

**Meeting:** LICENSING & GENERAL PURPOSES

Portfolio Area: PUBLIC & ENVIRONMENTAL HEALTH

**Date:** 29 APRIL 2004

## SEX ESTABLISHMENTS

### GUIDELINES FOR THE DETERMINATION OF LICENCE APPLICATIONS AND APPROVAL OF GENERAL REGULATIONS

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#### **1 PURPOSE**

To seek approval of Guidelines for the determination of applications for Sex Establishments and for Regulations prescribing standard conditions

#### **2 RECOMMENDATIONS**

- 2.1 That full Council be recommended to approve a policy to assist in the determination of licences for sex establishments.
- 2.2 That full Council be recommended to approve the Sex Establishment General Regulations attached at Appendix 2 to this report.

#### **3 BACKGROUND**

The Council adopted the provisions of the Local Government Miscellaneous Provisions Act 1982 relating to the Licensing of Sex Establishments on 26 October 1982. This provision took effect on 1 January 1983.

#### **4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS**

- 4.1 In determining the character of the relevant locality and whether this is suitable for a sex shop, Members may consider the sensitivity of premises contained therein. In determining this matter other local authorities have considered that sex establishments should not be located within inappropriate proximity to:
  - (i) places of religious worship/education, or
  - (ii) a pre-school facility/school, or
  - (iii) a higher education campus, or
  - (iv) any residential accommodation, or
  - (v) an enclosed shopping mall, arcade or centre, or
  - (vi) a market, or
  - (vii) a public building open to the general public, or
  - (viii) a community meeting place, or
  - (ix) a community leisure facility, or

- (x) a “gateway” to an identifiable locality, or
- (xi) a location where children may be at risk, or
- (xii) a conservation area within the meaning of the Town and Country Planning Acts.

4.2 Other relevant consideration include:-

- (i) The numbers of any unlicensed sex establishments in the locality, and any maximum number of such establishments previously set by the Council for the locality.
- (ii) The number of premises in the locality, which are licensed for public entertainment and have had the standard condition prohibiting striptease etc. waived.

4.3 It is for Members to determine the size of the relevant locality and suitability of its character. Members’ views are invited as to which of the above criteria should be used for determining applications within Stevenage. A proforma for this policy is shown at Appendix 1.

4.4 This policy will then be referred to full Council to be formally adopted.

4.5 Under this legislation a Licensing Authority is able to make regulations prescribing standard conditions applicable to Licensed Sex Establishments. These may include terms, conditions and restrictions on or subject to which licenses are granted, renewed or transferred. Without prejudice to the generality of the above these regulations may prescribe conditions regulating.

- (i) the hours of opening and closing of the sex establishments
- (ii) displays or advertisements on or in such establishments
- (iii) the visibility of the interior of sex establishments to passers-by, and
- (iv) any change of a sex cinema to a sex shop or a sex shop to a sex cinema.

4.5 The proposed General Regulations are shown at Appendix 2 and will also need to be referred to Council for approval. Nothing in these Regulations would override any decision taken by the Licensing and General Purposes Committee in respect of individual applications.

## **5 IMPLICATIONS**

The policy determined by Members and the Regulations approved will be used in determining applications for the grant, renewal and transfer of licences for a sex establishment.

## APPENDIX 1

### SEX ESTABLISHMENTS

#### GUIDELINES FOR THE DETERMINATION OF LICENCE APPLICATIONS

The Council when considering an application for the grant, renewal, transfer or variation of a Sex Establishment Licence may take into account the following considerations in relation to paragraph 12(3)(d)(i) and (ii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982:-

(a) the proximity of such establishments to:

- (i) places of religious worship/education; or
- (ii) a pre-school facility/school; or
- (iii) a higher education campus; or
- (iv) any residential accommodation; or
- (v) an enclosed shopping mall, arcade or centre; or
- (vi) a market; or
- (vii) a public building open to the general public; or
- (viii) a community meeting place; or
- (ix) a community leisure facility; or
- (x) a 'gateway' to an identifiable locality; or
- (xi) a location where children may be at risk; or
- (xii) a conservation area within the meaning of the Town and Country Planning Acts.

(b) the number of any sex establishments in the Stevenage Neighbourhood Shopping Centres shall be nil.

**Note: The above guidelines are without prejudice to the Council's other rights of refusal under the Act.**

## APPENDIX 2

### THE SEX ESTABLISHMENTS GENERAL REGULATIONS 2004

#### REGULATIONS PRESCRIBING STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX ESTABLISHMENTS

##### Definitions

1. In these Regulations, unless otherwise stated, 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 approval by the Council in writing.
  - v. "The Council" means Stevenage Borough Council.

##### *General*

2. In the event of a conflict between those Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.
3. The granting of a licence for a Sex Establishment shall not be deemed to convey any approval or consent which may be required under any enactment by 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 Establishment shall not be open to the public before 9 am and shall not be kept open after 6 pm.
6. Except with previous consent of the Council a Sex Establishment shall not be open on Sundays or any public holidays.

##### *Conduct and Management of Sex Establishment*

7. Where the licensee is a body corporate or 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 shall be prominently displayed within the premises.
10. The licensee shall maintain a daily register. It must record the name and address of any person who is to be responsible for managing the Sex Establishment in his 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. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
16. Neither the licensee or any employer or other person shall seek to obtain custom for the Sex Establishment by means of personal solicitation anywhere in the Borough of Stevenage.
17. The licensee shall comply with all statutory provisions and any regulations made thereunder.
18. The licensee shall ensure that during the hours the Sex Establishment is open for business every employee wears a badge of a type to be approved by the Council indicating his name and that he is an employee.
19. The copy of the licence and of these Regulations 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 shall be displayed, framed, and exhibited to the satisfaction of the Council. A clean and legible copy of these Regulations shall be retained on the premises and available upon request.
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 without the consent of the Council.

22. Change from a Sex Cinema to a Sex Shop or from a Sex Shop to a Sex Cinema shall not be effected without the consent of the Council.
23. Sex Articles or 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 not 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 respective prices to be 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 has been passed by the British Board of Film Censors and bears a certificate to that effect 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 counseling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations 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 conditions 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 entrance 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, and shall be so provided with a partition as to ensure that the interior of the premises remain invisible to such passers by when the entrance is open.
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 construed as lessening the obligation of the licensee under Regulation 28.

*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 the Sex Establishment is open to the public.
33. The number, size and position of all doors or openings provided for the purpose 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 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.

*Safety*

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 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 a proper working order and shall be available for instant use.