



BARNSELEY METROPOLITAN BOROUGH COUNCIL

Joint report of the Borough Secretary and Assistant Director (Planning and Regulatory Services) to the General Licensing Regulatory Board to be held on the 18th January, 2012

SEX SHOP PREMISES LICENCES – RENEWAL APPLICATIONS

1.0 Purpose of Report

- 1.1 To seek approval to authorise the Assistant Director (Planning and Regulatory Services), following consultation with the Chair of the General Licensing Regulatory Board, to determine sex shop premises licence renewal applications where no adverse comments have been received during the consultation process and where there are no concerns and substantial changes made regarding the operation of the premises.

2.0 Recommendation to Council

- 2.1 That the Assistant Director (Planning and Regulatory Services) be authorised, following consultation with the Chair of the General Licensing Regulatory Board, to determine applications for the renewal of Sex Shop Premises Licences where no adverse comments have been received to the statutory consultation process and where there are no concerns and substantial changes made regarding the operation of the premises.
- 2.2 That the Constitution of the Council be amended accordingly

3.0 Background

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 regulates the licensing process for Sex Shop premises. A Sex Shop is defined as any premise, vehicle or stall used for a business that consists, to a significant degree, of selling, hiring, exchanging, lending, displaying or demonstrating sex articles.
- 3.2 All premises operating as sex shops are required to obtain a licence from the Council before commencing trading. Certain factors need to be taken into account in determining an application and these include whether the premises are in an appropriate location, for example near a school, a place of worship or family shopping area as well as the suitability of the applicant. A licensed sex shop cannot admit persons under the age of 18 onto the premises either as a customer or to work. In addition, the Licensing Authority can impose conditions on the premises controlling how the business is operated including conditions

relating to the appearance of the premises, its hours of business and the content of advertising on the building and within.

- 3.3 Applicants are required to be at least 18 years old; they must not have been disqualified from holding a licence, they must have been resident within the UK for at least six months immediately before the application or, if a body corporate, incorporated within the UK; and they must not have been refused the grant or renewal of a licence for the premises in question within the previous 12 months unless the refusal was reversed on appeal.

4.0 Application process (including renewals)

- 4.1 The Local Government (Miscellaneous Provisions) Act 1982 defines the way in which an application has to be made including the requirement for the applicant to give public notice of the application which must be as follows:

- Not later than 7 days after the date of application an advertisement must be placed in a local newspaper
- On the date of the application a notice must be displayed for 21 days on or near the premises and in a place where the notice can be conveniently read by the public
- Not later than 7 days after the date of application, the applicant must send a copy of the application to the Chief Police Officer

- 4.2 All notices displayed at the premises are checked by an Officer from the Licensing Service to ensure compliance with the statutory provisions. In addition, a copy of the press notice is attached to the premises record.

- 4.3 The statutory 21 day consultation period commences from the date of application

5.0 Proposal

- 5.1 Currently, all applications for Sex Shop Licences (including renewals) are submitted to the General Licensing Regulatory Board for approval.

- 5.2 Barnsley has relatively few licensed sex shop premises and those that there are, are generally well managed and few or no representations are received to the statutory consultation on renewal applications. However, the process described in section 4 above, causes some logistical issues in relation to the timing of approvals and the calling of Board meetings. This has resulted in the use of the urgent action procedure twice in two years to prevent a failure to renew a licence on time.

- 5.3 In order to streamline the process and to prevent delays in determining renewal applications it is proposed that in the event of no adverse comments being received to the statutory consultation process and

where there are no concerns or substantial changes made in relation to the operation of the premises, the Assistant Director (Planning and Regulatory Services) be authorised to determine applications following consultation with the Chair of the General Licensing Regulatory Board. This procedure will prevent the need for the Chair having to take urgent action to determine an application in the event that there is no meeting of the General Licensing Regulatory Board scheduled within a 'reasonable' timescale.

- 5.4 Members should note that because of the potential controversial nature of these licences, all new applications will continue to be submitted to the General Licensing Regulatory Board for approval.

6.0 Compatibility with the European Convention on Human Rights

- 6.1 The report is compatible with the rights and freedoms under the European Convention of Human Rights

7.0 Crime and Disorder Implications

- 7.1 The Local Government (Miscellaneous Provisions) Act 1982 clearly defines the process to be followed in determining new and renewal applications for Sex Shop Premises Licences. It also stipulates the required attributes of applicants. The process for renewals takes this requirement into account.
- 7.2 Arrangements for the delegation of the renewal of licences in the circumstances set out will not have a detrimental impact on crime and disorder.

8.0 Financial Implications

- 8.1 There are no financial implications resulting from this report.

9.0 Background Papers

- Local Government (Miscellaneous Provisions) Act 1982
- BMBC Constitution Document

All documents referred to are available for inspection in the Council Governance Office, Yorkshire House, Shambles Street, Barnsley

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Date: 3rd January, 2012

