



**Notice of a public meeting of
Licensing and Regulatory Committee**

- To:** Councillors Cuthbertson (Chair), Melly (Vice-Chair), Orrell, Barker, D'Agorne, Galvin, Hook, Hunter, Looker, Mason, D Myers, Norman, Pearson, Warters, Wann and Wells
- Date:** Tuesday, 9 August 2022
- Time:** 5.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

- 1. Declarations of Interest**
At this point in the meeting, Members are asked to declare any disclosable pecuniary interest or other registerable interest they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests.

- 2. Minutes** (Pages 1 - 8)
To approve and sign the minutes of the meeting held on 7 June 2022.

- 3. Public Participation**
At this point in the meeting members of the public who have registered to speak can do so. Please note that our registration deadlines have changed to 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering is 5.00pm on Friday 5 August 2022. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill out an online registration form. If you have any questions about the registration form or the meeting please contact the Democracy Officer for the meeting whose details can be found at the foot of the agenda. Webcasting of Public Meetings Please note that, subject to available resources, this public meeting will be webcast including any registered public speakers who have given their permission.

The public meeting can be viewed on demand at www.york.gov.uk/webcasts. During coronavirus, we've made some changes to how we're running council meetings. See our coronavirus updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

**4. Local Government (Miscellaneous Provisions) Act (Pages 9 - 36)
1982 Schedule 3 as amended by Policing and Crime
Act 2009 Renewal of Sex Establishment Licence for
The Adult Shop, 70B Gillygate, York, YO31 7EQ**

This report seeks Member's determination of an application to renew a Sex Establishment Licence for a sex shop which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of The Adult Shop, 70B Gillygate, York, YO31 7EQ.

5. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Angela Bielby

Contact Details:

- Telephone – (01904) 552599
- E-mail – a.bielby@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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City of York Council

Committee Minutes

Meeting	Licensing and Regulatory Committee
Date	7 June 2022
Present	Councillors Cuthbertson (Chair) [until 18.50], Melly (Vice-Chair), D'Agorne, Hook, Hunter, Looker, Mason, D Myers, Norman, Warters [until 17.35]
In Attendance	Matt Boxall (Head of Public Protection) Sandra Branigan (Senior Solicitor) Lesley Cooke (Licensing Manager) David Cowley (Taxi Licensing Manager) Mike Southcombe (Public Protection Manager) Iain MacDonald (LVSA)

86. DECLARATIONS OF INTEREST

A Member asked for an update on York Cars. The Chair informed Members that a statement on this would be made after the three agenda items of business.

[Cllr Warters left the meeting at 5.35pm]

Cllr Looker declared a personal interest in Agenda Item 4 [Hackney Carriage Licences] with regard to accessibility and the need to maintain a fleet accessible other than to wheelchair users. Cllr Norman also declared a personal interest in that item due to his employment in wheelchair services and working with people with wheelchair interests.

Members were invited to declare any personal interests not included on the Register of Interests, any prejudicial interests, or any disclosable pecuniary interests that they might have in respect of business on the agenda. Cllr Melly declared an interest in agenda item 4 Licensing Act 2003 – Statement of Licensing Policy and Cumulative Impact Assessment and undertook to withdraw from the meeting for that item. There were no further declarations of interest.

87. MINUTES

Resolved: That the minutes of the meeting held on 2 March 2022 be approved and signed by the Chair as a correct record.

88. PUBLIC PARTICIPATION

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme. One registration had been withdrawn.

Flick Williams spoke on Agenda Item 4 [Hackney Carriage Licences] and welcomed the report and recommendations. She expressed concern that there was no overall increase in the number of wheelchair accessible cars and she gave a number of examples when these vehicles would be needed. She referred to the exclusion of blue badge holders for taxis. The Chair advised that her comments had been noted.

The Chair made the following statement regarding York Cars:

"I have taken advice from the Monitoring Officer on this issue.

The outcome of the York Cars appeal is not on the agenda. It is a matter of public record that the appeal was allowed on the basis of a consent order which bound the operator to conditions about the operator being "fit and proper". Because considerations taken into account in settling the proceedings are subject to legal professional privilege and discussion in the public domain about ongoing compliance with licence conditions may prejudice future legal action, the matter is not suitable for discussion in the public domain.

The outcome of the same appeal does not fall within the definition of urgent business as set out in S100B(4) Local Government Act 1972, as amended, namely "where by reason of special circumstances which shall be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered as a matter of urgency and cannot be deferred to the next meeting." There is no decision to be taken which can properly be classified as urgent as the case has concluded.

Members of the Licensing Committee will be invited to receive a private briefing on the outcome of the appeal and developments since the member decision to revoke the operator licence in November 2020 was made. This could also form a case study in forthcoming Licensing training for members if so requested.

In addition Members are invited to express their views to the Chair/Monitoring Officer on when and how they would like to be kept informed of Licensing matters which become the subject of litigation and whether it would be useful to receive a regular report akin to those presented to Planning and Joint Standards Committees on the progress on appeals and complaints.”

89. HACKNEY CARRIAGE LICENCES

Members considered a report that advised them of the findings of the ‘unmet demand’ survey that has been undertaken with regards to hackney carriage vehicles. The report asked Members to make a recommendation to Executive and subsequently the Council on:

- i) the number of new hackney carriage vehicle licences to be issued, and
- ii) the type of vehicle they should be issued to.

The Head of Public Protection outlined the report. The report author of the LVSA York Hackney Carriage Unmet Demand Survey report (at Annex 1 of the report) detailed the aim, scope, methodology and findings of the survey. In response to Member questions the Head of Public Protection, Licensing Manager, Public Protection Manager and the LVSA author of the unmet demand survey and officers explained:

- That regarding driver availability at peak times, the assumption was that drivers would follow the same pattern of working.
- How the proposal to make available 9 new hackney carriage vehicle licences had been reached.
- If the no of hackney carriage licences issued was restricted then the unmet demand survey would have to be undertaken at least every three years.
- The Chair noted that if the calculated threshold was reduced, the new values must be re-established in three years to see if the level of unmet demand had changed.
- That concerning the options around vehicle specification, it was recommended that the additional licences included wheelchair accessible vehicles. Of the 183 licenced

vehicles, 45 had to be wheelchair accessible and a specification of every vehicle was that the big enough to carry a wheelchair.

- The definition of a wheelchair accessible vehicle was not being changed. The move was to electric vehicles which could be converted to a wheelchair accessible vehicle. It was noted that there wasn't one type of vehicle suitable for all types of wheelchair. An explanation of the vehicle specifications was given.
- The recommendation for hybrid electric vehicles was to improve air quality by having lower emissions.
- Annex 2 included information on the existing taxi fleet and currently there was no age limit on vehicles and there was a significant number of older vehicles being used.
- There was still a limited range of vehicles and the vehicles listed met both specifications of being wheelchair accessible and electric plug in.
- It was unlikely that some hybrid vehicles would run just petrol given the expensive vehicle.
- The £3000 taxi grants were available to existing licence holders.
- The aim to rid of all diesel vehicles.
- There wasn't a policy change regarding existing licenses. A London taxi cost £60,000 new and £40,000 second hand and taxis could also be rented. The fares in York were at the higher end of the spectrum.
- The second hand taxi scheme offered up to £3,000 off the vehicle and there were other incentives available.
- Regarding trends changing and reductions in the number of drivers in the future, if there was an unmet demand and licences were surrendered, this could be considered by the committee.
- There were other circumstances for licenses not being renewed. The Executive had asked for more surveys which was why two licences had not been issued.
- It was unlikely that the number of licences would reduce unless licences were surrendered.
- The committee did not have to state what kind of vehicle in the proposal to make available 9 new hackney carriage vehicle licences.
- The Chair referred to a late submission from A to Z and asked if the item should be deferred. It was explained that in licensing in relation to the number of drivers and whether the October 2021 situation was relevant to the

present day. The timeframe for the survey was explained and a further unmet demand survey would take 7-8 months to be presented to the committee. It was noted that the survey was written with a three year timeframe in mind and the survey was undertaken when York was in step 4 of Covid restrictions. The Senior Solicitor was asked and confirmed that the committee could justify making a decision on the report as it stood.

- It was clarified that the only reason to refuse a hackney carriage licence was if there was not unmet demand that was not significant.

[The Chair left the meeting at 18:50 and the meeting was chaired by the Vice Chair for the remainder of the meeting]

- Regarding concerns raised from the trade, if there was more supply in terms of drivers, this would help address the excess of demand.
- The Senior Solicitor advised that there could only be a quantity restriction in the number of licences issued if Members were satisfied that the unmet demand was met so that there was significant unmet demand. The LVSA author of the unmet demand survey explained that it would take a significant change in supply to bring the number of licences down to 80.
- There had been work underway to recruit new drivers and there were 16 new drivers coming through. Recruitment included an advertising campaign and a series of free knowledge tests and training for applicants. These had been funded by Home Office funding and the Safer York Partnership.

Recommendations to Executive/Council on the number of hackney carriage licences

Members then considered the following options:

Option 1 –make available 9 new hackney carriage vehicle licences (the two that had not been renewed, plus seven additional licences) with immediate effect to bring the total up to 190 as recommended within the unmet demand report.

Option 2 - make available up to 9 new hackney carriage vehicle licences (the two available having not been renewed, plus seven additional licences) to bring the total up to 190 with a

staggered approach. For example, issue three now, three in six months and three in one year's time or any combination thereof if demand continues to remain unmet.

Option 3 – make available the two licences that were not renewed, bringing the total back to 183 licences in operation.

Option 4 – make available any other amount of licences immediately or with a staggered approach as members see fit.

Option 5 – De-regulate and no longer restrict the number of hackney carriage licences available.

Following consideration of the options, Cllr D'Agorne moved and Cllr Mason seconded the Option 1, to make available 9 new hackney carriage vehicle licences (the two that had not been renewed, plus seven additional licences) with immediate effect to bring the total up to 190 as recommended within the unmet demand report. On being put to the vote with 5 voting for, two against and one abstention it was:

Resolved: That it be recommended to Executive **to** make available 9 new hackney carriage vehicle licences (the two that had not been renewed, plus seven additional licences) with immediate effect to bring the total up to 190 as recommended within the unmet demand report.

Reason: To help meet unmet demand for hackney carriage vehicles, particularly from users with a disability as well as providing a more environmentally friendly hackney carriage fleet in the city in response to the declared climate emergency and continuing desire to improve air quality.

Recommendations to Executive and Council on the type of hackney carriage vehicle

Members then considered the following options:

Option 1 – Amend the Taxi Licensing Policy to the vehicle specification in paragraph 25 with regards to the grant of any new hackney carriage vehicles licences.

Option 2 – Retain the existing vehicle specification outlined in paragraph 16 with regards to the grant of any new hackney carriage vehicle licences.

Option 3 – Specify a different vehicle standard.

Following consideration of the options, Cllr Hook moved and Cllr D'Agorne seconded the Option 1, to amend the Taxi Licensing Policy to the vehicle specification in paragraph 25 with regards to the grant of any new hackney carriage vehicles licences. On being put to the vote it was unanimously;

Resolved: That it be recommended to Executive to amend the Taxi Licensing Policy to the vehicle specification in paragraph 25 with regards to the grant of any new hackney carriage vehicles licences.

Reason: To help meet unmet demand for hackney carriage vehicles, particularly from users with a disability as well as providing a more environmentally friendly hackney carriage fleet in the city in response to the declared climate emergency and continuing desire to improve air quality.

Recommendation to the Executive and Council on other aspects of the unmet demand survey

Members then considered the following options:

Option 1 – These matters are considered further as part of the wider review of the Taxi Licensing Policy later this year.

Option 2 – Members make alternative recommendations in relation to the findings.

Following consideration of the options, Cllr Myers moved and Cllr Norman seconded the Option 1, to consider the matters further as part of the wider review of the Taxi Licensing Policy later this year. On being put to the vote it was unanimously;

Resolved: That it be recommended to Executive that the matters be considered further as part of the wider review of the Taxi Licensing Policy later this year.

Reason: To help meet unmet demand for hackney carriage vehicles, particularly from users with a disability as well as providing a more environmentally friendly hackney carriage fleet in the city in response to the declared climate emergency and continuing desire to improve air quality.

Cllr Cuthbertson, Chair

[The meeting started at 17.30 and finished at 19.10]



Meeting of Gambling, Licensing & Regulatory Committee

9 August 2022

Report of the Director – Environment, Transport and Planning

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009 Renewal of Sex Establishment Licence for The Adult Shop, 70B Gillygate, York, YO31 7EQ**Summary**

1. This report seeks Member's determination of an application to renew a Sex Establishment Licence for a sex shop which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of The Adult Shop, 70B Gillygate, York, YO31 7EQ.
2. Name of applicant: Lilacgrange Limited
3. Summary of Application: The application is to renew an existing Sex Establishment Licence which permits the premises to operate as a sex shop during the following times: Monday to Saturday 10:00 hours to 20:00 hours and Sunday 12:00 hours to 17:00 hours. A copy of the renewal application can be found at Annex 1.
4. A sex establishment licence is valid for 12 months. The licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sex establishment, in this case a sex shop. A copy of the licence to be renewed can be found at Annex 2.

Recommendations

5. Members are asked to determine the application for the renewal of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

Background

6. Sex shops are defined in the legislation as any premises, vehicle or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating 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.
7. These premises have operated as a sex shop since 1997. There have been no complaints received in relation to the premises since the initial licence was granted.
8. City of York Council's Licensing of Sex Establishments Licensing Policy was reviewed, and a revised policy was adopted on 27 April 2017 with immediate effect. A copy of this policy can be found at <https://www.york.gov.uk/SexEstablishmentLicences>
9. A copy of City of York Council's Standard Conditions for Sex Shops can be found at Annex 3.

Consultation

10. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application for renewal to be considered valid.
11. There were no objections received to the application.
12. A map showing the location of the premises can be found at Annex 4.

Relevant Legislation – Grounds for Refusal

13. When considering the renewal application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act.

Mandatory grounds for the refusal of an application

14. The mandatory grounds for the refusal of an application for a sex establishment licence are that the applicant:
- a) is under the age of 18;
 - b) is for the time being disqualified from holding a sex establishment licence;
 - c) is not a body corporate, and is not in resident or has been resident in an EEA state for six months immediately preceding the date of the application;
 - d) is a body corporate which is not incorporated in an EEA state;
 - e) has in the period of twelve months preceding the date of application 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 reversal has been reversed on appeal.
15. There are no mandatory grounds for refusing this application.

Discretionary grounds for the refusal of an application

16. Discretionary grounds for the refusal of an application for a sex establishment licence are that:
- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or any other reason;
 - b) if the licence were to be granted, 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 of such a licence if he made the application himself;
 - c) the number of sex establishments, or sex establishment of a particular kind, 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 –
 - to the character of the relevant locality;
 - to the use to which any premises in the vicinity are put;

- to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
17. When considering the suitability of the applicant to hold a licence the council will take into account such matters it considers to be relevant.
 18. Guidance on relevant locality can be found at Annex 5, paragraphs 3.32 to 3.38.
 19. Within the licensing policy the council has determined a limit on the number of sexual entertainment venues permitted within the Authority area, however, this limit does not apply to sex shops. These applications must be dealt with on a case by case basis.

Options

20. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
21. Option 1: Grant a renewal of the licence as requested.
22. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
23. Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Analysis

24. The following could be the result of any decision made by this Committee:
25. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. Objectors could judicially review the decision.
26. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
27. Option 3: With the exception of a decision to refuse an application on a ground specified in paragraph 12(3) (c) or (d) of Schedule 3 to the 1982

Act, the licence applicant may appeal against the decision made to the Magistrates' Court.

Council Plan

28. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

29. The implications arising directly from this report are:

- **Financial** - There are no financial implication.
- **Human Resources (HR)** – There are no HR implications.
- **Equalities** – There are no equality implications.
- **Legal** – The Council has the ability to control the licensing of sexual entertainment venues having adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Paragraph 8 of Schedule 3 to the 1982 Act provides that where it determines to grant sex establishment licence, the Council is empowered to impose such conditions or restrictions as it deems appropriate.

Paragraph 12 of Schedule 3 to the 1982 Act sets out a number of mandatory grounds for refusal of sex establishment licence and also discretionary grounds for refusal of a sex establishment licence.

In considering this application the Committee should have regard to:

- Schedule 3 to the 1982 Act, as amended by Policing and Crime Act 2009 (Annex 5).
- The City of York Council Licensing of Sex Establishment Licensing Policy which can be found at <https://www.york.gov.uk/SexEstablishmentLicences>.
- The Home Office – Sexual Entertainment Licence – Guidance for England and Wales which states that “Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12” [of Schedule 3 to the 1982 Act].

In addition, when making their decision Members must give consideration to the rights the applicant has under the European

Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

Members of the Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application on its own merit.

- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – There are no IT implications.
- **Property** – There are no property implications.
- **Other** – There are no other implications.

Risk Management

30. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
31. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report, there are no known risks involved with this recommendation.

Contact Details

Author:

Lesley Cooke
Licensing Manager
01904 551515

Chief Officer Responsible for the report:

James Gilchrist
Report of the Director – Environment,
Transport and Planning

**Report
Approved**



Date 21.07.2022

Wards Affected: Guildhall

Annexes

- Annex 1** - Copy of application for renewal
- Annex 2** - Copy of existing licence to be renewed
- Annex 3** - Standard Conditions for Sex Shop
- Annex 4** - Map showing location of premises
- Annex 5** - Legislation Extracts – Renewal Applications

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CITY OF YORK COUNCIL
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 – CONTROL OF SEX ESTABLISHMENTS

Application for the Grant / Renewal / Transfer of a Sex Establishment Licence

TYPE OF VENUE

- Sexual Entertainment Venue
- Sex Shop
- Sex Cinema

TYPE OF APPLICATION

- Grant
- Renewal
- Transfer

APPLICANT DETAILS

1. Is the applicant:

- An individual (please answer questions 2, 5 to 9)
- A company or other corporate body (please answer questions 3, 5 to 9)
- A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town:

Post code:

Telephone numbers:

Date of birth:

Email address:

N/A

3. Name of applicant (company name):

LILACGRANGE LTD

Address of registered or principal office:

70B GILLAGATE

Post town: YORK

Post code:

YO31 7EQ

Registration number:

05842814

Email address:

4. Name and address of applicant:

Names and addresses of applicant's partners (please use additional sheet):

N/A

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

ANTHONY BARTLETT-MOORE (DIRECTOR)

- 6. a. Has the applicant ever been known by any other name? ~~YES~~ / NO
- b. Has the applicant ever been convicted of a criminal offence? ~~YES~~ / NO
- c. Has the applicant ever been refused a sex establishment licence? ~~YES~~ / NO
- d. Has the applicant ever had a sex establishment licence revoked? ~~YES~~ / NO
- e. Has the applicant ever been served with a winding up petition? ~~YES~~ / NO

If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

THE PREMISES ARE THE TRADING ADDRESS
& HEAD OFFICE

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? ~~YES~~ / NO

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

No

PREMISES DETAILS

10. Please state the name the business will be known as:

THE ADULT SHOP

11. Is the premises a Building Vehicle Vessel Stall

12. Where is it proposed to use the vehicle, vessel or stall?

N/A

13. Does the company propose to only operate on the internet?
(f yes answer Q14 to 19 only)

NO

14. Premises address

70B GILLYGATE

Post town

YORK

Post code

YO31 7EQ

Telephone number at premises

01904 613 638

15. Which part of the premises is to be used as a sex establishment?

GROUND FLOOR SHOP

16. Is the applicant owner lessee sub-lessee other

17. If the applicant rents the property state:

MR D BROWN

a. Name and address of landlord:

b. Name and address of the superior landlord:

c. Total annual rental:

5440

SCARBOROUGH

d. Length of unexpired term:

~~PERIOD~~ 3 MONTHS

e. Notice required to terminate tenancy:

3 MONTHS.

18. Please provide details of the building management company (if appropriate):

NONE

19. State the current use of the premises:

SEX SHOP.

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises? YES / ~~NO~~

21. Can members of the public access the premises:
 a. Directly from the street? YES / ~~NO~~
 b. From other premises? ~~YES~~ / NO
 c. Not at all? (internet sales only) ~~YES~~ / NO

22. Are the premises currently being used as a sex establishment? ^{Yes}
 Please provide details of the business currently operating the business:
 LILAC GRANGE LTD
 70 B GILLYGATE
 YORK YO31 7EQ.

OPERATING SCHEDULE

23. Opening hours: (If internet sales only please tick here and continue to Q 26) AS EXISTING.

Monday	Tuesday	Wednesday	Thursday	Friday
10:00 20:00	10:00 20:00	10:00 20:00	10:00 20:00	10:00 20:00
Saturday	Sunday			
10:00 20:00	12:00 17:00			

Any non-standard timings:

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.
 NO

a. Please provide details of any lender, mortgage or others providing finance:
 NONE

b. Please provide details of any merchandising agreements:
 NONE.

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).
 ANTHONY BARTHETT-MOORE

a. Will the manager be based at the premises YES / ~~NO~~
 b. Will the management of the premises be the manager's sole occupation ~~YES~~ / NO

26. Who will be in control of the premises in the manager's absence (relief manager)?
 PHILLIP BENTON / JONATHAN SWAN.

a. Will the relief manager be based at the premises in the absence of the manager? YES / ~~NO~~

If you have ticked no to any of the above please provide details.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION

27. Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:

Please note that a drawing of the front elevation is required to be submitted with this application.

28. Please describe how the interior of the premises is obscured to passersby:

29. Please describe any proposed window displays:

30. Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:

RENEWAL

APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY

31. Is the proposal for full nudity? YES / NO

32. Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:

33. State measures to ensure employees age and right to work in the UK:

34. Describe training and welfare policies:

Please enclose a copy of the welfare policy for performers (or equivalent document).

35. Please set out any further information you wish the authority to take into account.

NOT SEXUAL ENTERTAINMENT VENUE

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

NO

CHECKLIST & ENCLOSURES

Enclosures

I have made or enclosed payment of the fee
I have enclosed three sets of plans of the premises
I have enclosed a drawing of the street elevation of the premises
In the case of an application to transfer the licence, include the completed Consent to Transfer form

DECLARATION

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days. A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be publicised in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected.

Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence, makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to an unlimited fine.

SIGNATURES

Signature of applicant or applicant's solicitor or other duly authorised agent, If signing on behalf of the applicant please state in what capacity.

Signature Signature
Name (print) ANTHONY BARTLETT - MARK Name (print)
Date 27 APRIL 2022 Date
Capacity DIRECTOR Capacity

Contact name (where not previously given) and address for correspondence associated with this application:

Post town Post code
Telephone number (if any)

If you would prefer us to correspond with you by email, your email address (optional)

Ref no: MAU 008669/21



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of licence to:

Lilacgrange Ltd
70B Gillygate
York
YO31 7EQ

to use the premises known as:

The Adult Shop
70B Gillygate
York
YO31 7EQ

for the purposes of a sex establishment comprising a sex shop as defined in Schedule 3 to the above Act.

This Licence is renewed subject to the City of York Council Standard Conditions Application to Sex Establishment Licences and to the additional conditions set out in the schedule below.

This licence shall continue in force from 1 May 2021 until 30 April 2022 unless previously revoked.

Granted on 10 August 2021(renewal)

Signed
For and on behalf of Corporate Director of Place

SCHEDULE

1. The sound from the video preview facility must be inaudible externally and in adjoining premises.
2. That the hours of opening be limited to 10:00am to 8.00pm, Monday to Saturday, and 12 noon to 5:00 pm on Sunday.
3. The attached Standard Conditions also apply to this licence.

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STANDARD CONDITIONS

SEX SHOPS

General

1. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
4. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

5. The licence or a certified copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council.

Hours of opening

6. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	09:00 – 20:00	Friday	09:00 – 20:00
Tuesday	09:00 – 20:00	Saturday	09:00 – 20:00
Wednesday	09:00 – 20:00	Sunday	12:00 – 20:00
Thursday	09:00 – 20:00		

Conduct of the premises

7. The premises will be conducted primarily for the purpose of the sale or hire of goods by retail.
8. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene or offensive nature.

9. No part of the premises will be used by prostitutes.
10. All sex articles or other items displayed for sale, hire, exchange or loan within the premises will be clearly marked to show the price being charged.
11. All printed material offered for sale, hire, exchange or loan will be available for inspection prior to purchase and a notice to this effect will be displayed in a conspicuous position within the premises.
12. No film, DVD or video recording (or computer game) will be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
13. No moving picture will be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.
14. Items offered for sale, hire, exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984 (as amended).

External appearance

15. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

16. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
17. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
18. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises on the public highway.

Advertising

19. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
20. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Flyers must not be distributed by and to persons under the age of 18 years.

Layout of the premises

21. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
22. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
23. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

24. Where the licensee is a body corporate, or an un-incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
25. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
26. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
27. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue ("the manager"), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
28. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee's control of the premises.
29. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
30. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
31. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.

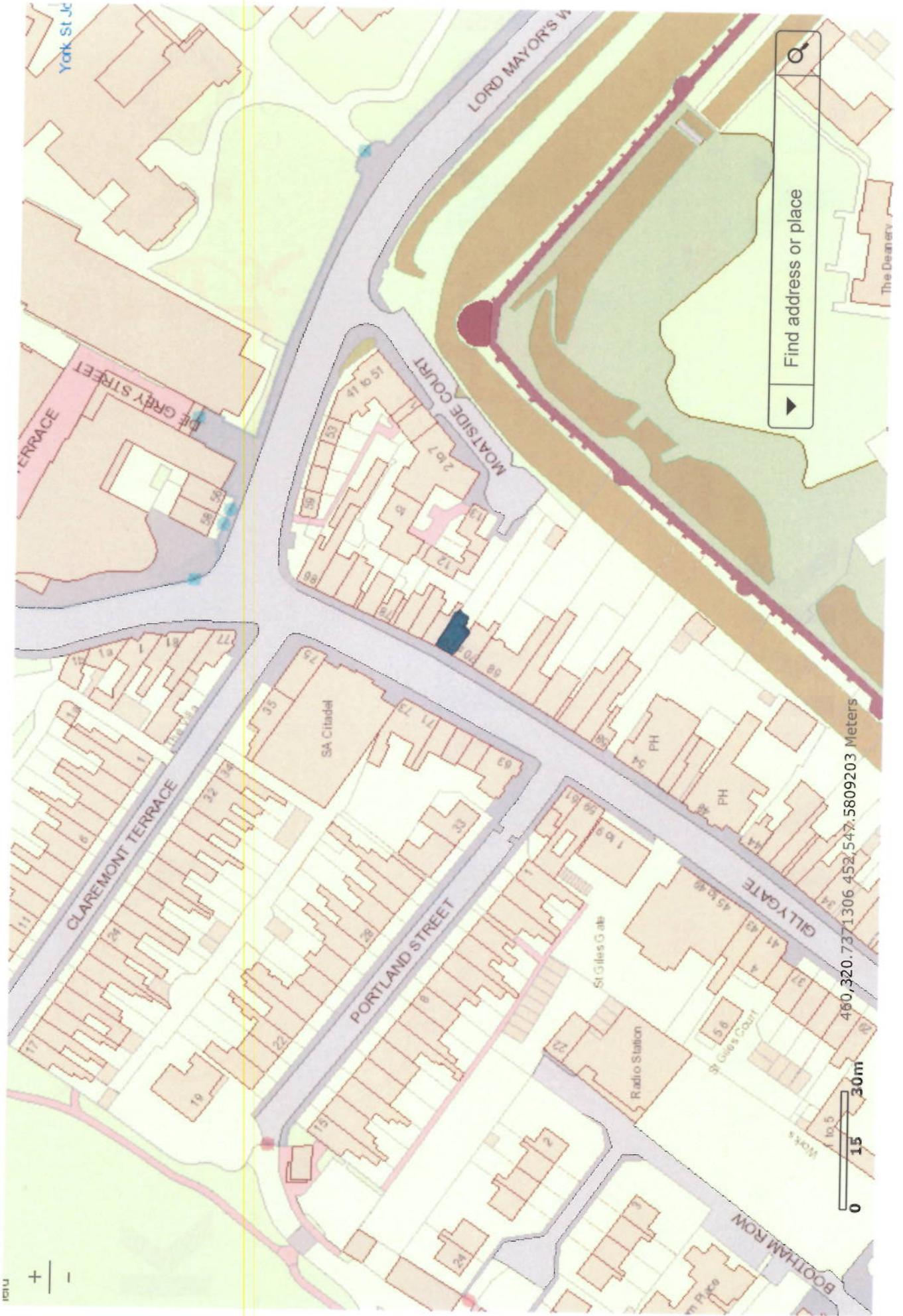
32. No person under the age of 18 will be admitted to the premises.
33. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
34. The licence holder will not employ any person under the age of 18 in any capacity.

Vessels, vehicles and stalls

35. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
36. The requirements of condition 35 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
37. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

38. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
39. The licensee may apply to the council to vary any of the terms of the licence.
40. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.



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Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).

2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.27 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators may have under Article 1 of Protocol 1 to the European Convention

which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council's Policy for the Licensing of Sex Establishments Licensing Policy and the Standard Conditions for Sex Shops applies to this application.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.
7. The Committee is reminded that it must comply with the Council's Public Sector Equality Duty (as required to do so under s.149 of the Equality Act 2010), and have due regard to the potential impact on gender equality.

NOTE FOR MEMBERS

Extracts from Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

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

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.

3.28 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 particular 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 -
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

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

3.30 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 on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 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 if one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. 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 authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality

and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.