept in a clean and wholesome condition.
- 2.31 The licensee shall take all reasonable precautions for the safety of the public and employees.
- 2.32 The licensee shall comply with any fire prevention and safety measures that may be required of him / her by the Council.
- 2.33 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.
- 2.34 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.
- 2.35 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.
- 2.36 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.
- 2.37 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.