

LICENSING SUB-COMMITTEE



Report subject	Simply Pleasure.com, 333 - 335 Holdenhurst Road, Bournemouth, BH8 8BT
Meeting date	23 November 2023
Status	Public Report
Executive summary	<p>ABS Holdings Ltd have applied for the renewal of the Sex Establishment Licence to permit the premises to trade as a sex shop for a further twelve-month period.</p> <p>The Licensing Authority has received 2 valid objections</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members are asked to decide whether to:-</p> <p>a) Grant the application for renewal as made; or</p> <p>b) Refuse the application for renewal.</p> <p>Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Reason for recommendations	<p>The Council may refuse an application for renewal on one or more of the following grounds:</p> <p>(a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;</p> <p>(b) that 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;</p> <p>(c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;</p> <p>(d) that the grant or renewal of the licence would be inappropriate, having regard—</p> <p>(i) to the character of the relevant locality; or</p> <p>(ii) to the use to which any premises in the vicinity are put; or</p>

	<p>(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.</p> <p>(4) Nil may be an appropriate number for the purposes of subparagraph (3)(c) above.</p> <p>(5) In this paragraph “the relevant locality” means –</p> <p>(a) in relation to premises, the locality where they are situated; and</p> <p>(b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment</p>
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Portfolio Holder(s):	Councillor Kieron Wilson – Housing and Regulatory Services
Corporate Director	Jillian Kay – Wellbeing
Report Authors	Sarah Rogers – Senior Licensing Officer
Wards	East Cliff & Springbourne
Classification	For Decision

Background

1. An application for the renewal of the Sex Establishment Licence was made on 11 October 2023 in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
2. A Sex Establishment Licence permits the premises to be used as a sex shop business for the 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.
3. A copy of the application is attached at Appendix 1.
4. A map showing the location of the premises is attached at Appendix 2.
5. The premises have traded as a sex shop for 20 years under the current ownership. A copy of the current Sex Establishment Licence is attached at Appendix 3.
6. No complaints have been received by the Licensing Authority in connection with these premises.

Consultation

7. Applicants must give notice of the application by publishing an advertisement in the local newspaper together with notice displayed on the premises for a period of 21 days.
8. In considering the application the Council must have regard to any observations submitted to them by and any objections of which notice has been sent to them under Schedule 3, paragraph 10(15) of the 1982 Act, which provides that any objections must be made in writing within 28 days of the application.
9. As a result of the consultation 2 objections have been received against the renewal of the licence. A copy of the objections are attached at Appendix 4.
10. Consent from an objector must be obtained before their name or address is revealed to the applicant. None of the objectors consented to this however the applicant drafted a letter in response to objector 1. A copy of the letter from the applicant is attached at Appendix 5.
11. The application was also consulted with Dorset Police and no observations, or any objection was received.

12. As the renewal application had been submitted before the expiration of the current licence the premises are permitted to continue to operate under the terms of the current licence until its determination.

Options Appraisal

13. Before making a decision, Members are asked to consider the following matters:
- The submissions made by or on behalf of the applicant.
 - The 2 objections received.
 - Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Summary of financial implications

14. No financial implications have been identified.

Summary of legal implications

15. If the application for renewal is refused the applicant may appeal the decision to the Magistrates' Court, unless the application was refused under grounds (c) or (d) above at "Reasons for Recommendation", in which case the applicant can only challenge the refusal by way of judicial review.
16. It should be noted that BCP Council's Sex Establishment Policy was quashed by way of a Judicial Review in February 2022. Essentially the Court were of the view that some consultation responses had been considered by the Council as based purely on moral views and not equality. No decision has yet been taken whether a new policy is to be developed by the new Licensing Committee.
17. Local Authorities are not bound to have a Sex Establishment Policy and the non-existence of a policy does not prevent an application being considered on its merits and in accordance with the legislation.

Summary of human resources implications

18. There are no human resources implications.

Summary of sustainability impact

19. There are no sustainability impact implications.

Summary of public health implications

20. There are no public health implications.

Summary of equality implications

21. The Council is under a duty in Section 149 of the Equality Act 2010 to have due regard to the matters set out in relation to equalities when exercising the function of determining this renewal application (Public Sector Equalities Duty). Accordingly, Members must promote equality for persons with the following "protected characteristics": age, disability, gender assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
22. Each Member must therefore have regard to:

- eliminate discrimination, harassment, victimisation and other conduct prohibited in relevant equalities legislation;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant characteristic and persons who do not share it.
23. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –
- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of people who do not share it;
 - c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low

Summary of risk assessment

24. There is no risk assessment requirement.

Background papers

Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

[Local Government \(Miscellaneous Provisions\) Act 1982 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1982/42/schedule/3)

Appendices

- 1 – Copy Application
- 2 – Location Plan
- 3 – Copy Current Sex Establishment Licence
- 4 – Copy Objections
- 5 – Mediation Letter from Applicant