

Environment & Regeneration 222 Upper Street, London N1 1XR

Report of: Assistant Director of Environment and Regeneration (Public Protection)

Meeting of	Date	Agenda Item	Ward(s)
Licensing Regulatory Committee	6 March 2007	В3	Caledonian

Delete as	Non-Exempt
appropriate	•

SUBJECT: RENEWAL & VARIATION OF SEX ESTABLISHMENT LICENCE UNDER LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (SCHEDULE 3)

APPLICANT: JAMES ALAN POULTON

PREMISES: BASEMENT & REAR GROUND & MEZZANINE FLOOR OF 9 CALEDONIAN ROAD N1 9DX

1 Synopsis

To determine an application from James Alan Poulton, Director of Alan Poulton Ltd, for the renewal & variation of a licence for the use of the basement and rear ground & mezzanine floors of premises at 9 Caledonian Road for a sex establishment.

2 Recommendation

2.1 To consider the application from James Alan Poulton, Director of Alan Poulton Ltd, for the renewal and variation of a licence for the use of the basement and rear ground and mezzanine floors of premises at 9 Caledonian Road, N1, for a sex establishment and, if granted, that it be subject to the attached standard licence conditions as set out in appendix A, and any other conditions deemed appropriate by the Committee.

3 Background

In December 2003, James Poulton, Director of Heart of Soho Ltd, was granted a licence for the premises, trading as Prowler. The Committee attached additional conditions to the standard conditions, regarding the shopfront and the display of goods, and neon lighting. The additional

	conditions were to safeguard the concerns of local residents and to retain the present standard of displays. The minutes of the meeting are attached as appendix B.
3.2	On 3 July 2006, the applicant notified the Licensing Authority of a change of trading name to Soho Original Bookshop.
3.3	On 11 August 2006, the Licensing Authority received a complaint regarding the display of signage advertising Soho Bookshop, at 11 Caledonian Road, situated next door to the licensed premises.
3.4	On 18 August 2006, the Licensing Officer observed 11 Caledonian Road to be vacated premises, and confirmed the signage on the window advertising Soho Bookshop. The matter was referred to Islington Planning Enforcement team for investigation, as the premises were not subject to the provisions of a sex establishment licence. Planning enforcement found no breach of controls with the type of signage. The applicant removed all signs from the window of the premises and no further action was taken.
3.5	On 15 December 2006, an application for renewal of the sex establishment licence at 9 Caledonian Road was received from the applicant. A copy application is attached as appendix C (NB – contains exempt information and therefore supplied to Councillors only).
3.6	In addition, the applicant has attached a proposal for 'the removal of Condition 9 and additional Condition 26'. The applicant is seeking consent on the type of signage within the window and shop if the conditions are not removed. A copy of the applicant's proposal is attached as appendix D. The Applicant has forwarded further details of the proposed signage, attached as Appendix E
3.7	On 21 December 2006 the Licensing Officer observed the Public Notice displayed at the shop during opening hours, and the display was satisfactory.
3.8	The Statutory Notice was published in the Islington Tribune on 15 December 2006 in accordance with the Act. The Applicant has produced the original advertisement and a copy is attached, see appendix F.
3.9	The local Ward Councillors have been notified of the application.
3.10	Islington Police Licensing team have been notified and are not objecting.
3.11	This application was due to be heard by the Licensing Regulatory Committee on the 29 January 2007. However due to a number of objections being received after the statutory consultation period the applicant was contacted and asked if he was willing to allow these objections to be heard by the Committee.
3.12	The applicant agreed to allow the objections, but requested that the Committee meeting be adjourned to a later date to enable him time to consider the objections in more detail.
3.13	In order to facilitate the process, the Public Protection Service offered to organise an informal meeting between applicant and objectors in order to try to reach a compromise. That meeting is scheduled for the evening of 26 February 2007. It is anticipated that notes from that meeting will be made available prior to the Committee Hearing.

3.2 Building Control

3.3 Building Control have no objection to the application.

3.4 Planning

3.5 The premises have Planning permission granted on appeal on 24/7/03

4 Implications

Financial Implications

4.1 The applicant has paid the fee of £11,500. Should the application be refused, the fee shall be refunded less the Council's cost in dealing with the application.

4.2 Legal Implications

- 4.2.1 The appropriate authority may grant to any applicant, and from time to time renew, a licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may be so specified. Any licence under this Schedule shall remain in force for one year or for such shorter period specified in the licence as the local authority may think fit.
- An application for the grant, renewal or transfer of a licence shall be made in writing and the applicant shall give public notice of the application by publishing an advertisement in a local newspaper, the publication being not later than 7 days after the date of the application. An application in respect of premises shall in addition require the applicant to display for 21 days beginning with the date of the application on or near the premises and in a place where the notice can be conveniently read by the public and shall be in such a form as the local authority may prescribe. Objections must be made to the local authority within 28 days of the date of the application and the applicant shall be given notice in writing of the general terms of the objection.
- In considering any application for the grant, renewal or transfer of a licence, the local authority shall have regard to any observations submitted to them by the Chief Officer of Police and any objections of which notice has been sent to them.
- Where the appropriate authority refuse to grant, renew or transfer a licence, they shall, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for their decisions within 7 days of his requiring them to do so.
- A licence shall not be granted and may also be refused in certain circumstances as set out in Schedule 3 of the Act.
- The local authority has power to prescribe standard conditions, that is to say terms, conditions and restrictions to include the regulation of the hours of opening and closing of sex establishments, displays or advertisements

on or in such establishments and visibility of the interior of sex establishments to passers-by.

An applicant for the grant, renewal or transfer of a licence under this schedule whose application is refused has in certain cases the right to appeal to the magistrate's court acting for the relevant area before the expiration of the period of 21 days beginning with the relevant date.

The Human Rights Act 1998 makes it unlawful for the Council to act in a manner incompatible with Convention Rights. Convention rights include the right to and respect for private and family life, including the home as well as the right to the peaceful enjoyment of possessions (a licence has been held by the European Court to be a person's possession). The applicant has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal. The actions of a Licensing Committee in attaching a condition to a licence must be "proportionate" to any "pressing social need" and reasons should be given not only on refusing a licence but also when granting it.

The Committee considers each application being mindful of Section 17 of the Crime and Disorder Act 1998 which imposes a duty on each local authority when exercising any of its functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all that it possibly can to prevent crime and disorder in the area.

12.1 **Equality Implications**

Applicants are advised that the provisions of the Disability Discrimination Act 1995 apply to them as a provider of a service, i.e. facilities for entertainment, recreation or refreshment (as defined by S19 of the Act). In particular that s21 of the Act places them under a duty to make arrangements to ensure the service is accessible to disabled persons.

13 Conclusion and reasons for recommendations

In determining this application for variation, consideration should be given to the reasons that resulted in the special conditions being attached to the licence when first granted.

Background papers:

Appendix A Standard Licence Conditions for sex establishments
Appendix B Minutes of Central Licensing Sub Committee Meeting 8/12/03
Appendix C Application of James Alan Poulton*

Appendix D Soho Original Bookshop Proposal Document

Appendix E Further details of proposed signage for 9 Caledonian Road **Appendix F** Newspaper Notice published in Islington Tribune 15/12/06

*EXEMPT information and not for publication under paragraph 10.4, categories 1 and 3 of the Access to information rules because:

Information relates to an individual

Information relates to the financial or business affairs of any particular person (including the authority holding that information).

Signed by Assistant Director of Environment and Date Regeneration (Public Protection)

Received by

Head of Democratic Services Date

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Final Report Clearance

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STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX SHOPS

REGULATIONS made by the Islington Council in pursuance of the powers contained in paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, prescribing standard conditions applicable to licences for sex shops.

- 1. Throughout these regulations, the expressions "sex shop", "sex establishment" and "sex article" shall have the meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and "the Council" means the Council of the London Borough of Islington.
- 2. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex shop, the special conditions shall prevail.
- 3. The business shall be carried on only in the name, style or title specified in the licence and at the premises mentioned therein.
- 4. The licensee, whether a partner, company or other corporate or unincorporated body, shall notify the Council in writing, in the form prescribed by the Council, of any change in directors, trustees, partners or other persons concerned in the management of such company, partnership or corporate or unincorporated body, within fourteen days of such change.
- 5. The licensed premises shall not be opened for the purposes for which the licence is granted earlier than 9.30am and shall be closed not later than 8.00pm.
- 6. The premises shall not be opened on Sundays, Christmas Day or Good Friday.
- 7. The Council may also specify any other date on which the premises shall be closed provided that fourteen days notice in writing of such date must be given to the licensee.
- 8. No advertisement other than advertisements relating to other licensed sex establishments or relating to goods available from the premises shall be displayed inside the premises.
- 9. The interior of the premises shall not at any time be visible from outside and the window shall only bear a suitable display approved by the Council.
- 10. The following notice shall be displayed at the entrance to the premises such that no-one could reasonably obtain access to the premises without being aware of its contents:

Licensed Sex Shop

WARNING

Persons passing beyond
this notice will find
material on display which
they may consider indecent.
No admittance to persons under 18 years of age

- 11. No part of the premises shall be used by prostitutes for the purposes of solicitation or otherwise exercising their calling.
- 12. Neither the licensee nor any employee shall seek to obtain custom for the sex shop by means of personal solicitation outside or in the vicinity of the sex shop.



- 13. No goods likely to forfeiture under Section 3 of the Obscene Publications Act 1959 or Section 5 of the Protection of Children Act 1978 or likely to be condemned under Schedule 3 to the Customs and Excise Management Act 1979 by virtue of Section 42 of the Customs Consolidation Act 1896 shall be kept on the premises.
- 14. All sex articles and other things displayed within the premises shall be clearly marked to show to persons who are inside the premises the respective prices being charged.
- 15. The licensee shall not distribute any unsolicited goods or publicity.
- 16. The licensed premises shall be used only for the purposes specified in the licence.
- 17. No alcohol shall be consumed on the premises.
- 18. 18R classified videos/DVDs must not be sold by mail order or via the Internet.
- 19. A record shall be kept of mail order/Internet transactions in such form as agreed by the Council and all such transactions must comply with the Consumer Protection (Distance Selling) Regulations 2000.
- 20. The exterior and interior of the premises shall not be altered without the prior consent of the Council.
- 21. The licence is not transferable by the licensee.
- 22. The licensee must give written notice to the Council if s/he wishes to surrender the licence.
- 23. The licensee shall maintain good order and decent behaviour in the licensed premises and shall inform the Police immediately s/he becomes aware of any indecent conduct taking place or which is said to have taken place, in the premises.
- 24. The Council reserves the right to amend or alter these conditions without prior consultation with the licensee but will notify the licensee of any alterations.

London Borough of Islington

CENTRAL LICENSING SUB-COMMITTEE - 8 December 2003

Minutes of the additional meeting of the Central Licensing Sub-Committee held at the Town Hall, Upper Street, N1 2UD, on 8 December 2003, at 2.30pm.

Present: Councillors: Joan Coupland, Stefan Kasprzyk and Bruce Neave

Councillor Bruce Neave in the Chair

- 90 APOLOGIES FOR ABSENCE (Item 1)
 None.
- 91 <u>DECLARATION OF SUBSTITUTE MEMBER (Item 2)</u> None.
- 92 <u>DECLARATIONS OF INTEREST</u> (Item 3) None.

93 <u>APPLICATION FOR SEX SHOP LICENCE - 9 CALEDONIAN ROAD, LONDON N1 9DX, TRADING AS "PROWLER KINGS CROSS" (Item 4)</u>

The Service Manager for Trading Standards and Street Trading presented his report to the Sub-Committee.

The Sub-Committee heard representations from the applicant's (Heart of Soho Ltd) Legal representative and from three members of the public who objected to the application for a licence at the premises.

The Chair agreed that further written representations, in support of the application be laid round for Members' information.

RESOLVED:

- (a) That it be noted:
 - (i) That the Sub-Committee fully appreciates the very real concerns expressed by the objectors. However, it is the view of the Sub-Committee that it is preferable for premises of this nature to be licensed.
 - (ii) With regret, that the City of Westminster Act 1996 is a local Act which could not be adopted by the London Borough of Islington and the Sub-Committee will be recommending that this Council lobby Parliament, in respect of provisions relating to closure notices and closure orders, of the above Act to be extended nationwide;

- (b) That, in the meantime, Officers liaise with Police to pursue a more pro-active prosecution regime against unlicensed premises in the Borough;
- (c) That, having carefully considered all of the written and oral evidence presented, approval be granted for a Sex Shop licence to Heart of Soho Ltd, for the use of the basement and rear ground and mezzanine floors of the retail shop at 9 Caledonian Road N1 9DX, for a sex establishment, trading as "Prowler Kings Cross", for one year only, subject to the conditions set out below, but with an exception to standard Condition 10 which is varied to the extent that " the following notice shall be displayed inside the premises, prior to access to the licensed area such that no-one could reasonably obtain access to this area without being aware of its contents".

Conditions of licence

- 1. Throughout these conditions, the expressions 'sex shop', 'sex establishment' and 'sex article' shall have the meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982; 'the Council' means the Council of the London Borough of Islington.
- 2. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex shop, the special conditions shall prevail.
- 3. The business shall be carried on only in the name, style or title specified in the licence and at the premises mentioned therein.
- 4. The licensee, whether a partner, company or other corporate or unincorporated body, shall notify the Council in writing, in the form prescribed by the Council, of any change in directors, trustees, partners or other persons concerned in the management of such company, partnership or corporate or unincorporated body, within fourteen days of such change.
- 5. The licensed premises shall not be opened for the purposes for which the licence is granted earlier than 9.30am and shall be closed not later than 8.00pm.
- 6. The premises shall not be opened on Sundays, Christmas Day or Good Friday.
- 7. The Council may also specify any other date on which the premises shall be closed, provided that fourteen days notice in writing of such date must be given to the licensee.
- 8. No advertisement other than advertisements relating to other licensed sex establishments or relating to goods available from the premises shall be displayed inside the premises.
- 9. The interior of the premises shall not at any time be visible from outside, and the window shall only bear a suitable display approved by the Council.

10. The following notice shall be displayed <u>inside the premises</u>, <u>prior to access</u> to the licensed area such that no-one could reasonably obtain access to this area without being aware of its contents:

Licensed Sex Shop
WARNING
Persons passing beyond
This notice will find
Material on display which
They may consider indecent.
No admittance to persons under 18 years of age.

- 11. No part of the premises shall be used by prostitutes for the purposes of solicitation or otherwise exercising their calling.
- 12. Neither the licensee nor any employee shall seek to obtain custom for the sex shop by means of personal solicitation outside or in the vicinity of the sex shop.
- 13. No goods likely to forfeiture under Section 3 of the Obscene Publications Act 1959 or Section 5 of the Protection of Children Act 1978 or likely to be condemned under Schedule 3 to the Customs and Excise Management Act 1979 by virtue of Section 42 of the Customs Consolidation Act 1896 shall be kept on the premises.
- 14. All sex articles and other things displayed within the premises shall be clearly marked to show to persons who are inside the premises the respective prices being charged.
- 15. The licensee shall not distribute any unsolicited goods or publicity.
- 16. The licensed premises shall be used only for the purposes specified in the licence.
- 17. No alcohol shall be consumed on the premises.
- 18. 18R classified videos/DVDs must not be sold by mail order or via the internet.
- 19. A record shall be kept of mail order/internet transactions in such form as agreed by the Council and all such transactions must comply with the Consumer Protection (Distance Selling) Regulations 2000.
- 20. The exterior and interior of the premises shall not be altered without the prior consent of the Council.
- 21. The licence is not transferable by the licensee.
- 22. The licensee must give written notice to the Council if s/he wishes to surrender the licence.

- 23. The licensee shall maintain good order and decent behaviour in the licensed premises and shall inform the Police immediately s/he becomes aware of any indecent conduct taking place, or which is said to have taken place, on the premises.
- 24. The Council reserves the right to amend or alter these conditions without prior consultation with the licensee but will notify the licensee of any alterations.

<u>Reasons</u> - The applicants represented themselves as a reputable and responsible company whom the Sub-committee are confident will run the premises in a proper manner.

Additional conditions determined by the Sub-Committee:

- 25. The Shopfront, including entrance doors and windows displays be retained in their present glazed open aspect and used for display purposes of non-adult merchandise, the "general goods" area to be located at the front of the shop and the "general goods" and "adult" areas be clearly defined.
- 26. That no neon or similar lighting be installed on the premises.

<u>Reasons</u> - These additional conditions are to safeguard the concerns of the local residents and to retain the present standard of displays.

94 REVIEW OF SHOP FRONT LICENCES FEES AND CHARGES (Item 5)

RESOLVED:

- (a) That the fees and charges, agreed at Central Licensing Sub-Committee in July 2003, be reduced, as detailed below:
- (i) An Administration fee of £87.50 will be charged on each new application.
- (ii) A weekly rent will be charged on issue of a Licence.
- (iii) Any Licence issued will last for a maximum of three years.
- (iv) This period includes an initial six months probationary period.
- (v) Reference to the total area required and the location of the premises will be the basis of calculating the weekly rent.
- (vi) Charges will fall within three bands: Prime (£13.00 per sq. metre), Medium (£9.00 per sq. metre) and Low. (£4.50 per sq. metre). The maximum weekly rent will be £65.00.

The meeting closed at 5pm



SOHO ORIGINAL Bookshop

9 CALEDONIAN ROAD, N1 9DX

PROPOSAL FOR THE REMOVAL OF CONDITION 9 "THE WINDOW SHALL BEAR ONLY A SUITABLE DISPLAY APPROVED BY THE COUNCIL" AND SPECIAL CONDITION 26 "THAT NO NEON OR SIMILAR LIGHTING BE INSTALLED ON THE PREMISES" OF THE LICENCE



Further to our application to renew the sex establishment licence at 9 Caledonian Road, we would like to apply to remove condition 9 of the licence, "the window shall bear only a suitable display approved by the council" and special condition 26 "that no neon or similar lighting be installed on the premises." If these conditions cannot be removed then we would like to agree on the type of signage that can be used within the window and shop itself.

The only products currently on display in the window are books and we are concerned that our business will not be able to survive unless we can advertise what we sell inside the shop window and shop itself.

Two problems prevail with this lack of signage:

- A. We cannot inform people who are interested in coming into the sex shop that we in fact sell sex products in the rear of our shop.
- B. We cannot inform people that want to come into our bookshop that there is a sex shop in the rear. Whilst for some people we stock books that they may be interested in, they may not want to enter, or be seen to enter, a bookshop that has a sex shop in the rear. We obviously have the mandatory warning signage between the front and rear of the shop but that does not warn people on the street before they enter the shop. We believe that there should be some warning on the outside of the shop as people have the right to know the full type of shop that it is before they enter.

In addition, where as the unlicensed sex shop's outside appearance and signage, directly opposite, suggests that it sells sex products and ultimately attracts customers in this manner; the only people to enter the rear of our shop are those whom happen to stumble across it whilst browsing for books. We seem to have had a genuinely positive response from those who enter the shop, many commenting on the rarity of a professionally run, clean and discrete sex shop. We cannot however make a success of the shop without some element of signage.

We are open to discussions about the type of signage used in the window and within the shop. We endeavour to make all our shops as attractive and appealing as possible. We have attached a number of sample photos of our other 9 shops within the City of Westminster, City of London, Borough of Camden, and Borough of Brent. We have also attached photos of our shop at 9 Caledonian Road and other shops within a 300-metre radius.

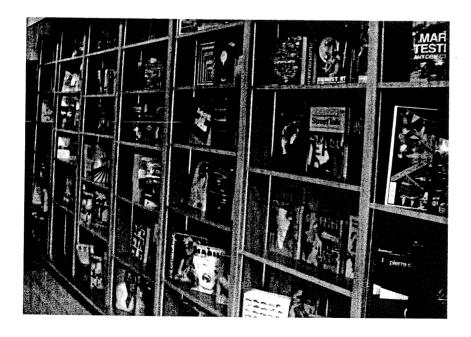
Page 3: Soho Bookshop (Outside) 9 Caledonian Road and Soho Bookshop (Inside) 9 Caledonian Road

Page 4: Soho Bookshop 12 Brewer Street City of Westminster, Soho Bookshop 121 Charing Cross Road City of Westminster, Soho Bookshop 61 Cowcross Street Borough of Islington

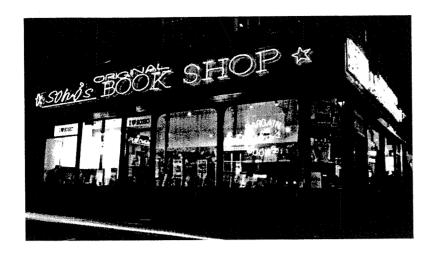
Page 5: Sex Shop opposite 9 Caledonian Road with obvious signage and Sex Shop on York Way with obvious signage



Soho Bookshop (Outside) 9 Caledonian Road



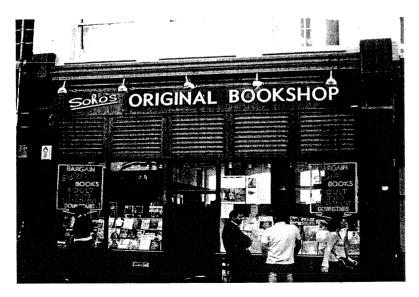
Soho Bookshop (Inside) 9 Caledonian Road



Soho Bookshop 12 Brewer Street City of Westminster



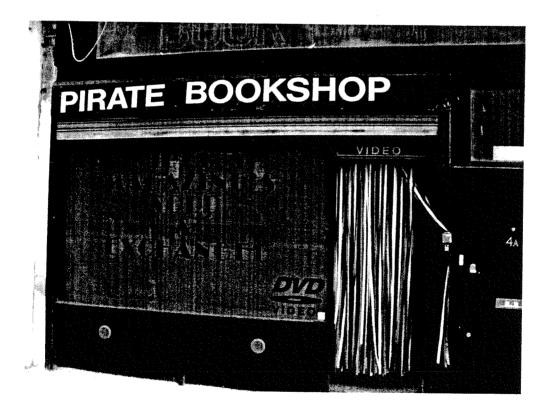
Soho Bookshop 121 Charing Cross Road City of Westminster



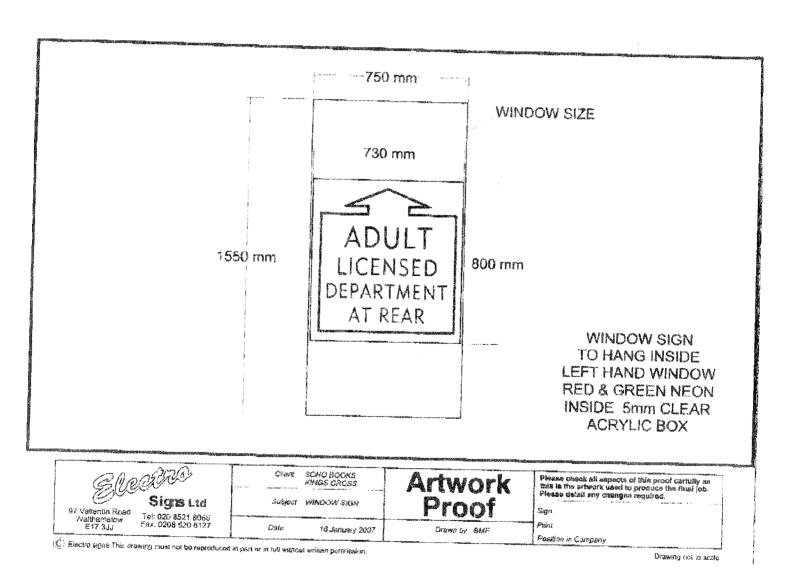
Soho Bookshop 61 Cowcross Street Borough of Islington



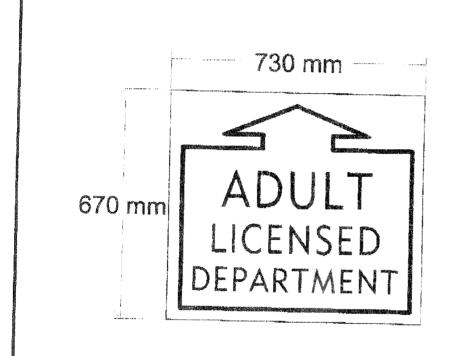
Sex Shop opposite 9 Caledonian Road with obvious signage



Sex Shop on York Way with obvious signage



(1) Williams Sica



INTERIOR SIGN **RED & GREEN NEON** INSIDE 5mm CLEAR **ACRYLIC BOX**

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@ 10 Breik OF BOOKSHOP (10 BETWEED) AND IN FROM OF ADOM DEPARTMENT.

appointed Liquidator by resolutions of members.

Notice is hereby given that the creditors of the above named company, which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, on or before the 5th which is being voluntarily wound up, are required, or or before the 5th which is being voluntarily which is being voluntarily wound up, are required, or or before the 5th which is being voluntarily which which we will be a subject to the second voluntarily which which is being voluntarily which which we will be a subject to the second voluntarily which which we will be a subject to the second voluntarily which which we will be a subject to the second voluntarily which which we will be a subject to the second voluntarily which which we will be a subject to the second voluntarily which which we will be a subject to the second voluntarily with the second voluntarily which which we will be a subject to the sec Bridger of 6c Church Street, Reading, RG1 2SB, the Liquidator of the said anuary 2007 to send in their full christian, and surnames, their address ompany, and, it so required by notice in writing from the said Liquidator at such time and place as shall be specified in such notice, or in

ors wishing to vote at the Meeting must lodge a form of Proxy, tog Station Road, Ashford, Kent TN23 1PP not later sday 21st December

a statement giving tull particulars of his security, the date when it was given, and value at which it is assessed. istered Office of the Cor

is further given that a list of the names and addresses of the Company's credi

DANCE, ACTING

AND BUSIC

CHILDCARE

(MISCELLANEOUS PROVISIONS) ACT 1982 LOCAL GOVERNMENT

NOTICE OF APPLICATION FOR LICENCE SEX ESTABLISHMENT

Bookshop, 9 Caledonian Road, N1 9DX for use as a application. The council will not reveal the names and Sex Shop/Sex Cinema in pursuance of the Local James Alan Poulton of 39 Gloucester Place Mews London N1 1RE within 28 days of the date of the therefore to the Head of Public Protection Division. written notice of the objection and general grounds Objections to the application may be made by giving Government (Miscellaneous Provisions) Act 1982 renewal of) a licence in respect of Soho Original London W1, applied to Islington Council for (the Take notice that on the 15th day of December 2006, ondon Borough of Islington, 159 Upper Street

PAINTING,

MAINIFINANCE

CATERING

CARPENTRY OR BRICKLAYING DECORATING,

SPORTS, LEISURE AND TOURISM



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LANGUAGES (ESOL)

COMPUTING/IT

ENGLISH FOR

SOCIAL CARE



PRO MUISE BCOIZMON

ADMINISTRATION AND ACCOUNTS



AND DIGITAL MEDIA

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Community College



Date 15th December 2006

addresses of the objectors without their consent.

