
Subject: LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 – LICENCE VARIATION – SEX SHOP, 64 LONDON ROAD, DOVER CT17 0SP

Meeting and Date: Regulatory Committee – 5 September 2013

Report of: Sue Herivel, Licensing Team Leader

Classification: Unrestricted

Purpose of the report: To determine the application to vary the licence

Recommendation: That the Committee determine the application to vary the licence

1. Summary

The premise is situated at 64 London Road, Dover CT17 0S and has operated as a sex shop as defined by the Local Government (Miscellaneous Provisions) Act 1982 since 2001. It is now called the Private Shop and the current licence holders are Darker Enterprises Ltd, a nationwide retailer.

2. Introduction and Background

- 2.1 A licence was originally applied for in 2001 and the application and resulting objections to it were duly considered by Committee on 7th March 2001.
- 2.2 A major objection was the effect on children due to the proximity of a number of schools whose pupils would have to pass by the shop. The licence was granted but with conditions to reflect the concerns of residents. A copy of the licence and its conditions is attached at **Appendix 1**.
- 2.3 Conditions 21-25 of the licence relate to "External Appearance" and state:

CONDITION 21

Display, advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any other matter or thing (whether illuminated or not) shall not be exhibited so as to be visible from the outside of the premises except:

Any notice of a size and in the 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.

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.

CONDITION 22

A notice showing the hours of opening shall be displayed or exhibited on the door of the premises in a form and manner to be approved by the Council.

CONDITION 23

A notice showing that persons under 18 years of age shall be excluded from the premises shall be exhibited on the door of the premises in a form and manner to be approved by the Council.

CONDITION 24

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obstruction, screening or other arrangements to the satisfaction of and approved by the Council.

CONDITION 25

The windows of the licensed premises fronting the pavement shall not be as obscured other than with the consent of the Council, but shall have suspended behind them, in a position and attitude approved by the Council, such opaque blinds or screens or other arrangements as approved by the Council.

These conditions shall not be construed as lessening any obligations of the Licensee under Licence condition No 21.

Any such special precautions as may be necessary shall be taken to maintain the screening of the shop windows during any cleaning operations.

- 2.4 As a result of a compliance visit on 8th May 2013 following renewal of the licence, the Licensing Enforcement Officer, Mrs Pordage observed that the window of the shop was in breach of Condition 21 in that mannequins advertising underwear were visible from the street and other items including contraceptives and handcuffs were displayed in the window This display had not been approved by the council. Photographs taken by the Licensing Enforcement Officer are attached at **Appendix 2**.
- 2.5 Mrs Pordage discussed this breach with the shop managers, the display was removed and the variation application was submitted. The Applicants have attached photographs of the proposed display with the application. This application is attached at **Appendix 3**.
- 2.6 The application was copied to the Chief of Police, Kent Constabulary and advertised in accordance with the legislation by means of a public notice in the local paper and a sign at the shop for 21 days to allow for representations.
- 2.7 No representations have been received from Kent Police or local residents.
3. **Identification of Options**
 - 3.1 Option 1: To refuse the variation application.
 - 3.2 Option 2: To make the variation as requested and to remove the conditions restricting the advertising of goods in the window.
 - 3.3 Option 3: To make such variations as the committee thinks fit.

4. Evaluation of Options

- 4.1 The regulation of sex shops is a statutory function under the provisions of Section 8 of the Local Government Miscellaneous Provisions Act 1982. Section 13(3) of this Act allows the Licensing Authority to attach conditions relating to:
- (a) the hours of opening
 - (b) the displays and advertisements on or in the establishment
 - (c) the visibility of the interior of sex establishment to passers by and
 - (d) any change of a sex shop to a sex cinema and vice versa.
- 4.2 Option 1: Committee may want to consider whether the concerns which led to the imposition of the conditions originally still remain compelling
- 4.3 Option 2: The Committee may want to recognise that many high street clothes shops now have window displays with mannequins in underwear. Some of the other items on display are often seen in high street shops. No objections have been received to this application and members may consider that the variation would have no adverse impact on the surrounding location and passers by
- 4.4 Option 3: The Committee has a wide discretion in considering the application. If granted, it would be open to Committee to impose detailed conditions in order to control what type of articles are displayed in the windows at all times in order to minimise the risk of causing offence to passers by. By way of example, Committee may feel it appropriate to restrict the window displays to items of clothing and to expressly prohibit the display of sex articles, pornographic videos and DVD's condoms and other material of an overtly sexual nature.
- 4.5 Committee may wish to consider whether it would be appropriate to seek to impose a condition which would allow the Council to require the removal from a window display of any articles which it did not consider to be appropriate. The task of exercising the controls under this condition could be delegated to the Licensing Team Leader.

5. Appendices

Appendix 1 – Licence for The Private Shop

Appendix 2 – Photographs of the shop window taken by Mrs Pordage

Appendix 3 – Application to vary the licence and photographs of the proposed display.

Appendix 4 – Map of locality

6. Background Papers

Local Government (Miscellaneous Provisions) Act 1982 Part II Schedule 3

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