

Report of: Assistant Director of Public Protection

Meeting of	Date	Agenda Item	Ward(s)
Licensing Regulatory Committee	1 October 2008	C1	St Peter's

Delete as appropriate		Non-exempt
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Appendix B to this report is exempt and not for publication

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

APPLICANT: ADULT WORLD LTD

PREMISES: 23 ISLINGTON GREEN, LONDON N1 8DU

1. Synopsis

1.1. To determine the variation and renewal application from Adult World Ltd for the grant of a licence for the use of the lower ground floor of premises at 23 Islington Green N1 8DU for a sex establishment.

2. Recommendation

2.1. To consider the variation and renewal application from Adult World Ltd for the grant of a licence for the use of the lower ground floor of premises at 23 Islington Green N1 8DU for a sex establishment, and that, if granted, it be subject to the attached standard Licence Conditions as set out in appendix A, any Building Control requirements, and any other Conditions deemed appropriate by the Committee

3. Background

- 3.1. In August 2004, a sex establishment licence was granted to the premises trading as Clone Zone at the same address. The renewal application was withdrawn by the applicant on 16 September 2005 and the licence then lapsed.
- 3.2. The licence for Adult World was granted by the Licensing Regulatory Committee on 7 March 2007 on the original application subject to the standard Licence Conditions with variation to condition 10 regarding the display of the warning notice and variation to condition 27 regarding the opaque nature of the front windows and entrance (consistent with the conditions of the previous licence granted to Clone Zone).
- 3.3. On 20 June 2008 the Applicant applied to renew the licence and vary the opening hours to 10:00 to 22:00 Mondays to Saturdays and 12:00 to 20:00 on Sundays including bank holidays but excluding Christmas Day and Easter Sundays and to remove the etch film that obscures the view from the front windows.
- 3.4. The Statutory Notice was published in the Islington Gazette on 3 July 2008 in accordance with the Act. The applicant has produced the original advertisement and a copy is attached as appendix C.
- 3.5. On 18 July 2008 the Licensing Officer observed the Public Notice on display and the display was satisfactory.
- 3.6. The Ward Councillors have been notified of the application.
- 3.7. The application has been notified to Islington Police Licensing team, who are not objecting.
- 3.8. A total of 3 objections were received from identified persons and one from Ward Councillor Klute of St Peter's Ward. The objections are attached as appendix D.
- 3.9. The main grounds of objection are:
 - The change of hours and change to shop front will attract more customers;
 - The extended hours will cause a noise disturbance.
- 3.10. The applicant has been given copies of the objections.

4. Implications

4.1. Financial implications

The Head of Finance reports that the applicant has paid the fee of £11,730. Should the application be refused, the fee shall be refunded less the Council's cost in dealing with the application.

4.2. Legal Implications

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.

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 must consider 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

4.3. Equalities Impact Assessment

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

5. Conclusion and reasons for recommendations

In determining this application, consideration should be given to the objections received from local residents and Ward Councillor. If granted, the licence should be subject to standard Licence Conditions as set out in appendix A, any Building Control requirements, and any other Conditions deemed appropriate by the Committee.

Background papers:

Appendix A Current Licence with Conditions including Standard Conditions

Appendix B **Application of Adult World Ltd***

Appendix C Newspaper notice published in Islington Gazette 7 November 2008

Appendix D Objection letters

Appendix E Plans for layout of shop, basement, & frontage.

*** Contains exempt information and therefore supplied to Councillors only**

Final Report Clearance

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

Received by
Head of Democratic Services
Date

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