

AGENDA

Meeting: Southern Area Licensing Sub Committee
Place: Meeting Room - City Hall, Malthouse Lane, Salisbury, SP2 7TU
Date: Friday 29 November 2013
Time: 1.00 pm
Matter: **Application for a Variation to a Sex Establishment Licence: My Amazing Fantasy, 105 Fisherton Street, Salisbury, SP2 7SP**

Please direct any enquiries on this Agenda to Lisa Moore of Democratic Services, County Hall, Bythesea Road, Trowbridge, BA14 8JN. lisa.moore@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Members Briefing: 12.30, Meeting Room, City Hall, Malthouse Lane, Salisbury

Membership:

Cllr Jose Green
Cllr George Jeans

Cllr Leo Randall

AGENDA

1 **Election of Chairman**

To elect a Chairman for the meeting of the Sub Committee.

2 **Procedure for the Meeting** *(Pages 1 - 6)*

The Chairman will explain the attached procedure for the members of the public present.

3 **Chairman's Announcements**

The Chairman will give details of the exits to be used in the event of an emergency.

4 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

5 **Licensing Application** *(Pages 7 - 10)*

To consider and determine an Application for a Variation to a Sex Establishment Licence by Mr Jonathan Spencer and Mrs Joan Spencer in respect of My Amazing Fantasy, 105 Fisherton Street, Salisbury, SP2 7SP.

5a **Appendix 1 - Application Form and Plan of Property** *(Pages 11 - 20)*

5b **Appendix 2 - Photos of Shop Interior** *(Pages 21 - 24)*

5c **Appendix 3 - Street Location Plan** *(Pages 25 - 26)*

5d **Appendix 4 - Standard Conditions and Wiltshire Council Sex Establishment Licensing Policy** *(Pages 27 - 38)*

LICENSING COMMITTEE

PROCEDURAL RULES FOR THE HEARING OF APPLICATIONS UNDER SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SEXUAL ENTERTAINMENT VENUES

1 Purpose

- 1.1 These procedural rules have been prepared to facilitate proper consideration by the Licensing Committee and its Sub Committees of applications for sexual entertainment venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 1.2 The rules set out a framework for how applications are to be heard and explain the role of the participants at the Hearing.

Definitions

- 2.1 The following definitions describe the participants at and the subject matter of a Hearing:

Applicant means the applicant for the grant, renewal or transfer of a licence as appropriate.

Application means an application for one or more of the following, as the case may be:

- a) grant of a licence;
- b) transfer of a licence;
- c) renewal of a licence;

Committee includes a Sub-committee

Hearing means a meeting of the Licensing Committee during which an application for a licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 is being considered

Objector means any person who has given Notice of Objection in accordance with Paragraph 10 (15) of the Schedule 3 the 1982 Act.

Parties means the Applicant(s) and any Objector(s) to the grant of the application.

The Council means Wiltshire Council.

The 1982 Act means the Local Government (Miscellaneous Provisions) Act 1982.

3 Key Principles

- 3.1 The Hearing will be conducted in accordance with the principles of natural justice, and fairness.
- 3.2 This will include that:
 - 3.2.1 All Parties have an opportunity to make representations before a decision is made;
 - 3.2.3 All Parties have an adequate opportunity to consider and respond to any submissions made other parties to the Hearing;
- 3.3 It is also fundamental that there is an orderly presentation of submissions at a Hearing so that the relevant issues are properly understood, evidence is tested and that oral statements made at the Hearing are accurately recorded.
- 3.4 Ultimately the Chairman determines the application of these rules, having regard to any submissions being made by those present and in particular the Committee Lawyer.

4 The Hearing

- 4.1 Subject to the exceptions below, the Hearing shall take place in public.
 - 4.1.1 The Committee may exclude the public from all or part of the Hearing where it considers it to be in the public interest to do so and in accordance with S100A Local Government Act 1972, as amended. Public includes a party and any person assisting or representing a party.
 - 4.1.2 The Committee may require any person attending the Hearing who, in its opinion, is behaving in a disruptive manner, to leave the Hearing and may:
 - a refuse to permit them to return; or
 - b permit them to return only on such conditions as the Committee may specify;
 - 4.1.3 in the event that a person is required to leave a Hearing that person may, before the end of the Hearing, submit to the Committee in writing any information which they would have given orally.
- 4.2 Prior to the Hearing commencing, the Chairperson shall advise the parties of the procedure it proposes to follow at the Hearing.

- 4.3 Where a party has previously requested permission for a person(s), other than their representative, to appear at the Hearing then the Committee shall consider whether to permit that request.
- 4.4 The Committee will allow the parties an equal maximum period of time in which to exercise their rights.
- 4.5 This equal maximum time may have been notified in advance of the Hearing;
- 4.6 Where there is a multiple of Parties who have attended the Hearing to make the same or similar representations then the Committee would normally require that a spokesperson be appointed by them to make the representations on behalf of all of those Parties.

5 Presentation of Submissions

- 5.1 The Chairman will introduce the Application.
- 5.2 Submissions shall be made in the following order unless the Chairman directs otherwise:
 - 5.2.1 The Licensing Officer will orally present the Committee Report and will in particular advise the Committee as to:
 - a the options available to it;
 - b the considerations that are relevant in reaching its decision.
 - 5.2.2 The Applicant (or the Applicant's Representative) will orally present its submission which may include:
 - a presenting their case in accordance with the papers, which will have been circulated with Agenda papers;
 - b confirming key information and answer pertinent questions; and
 - c calling witnesses in support of the Application (see paragraph 4.3).
 - 5.2.3 Objectors will orally present their representations in turn which shall include:
 - a the grounds of the objection to the Application; and
 - b if appropriate, any condition(s) that the Objector would wish to see imposed on the Licence if it were to be granted

6 Questioning of Submissions

- 6.1 The Chairman will regulate the order in which questions are asked by Members.

- 6.2 The Chairman and Members may question any Party following the completion of their submission.
- 6.3 The Chairman will normally then permit the Applicant and the Objectors to ask questions of the other parties
- 6.4 The Chairman may direct that questions which are not relevant to the Application are not formally put or answered.

7 Documentation

- 7.1 No party shall present new documentation to the Committee at the Hearing other than with the consent of the Committee having taken into account any comments by the other parties and any advice given by officers. Where a party is given consent to present new documentation, they shall provide sufficient copies for the Committee, officers and the other parties present

8 Intervention

The Chairman shall permit the following interventions at any point in the Hearing:

- 8.1 The Committee Lawyer to advise the Committee on issues of law, procedure and relevant considerations on decision making. If necessary, the Chairman may adjourn the Hearing and require the Committee, the Committee Lawyer and the Committee Manager to leave the Hearing so that advice can be given.
- 8.2 The Committee Manager to advise the Committee on procedure generally, or to request that statements made are repeated for reasons of clarity and so that they can be properly recorded.
- 8.3 The Licensing Officer to seek to clarify statements that have been made in light of information held on their file.

9 Failure of Parties to Attend Hearing

- 9.1 If a Party has informed the Licensing Officer that it does not intend to attend or be represented at a Hearing, the Hearing may proceed in its absence.
- 9.2 If a Party has not indicated that it does not intend to attend or be represented at a Hearing and fails to attend or be represented at the Hearing then the Committee may:
 - 9.2.1 where it considers it be necessary in the public interest, adjourn the Hearing generally or to a specified date; or
 - 9.2.2 hold the Hearing in the Party's absence.
- 9.3 Where the Licensing Authority holds a Hearing in the absence of a Party, it shall consider at the Hearing the application, representations made by that Party.

10 Closing Submissions

10.1 The Chairman shall allow, first the Objectors to make a closing oral submission(s) and secondly the Applicant or the Applicant's Representative to make an oral closing submission in support of the Application.

11 Decision

11.1 Following the closing submissions by all parties the Committee shall adjourn. The Committee members, the Committee Lawyer and the Committee Manager, shall retire so that the decision may be considered in private, and to consider any legal issues raised by the Members.

11.2 The decision, and reasons for the decision, of the Committee shall be communicated orally by the Chairman to the parties after the Committee has deliberated in private on the Application.

11.3 Written reasons shall be provided soon after the deliberations of the Application and in any event within the statutory time limits.

Hearing Procedure Summary

1. The Chairman welcomes all those present and introduces the Application.
2. The Chairman introduces the Applicant, Objectors and Officers present.
3. The Chairman outlines the Hearing Procedure.
4. The Licensing Officer presents the Committee Report.
5. The Applicant addresses the Committee.
6. Questions to the Applicant by Members of the Committee
7. Questions to the Applicant by Objectors.
8. Submissions by Objectors.
9. Questions to Objectors by Members of the Committee.
10. Questions to Objectors by Applicant.
11. Summing up by Objectors.
12. Summing up by Applicant.
13. Committee retires with the Committee Lawyer and Committee Manager to consider its decision.
14. Committee returns and the Lawyer gives a summary of any legal advice that may have been given to the Committee.
15. The Chairman either gives the decision with reasons, or advises that it will be released in writing with reasons within the statutory time limits.

Wiltshire Council

Southern Area Licensing Sub Committee

29 November 2013

Variation of a Sex Establishment Licence; My Amazing Fantasy, 105 Fisherton Street, Salisbury, SP2 7SP

1. Purpose of Report

- 1.1 To determine an application for a variation to a Sex Establishment Licence in respect of My Amazing Fantasy made by Mr Jonathan Spencer and Mrs Joan Spencer

2. Background Information

- 2.1 An application to vary a Sex Establishment Licence in respect of My Amazing Fantasy has been made by Mr Jonathan Spencer and Mrs Joan Spencer for which no objections have been received. The application to vary the Sex Establishment Licence must be decided by members and cannot be made by an officer.

The Premise is licensed as a Sex Shop under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, and shall only be used only for the purposes of a Sex Shop as defined in Paragraph 4 of Schedule 3 and shall not be used, wholly or in part, for any other purposes during the period that the premises are licensed as a Sex Shop.

- 2.2 The holder of a licence under the Schedule may at any time apply to the appropriate authority (Wiltshire Council) for any such variation of terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.

- 2.3 The appropriate authority :

- i) may make the variation specified in the application; or
- ii) may make such variation as they think fit; or
- iii) may refuse the application

- 2.4 Any variations that the authority may make by virtue of sub-paragraph (ii), above include, without prejudice to the generality of that sub-paragraph, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.

2.5 On 13 July 2011 Wiltshire Council resolved that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009 be adopted and shall apply within the Council's boundaries.

2.6 On 6 February 2012 the Licensing Committee resolved to adopt and implement the policy and regulations prescribing conditions for Sex Establishments from 1st March 2012 (third appointed day)

These regulations include the opening times of a licensed Sex Establishment as follows:

The licensed premises shall be closed throughout Good Friday, Christmas Day and every Sunday, except 10 - 4pm on the two Sundays preceding Christmas. The premises may only be open during the permitted hours prescribed in the regulations.

The permitted hours of opening, unless varied by special condition, shall be as follows: -

- Mondays 9:00 am to 9:00 pm
- Tuesdays 9:00 am to 9:00 pm
- Wednesdays 9:00 am to 9:00 pm
- Thursdays 9:00 am to 9:00 pm
- Fridays 9:00 am to 9:00 pm
- Saturdays 9:00 am to 9:00 pm

A copy of the Sex Establishment Licensing Policy is attached as Appendix 4

2.7 On 24th October 2013 an application to transfer, renew and vary the Amazing Fantasy's Sex Establishment Licence was received and accepted as a valid application. The Licence was previously in the name of Mr Simon Sternschuss.

2.8 The application to transfer and renew the Licence has been granted by an officer in accordance with the delegated powers in Schedule 3D, as no representations were received.

The application to vary is to move the times of opening back by 30 minutes, permit the shop to open every Sunday, and alter the interior of the premises.

The hours applied for are as follows:

Day	Hours
Monday	0930 to 2130
Tuesday	0930 to 2130
Wednesday	0930 to 2130
Thursday	0930 to 2130
Friday	0930 to 2130
Saturday	0930 to 2130
Sunday	1000 to 1800

Bank Holidays would be the same Hours as Sundays.

A copy of the application is attached as **Appendix 1**. Copy of previous layout attached as **Appendix 1A**.

- 2.9 The alterations to the interior of the premises have already been carried out, photos are attached as **Appendix 2 showing the revised layout**.

A location map of premises and surrounding area is attached as **Appendix 3**

- 2.10 The premise has been licensed as a Sex Shop since 2003 by the relevant authorities.

3. Consultation and Objections

- 3.1 The application process requires the application to be advertised, by the Applicant, in a local news publication within 7 days, starting on the day after the authority receives it and for a public notice to be posted on or near the premises for 21 days.

- 3.2 During the consultation period no representations have been received.

4. Legal Implications

- 4.1 The Applicant, any persons who have made objections have been informed of the date, time and location of the hearing.

- 4.2 At the hearing all parties will have the opportunity to address the Committee and ask factual questions of other parties. The Licensing Committee may also

ask questions of all parties that they feel relevant to determine the application.

- 4.3 The Licensing Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation within 7 days.
- 4.4 If a licence is to be granted the Licensing Authority will aim to do this within 5 working days of the Committee's decision.

5. Right of Appeal

- 5.1 It should be noted that the Applicants may appeal the decision made by the Licensing Sub Committee to the Magistrates Court. The appeal must be lodged with the Magistrates Court within 21 days of the notification of the decision.

Report Author: Linda Holland, Senior Licensing Officer, Tel: 01249 706410

Date of report: 21 November 2013

Background Papers Used in the Preparation of this Report

- **Local Government (Miscellaneous Provisions) Act 1982**
- **Policing and Crime Act 2009**
- **Wiltshire Council Sex Establishment Licensing Policy**

Appendices

- 1 Application**
- 1A Premise interior layout plan**
- 2 Photos showing interior layout of premises**
- 3 Location plan of premises**
- 4 Wiltshire Council Sex Establishment Licensing Policy**

Wiltshire Council

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LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 APPLICATION FOR A LICENCE FOR A SEX ESTABLISHMENT

1. NATURE OF APPLICATION

Please state type of application you are applying for:

Variation
Renewal
Transfer

2. PREMISES TO BE LICENSED

Business name of Premises:

MyAmazing Fantasy.com

Address of Premises:

AF Southern Limited, 105 Fisherton Street, Salisbury SP2 7SP

3. APPLICANT DETAILS

Full Name:

AF Southern Limited

Current Residential Address:

(If a Body Corporate/Unincorporate please give name of Body and address of Registered Office)

105 Fisherton Street
Salisbury
Wiltshire
Sp2 7SP

Telephone Number:

01202554195

Mobile Number (optional):

07838217509

Have you held a Licence for a Sex Establishment in the 12 months immediately preceding the date of this application?

YES

Easy Tiger 27 The Triangle Bournemouth Dorset Bn2 5SE
Erotica Belle 1 Ranelagh Road Weymouth DT4 7JD
Erotica Belle 2 The Broadway Andover Hants SP11 2JF

If YES, please give address of premises

Has the Licence been revoked?

NO

Have you been refused a Licence in respect of the premises that are the subject of this application within the 12 months immediately preceding the date of this application?

NO

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6. DETAILS OF PREMISES

<p>Is the premises:</p> <ul style="list-style-type: none"> • A building or other permanent structure • A vehicle • A vessel • Other 	<p>YES NO NO NO (please describe the premises)</p>
<p>Full postal address of premises:</p>	<p>MyAmazingFantasy.com 105 Fisherton Street Salisbury SP2 7SP</p>
<p>Telephone numbers (s) of premises:</p>	<p>Landline: 01722417085 Mobile:</p>
<p>What name is the premises to be known by?</p>	<p>MyAmazingFantasy.com</p>
<p>Is the whole of the premises to be used under the licence?</p>	<p>NO Rear third section of the shop to be used to sell R18 DVDs only</p>

Are the premises currently authorised under the Licensing Act 2003?	NO
Is relevant planning consent in place enabling the premises to operate as a sexual entertainment venue?	NO Such planning is needed for the use of a sex shop for retail (confirmed by South Wiltshire planning department 31/10/13). The use of background music is permitted. Dancing or the use of live music is not permitted.
Is customer access to the premises: <ul style="list-style-type: none"> From the street or a public thoroughfare? From other premises? 	YES Fisherton Street and Sandown Place No
Is each customer access to be supervised by appropriately registered door staff at all times the premises are open to the public?	No. Trained sales assistants

7. OPERATION OF THE PREMISES		
Provide details of the times during which the premises will be open to the public. (please use 24 hour clock)	Monday	0930-2130 Bank Holidays 1000-1800
	Tuesday	0930-2130
	Wednesday	0930-2130
	Thursday	0930-2130
	Friday	0930-2130
	Saturday	0930-2130
	Sunday	1000-1800
Please provide details of the times during which it is proposed relevant entertainment will be provided. (please use 24 hour clock)	Monday	
	Tuesday	
	Wednesday	
	Thursday	
	Friday	
	Saturday	
	Sunday	
What age restrictions are to be applied in respect of admission to the premises and how are these to be enforced?	Over 18's Signage and challenge 21	
What are the arrangements for CCTV: <ul style="list-style-type: none"> Monitoring; Access by authorised bodies to CCTV images; 	HD CCTV system installed 06/13 Storage for 48 hours On warrant/request images can be viewed	

<ul style="list-style-type: none"> Retention of images; Production of removable images for Police or authorised officers of the Licensing Authority. 	by the Police if a violation or crime has taken place under the supervision of staff member. A log will be made and time date and which officer viewed the images will be noted.			
Please indicate the relevant entertainment that is proposed to be carried out in the venue and then indicate YES or NO to full nudity:	Lap Dancing	<input checked="" type="checkbox"/>	NO	
	Pole Dancing	<input type="checkbox"/>	NO	
	Stage Strip-tease	<input type="checkbox"/>	NO	
	Table Dancing	<input type="checkbox"/>	NO	
	Strip Shows	<input type="checkbox"/>	NO	
	Live Sex Shows	<input type="checkbox"/>	NO	
	Other	<input type="checkbox"/>	NO	
Please indicate if the premises is to be used as a Sex Cinema	YES	<input type="checkbox"/>	NO	<input checked="" type="checkbox"/>

8. GENERAL MANAGEMENT OF THE PREMISES	
Describe the system in place for training in respect of the Code of Conduct for Performers, and for monitoring and enforcing compliance.	N/a
Describe the system for notifying customers of the Rules for Customers, and for the monitoring and enforcing compliance.	N/a

9. TO BE COMPLETED IF THE BUSINESS IS TO BE MANAGED BY OR CARRIED ON FOR THE BENEFIT OF A PERSON OTHER THAN THE APPLICANT				
Name	Address	Status	Date of Birth (if applicable)	Share holding if a Corporate Body
Has the above held a Licence for a Sex Establishment in the 12 months immediately preceding the date of this application?				YES/NO
If YES, please give details:				
Has the Licence been revoked?				YES/NO
Has the above been refused a Licence in respect of the premises that are the subject of this application within the 12 months immediately preceding the date of				YES/NO

Has the above been convicted of a criminal offence?	YES/NO
If YES, please give full details:	
If the above is an individual are they resident in the UK?	YES/NO
Has the above been a resident in the UK for the 6 months immediately preceding the date of this application?	YES/NO
If the above is a Body Corporate is it incorporated in the UK?	YES/NO

10. FURTHER DETAILS – to be completed in relation to a sex shop application only	
What articles are to be offered for sale?	R18 DVDs in the licensed area the remainder of the store Adult novelties but the majority of the shop is Lingerie and outfits you will find on the rest of the high street such as M & S, Primark, Ann Summers etc.
If this application relates to a Sex Shop, are any part of the premises to be used for displaying films, videos or other moving pictures?	YES Preview and quality checking will take place within the store.
What advertisements or displays are to be exhibited? Please give details:	Window display of non R18 products with seasonal variations in line with the other stores. Shop website www.MyAmazingFantasy.com Promotional posters. Sexual Health information provided by local Primary Care Trust (requested 06/13). Once the scaffold and work has been completed (02/14) on 106 Fisherton Street the temporary vinyl banner will be replaced with a Perspex sign. Temporary banners will be in place on the scaffold until then.

CHECKLIST	
<ul style="list-style-type: none"> • Fee has been made or enclosed (non-refundable) • Enclosed Birth Certificate (if individual) • Enclosed Certificate of Incorporation (if Corporate Body) • Three passport size photographs of the applicant and any person responsible for management of the premises at any time (applicable to sex shop application only) • A plan or plans of the premises to the scale of 1:50 or thereabout with details of layout <p><u>Please Note:</u> The following must be supplied to the Council within 10 days of this application.</p> <p>A copy of the publication containing Notice of this application A copy of the Notice exhibited outside the premises</p>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

DECLARATIONS

Any person who, in connection with an application for the grant, renewal or transfer of a Licence for a Sexual Entertainment Venue, makes a false statement which he/she knows to be false in any material respect of which he does not believe to be true shall be liable to prosecution under Paragraph 21 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and on summary conviction shall be liable to a fine of up to £20,000.

The following declaration must be signed in all cases:

- If the applicant is an individual, by that individual
- If the applicant is a partnership, by all individuals who are partners
- If the applicant is a Company, by a Director or the Company Secretary
- In any other case, by a duly authorised officer of the applicant

I/we enclose the requisite fee.

I/we acknowledge that I/we must serve a copy of this application on the Chief of Police within 7 days of the application being submitted to Wiltshire Council.



I/we acknowledge that I/we must ensure that a Notice publicising this application will be displayed for 21 days beginning with the date of the application, on or near the premises and in a place where it can conveniently be read by the public.

I/we acknowledge that I/we must publish a Notice of Application in a newspaper circulating in the local area not later than seven days after the date of application.

I/we agree to forward a complete copy of the Notice of Application to the Council within seven days of the date of application.

I/we certify to the best of my/our knowledge and belief that the information provided in connection with this application is complete and correct in every respect.

I declare my answers to the above questions to be true and complete to the best of my knowledge and belief.

	1. 	2. 	3.	4.
Signature:	J. Spenger	J. Spenger		
Print Name:		Operations manager		
Capacity:	Director			
Date:	30/10/13	30/10/13		

Wiltshire Council

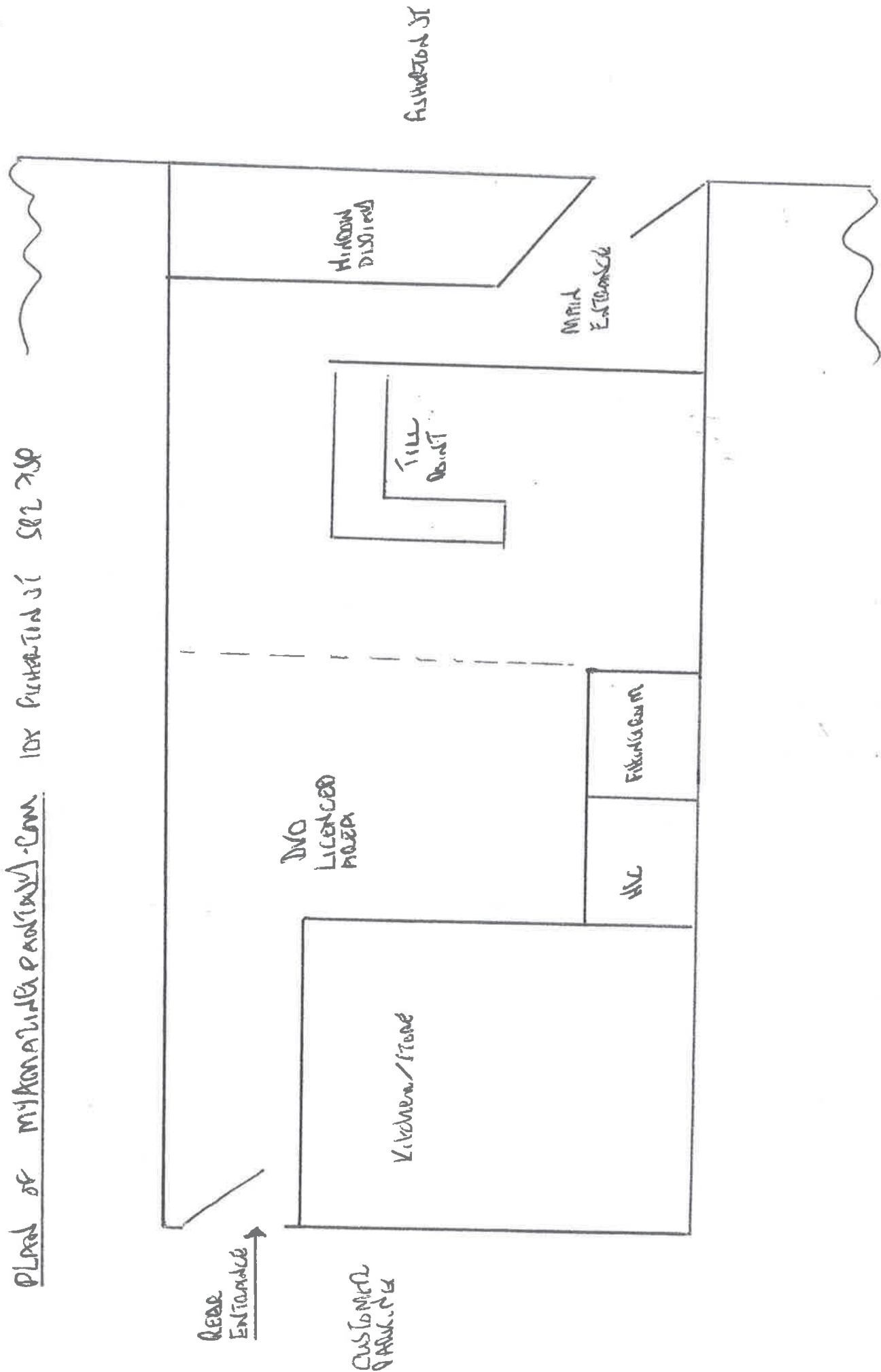
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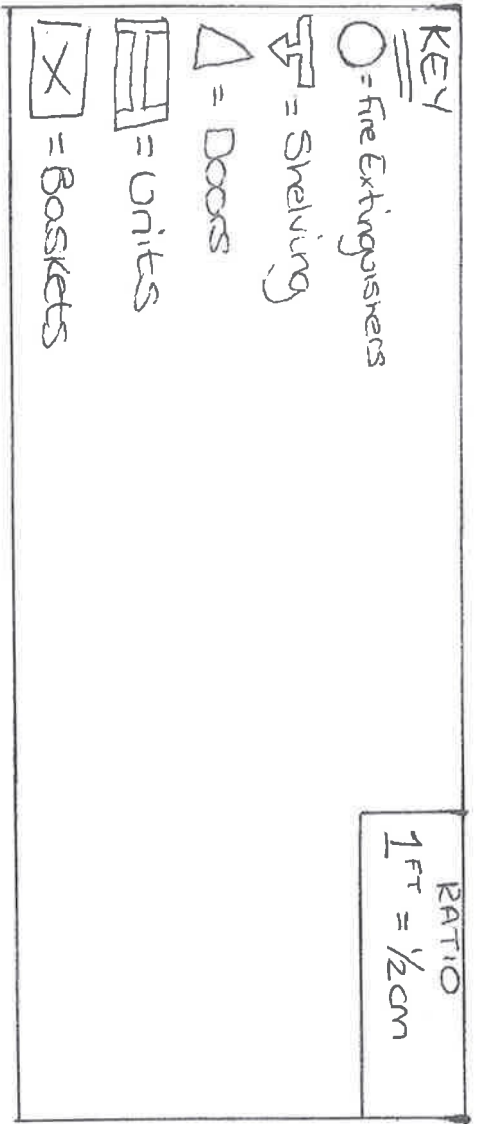
STATUTORY DECLARATION OF CONVICTIONS FOR THE GRANT / RENEWAL / TRANSFER OF A SEXUAL ENTERTAINMENT VENUE LICENCE

TO BE COMPLETED BY THE APPLICANT, DIRECTORS OF ANY COMPANY APPLYING FOR A LICENCE AND ANY OTHER PERSONS WHO WILL BE RESPONSIBLE FOR THE MANAGEMENT OF THE LICENSED PREMISES.

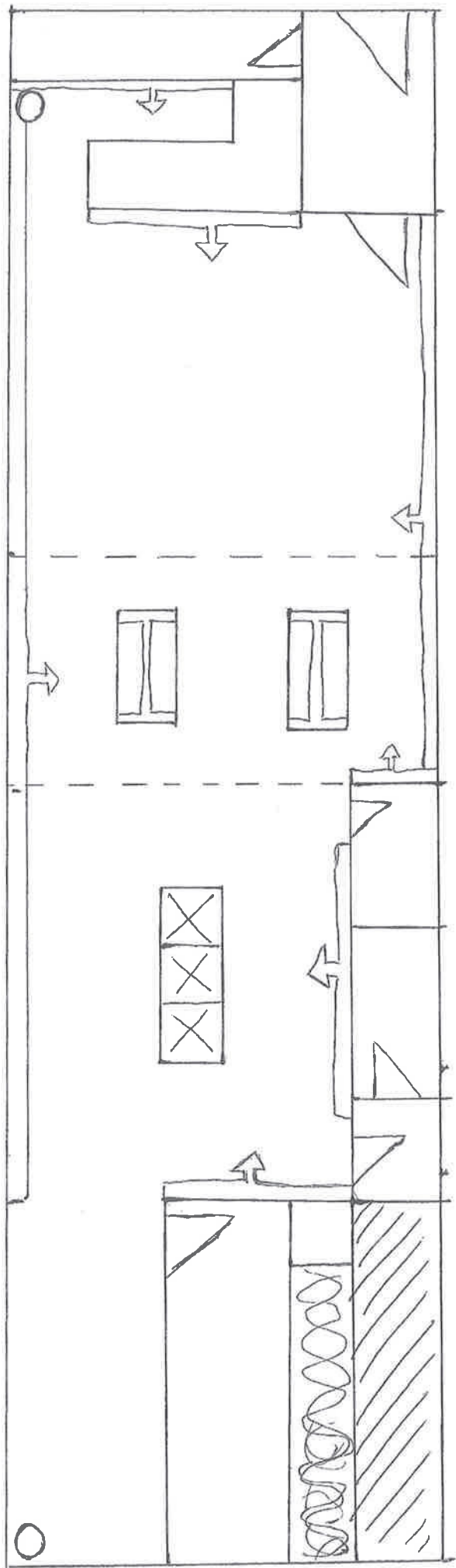
APPLICANT DETAILS

Plan of Mikona LLC Facilities - Cont 10x Pictorial of Set Up





Amazing Fantasy
 105 Fisherton Street
 Salisbury
 Wiltshire
 SP2 7SP
 (01722) 411085



FLOOR PLAN OF AMAZING FANTASY

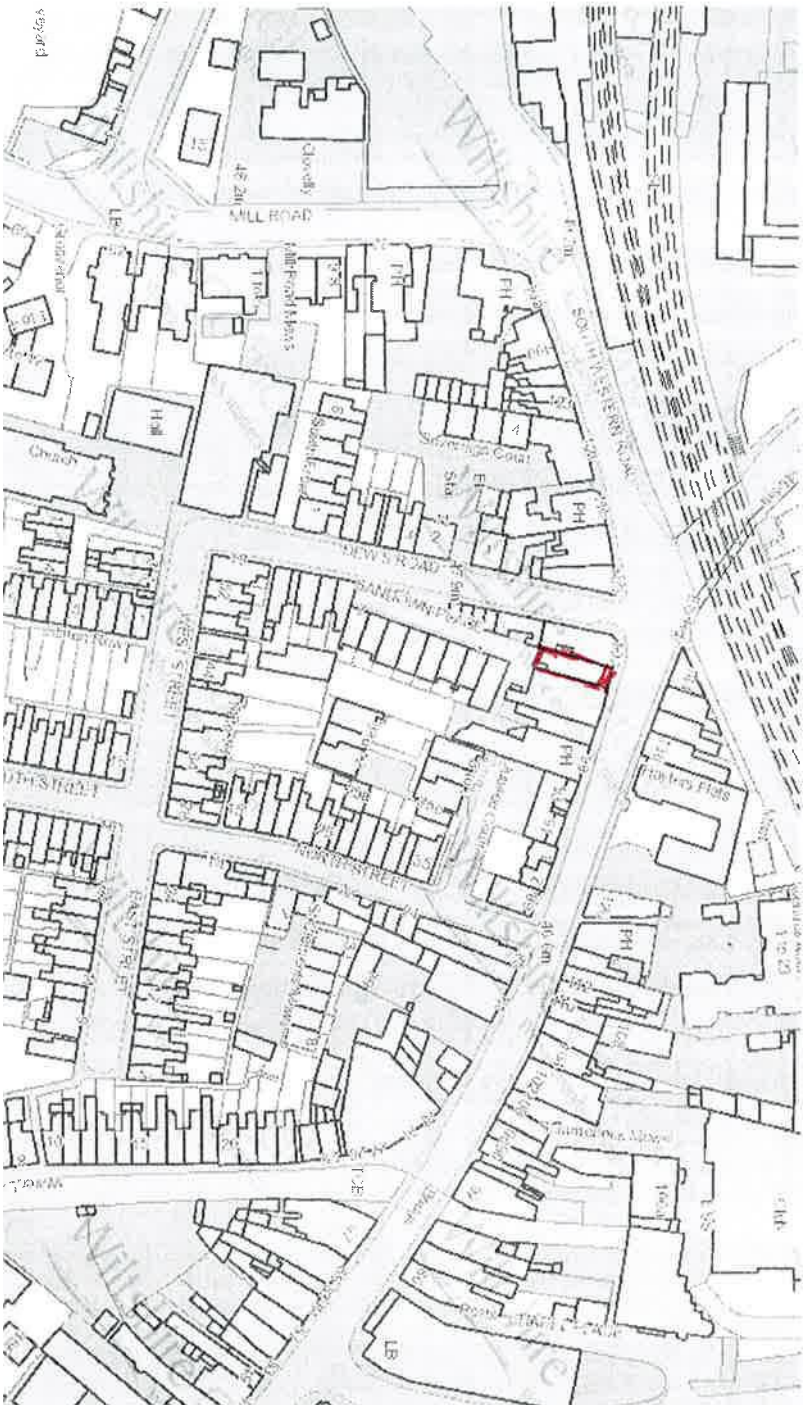
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Wiltshire Council



Where everybody matters

STANDARD CONDITIONS

SEX SHOPS

These regulations are made by Wiltshire Council under the conferred powers of paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Separate conditions cover sexual entertainment venues and sex cinemas.

In the event of a conflict between these Regulations and any special conditions contained in a licence relating to a Sex Establishment the special conditions shall prevail.

Definitions: -

'Sex Establishment', 'sex cinema', 'sex shop', and 'sex article' shall have the same meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

'Premises' means a building or part of a building and any forecourt, yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a sex shop granted under the said Schedule 3.

'The Council' means Wiltshire Council.

'Authorised Officer' means any person authorised in writing by the Council.

1. Premises licensed as a Sex Shop under the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, shall be used only for the purposes of a Sex Shop as defined in Paragraph 4 of Schedule 3 and shall not be used, wholly or in part, for any other purposes during the period that the premises are licensed as a Sex Shop.
2. The licensed premises shall be closed throughout Good Friday, Christmas Day and every Sunday. The premises may be open only during the permitted hours prescribed in these regulations.
 - a) The permitted hours of opening, unless varied by special condition, shall be as follows: -
 - Mondays 9:00 am to 9:00 pm
 - Tuesdays 9:00 am to 9:00 pm
 - Wednesdays 9:00 am to 9:00 pm
 - Thursdays 9:00 am to 9:00 pm
 - Fridays 9:00 am to 9:00 pm
 - Saturdays 9:00 am to 9:00 pm

3. Over each entrance to the premises, the Licensee shall affix and maintain in a permanent position a notice stating that the premises are licensed as a Sex Shop under the provisions of the Local Government (Miscellaneous) Provisions Act 1982. Such a notice shall carry the full name of the licensee.
4. At each entrance there shall be prominently displayed so as to be visible at all times to persons approaching the premises a notice prohibiting entry to all persons less than 18 years of age.
5. The Licensee of every premises licensed as a Sex Shop shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction.
6. The Licence Holder shall not display any advertisement which is visible to persons outside the premises except as permitted by these Regulations or under the Act and no advertisements shall be displayed wherever visible which depict any sex article as defined.
7. The Licence Holder shall ensure that the premises has screening and obscured windows, doors and other openings so that the interior of the licensed premises and the displays of articles for sale at the premises shall not be visible to persons outside the building
8. All refuse produced on the premises and materials, goods or articles discarded for any reason shall be securely stored within the premises and delivered in sealed containers to the refuse collection service.
9. The Licensee shall make such provision for the reception of goods and articles for sale, hire or display on the premises so that they are received directly into the premises and not subject to storage for any period of time on any pavement, footpath, forecourt or yard.
10. The Licence Holder shall produce a list of all stock carried at the premises and shall make it available to a police officer or authorised officer of the Council or police on demand in respect of a sex shop.
11. All merchandise shall be clearly marked so as to show persons inside the premises the purchase price of each item in respect of a sex shop.
12. The Licence Holder or some responsible person nominated by him in writing for the purpose shall be in charge of and be at the premises during the whole time they are open to the public.
13. Where the licence holder is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
14. The Licence Holder shall inform the Council in writing within 14 days if he/she or an employee is convicted or cautioned for a criminal offence.

Sex Establishment Licensing Policy

Guidance and Standard Conditions

Licensing of Sex Establishments

Introduction

- 1.1 This policy has been produced as a result of new provisions that allow the Council to regulate lap dancing and similar venues.
- 1.2 The Licensing Authority is responsible for developing and implementing this policy.
- 1.3 Wiltshire Council has adopted Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27 of the Policing and Crime Act 2009) so that it can regulate sex shops, sex cinemas and sexual entertainment venues in the County.
- 1.4 Should any change to the Standard Conditions make it necessary to update relevant parts of the policy document, the amended policy document will be consulted upon.
- 1.5 This policy supersedes all previous policies implemented by Wiltshire Council.

Purpose and Aim of the Policy

- 2.1 This policy is intended to set out clear and concise guidance, procedure and principles for the benefit of the Licensing Authority, the public, applicants and other relevant organisations.
- 2.2 This policy also contains Standard Conditions which will be applied to the sex establishment which forms part of any granted licence.

Scope

- 3.1 This policy relates to any premises wishing to operate as a sex establishment.
- 3.2 Not all premises will automatically require a licence. Where there is an exemption within the legislation this has been set out in this policy document.
- 3.3 Consideration will be given to the provisions of the Human Rights Act 1998 when considering applications for Sex Establishment Licences.
- 3.4 When considering applications for a Sex Establishment Licence, in respect of premises that have previously operated without the requirement for a licence prior to the adoption of the legislation, in addition to this policy document the Licensing Authority must have regard to the Home Office guidance issued in March 2010 entitled 'Sexual Entertainment Venues – Guidance for England and Wales'.

Definitions

4.1 Sex Shop

The legislation defines a sex shop as:

- “(1) Any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating –
- (a) sex articles; or
 - (b) other things intended for use in connection with, or for the purpose of stimulating or encouraging –
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity.
- (2) No premises shall be treated as a sex shop by reason only of their use for the exhibition of moving pictures by whatever means produced.”

Sex articles are defined as:

- “(3) (a) anything made for use in connection with, or for the purpose of stimulating or encouraging –
- (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; and
- (b) anything to which sub-paragraph (4) below applies.
- (4) This sub-paragraph applies –
- (a) to any article containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (b) to any recording vision or sound, which –
 - (i) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (ii) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.”

4.2 Sex Cinema

The legislation defines a sex cinema as:

- “(1) Any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures, by whatever means produced, which –
- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to, or are intended to stimulate or encourage -
 - (i) sexual activity; or
 - (ii) acts of force or restraint which are associated with sexual activity; or

- (b) are concerned primarily with the portrayal of, or primarily deal with or relate to, genital organs or urinary or excretory functions,

but does not include a dwelling-house to which the public is not admitted.

- (2) No premises shall be treated as a sex cinema by reason only –
 - (a) if they are licensed under Section 1 of the Cinemas Act 1985, or their use or purpose for which a licence under that section is required; or
 - (b) of their use for an exhibition to which Section 6 of that Act (certain non-commercial exhibitions) applies given by an exempted organisation within the meaning of Section 6(6) of that Act.

4.3 **Sexual Entertainment Venue**

The legislation defines a Sexual Entertainment Venue as:

- “2A (1) In this Schedule “sexual entertainment venue” means any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.
- (2) In this paragraph “relevant entertainment” means –
- (a) any live performance; or
 - (b) any live display of nudity;
- which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (3) The following are not sexual entertainment venues for the purposes of this Schedule –
- (a) sex cinemas and sex shops;
 - (b) premises at which the provision of relevant entertainment as mentioned in sub-paragraph (1) is such that, at the time in question and including any relevant entertainment which is being provided at that time –
 - (i) there have not been more than eleven occasions on which relevant entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;
 - (ii) no such occasion has lasted more than 24 hours; and
 - (iii) no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period mentioned in sub-paragraph (i));

(c) premises specified or described in an order made by the relevant national authority.

(4) – (12) refer to other matters and are not relevant to this policy.

(13) For the purposes of this Schedule references to the use of any premises as a sexual entertainment venue are to be read as references to their use by the organizer.

(14) In this paragraph –

“audience” includes an audience of one;

“display of nudity” means –

(a) in the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) in the case of a man, exposure of his pubic area, genitals or anus;

“the organiser”, in relation to the provision of relevant entertainment at premises, means any person who is responsible for the organization or management of –

(a) the relevant entertainment; or

(b) the premises;

“premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted;

And for the purposes of sub-paragraphs (1) and (2) it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity.”

Examples of “relevant entertainment” are:

- Lap Dancing
- Pole Dancing
- Table Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows

Application Process

5.1 The application form and relevant documentation for the new licence, renewal or transfer must be completed and returned with the appropriate fee as set out in the Council’s fees and charges.

- 5.2 A copy of the application form and supporting documentation must be forwarded to the Chief of Police within 7 days of the date of the application being made.
- 5.3 Applicants must also make notice of the application by publishing an advertisement in a local newspaper which circulates within the area of the premises. The notice should clearly identify the premises to which it relates and should be published no later than 7 days from the date the application is made. There is an additional requirement for the notice of application to be displayed for 21 days on or near the premises in a place that is convenient for the public to read. The notice must contain certain information prescribed by the Licensing Authority.
- 5.4 the Council will carry out a consultation process where views are sought from: Wiltshire Council, Wiltshire Fire and Rescue Service, Council Divisional Members for the area of the premises and the Council's Planning Department.
- 5.5 Objections to the application for the grant, renewal or transfer of a licence shall be given in writing, stating the terms of the objection no later than 28 days from the date of the application.
- 5.6 Where notice of an objection is received by the Council they will give notice in writing to the applicant of the general nature of the objection before it is given due consideration.
- 5.7 Objections must be made in writing and should include the following:
- (a) the name and address of the person making the objection;
 - (b) the premises to which the objection relates
 - (c) the proximity of the premises to the person making the objection;
 - (d) the reasons for making the objections.
- 5.8 Objections should be relevant to the statutory grounds for refusal as set out in the Local Government (Miscellaneous Provisions) Act 1982 Act and listed in Paragraph 6.3..
- 5.9 The Licensing Authority will not consider objections that are frivolous or vexatious and decisions on these will be made objectively by Licensing Officers. Where objections of this nature are rejected, the objector will be notified in writing.

Vexatious Objections are generally taken to be one which is repetitive, without foundation or made for some other reason such as malice.

Frivolous Objections are generally taken to be one that is lacking in seriousness.

Valid Objections will be considered by the Licensing Committee to consider the application

Determination of an Application

- 6.1 The Council will consider every application on its merits, following the appropriate consultation and in accordance with this policy.
- 6.2 The Act specifies a number of issues that should and should not be considered:

- (a) A Council cannot have regard to the morality of sex establishments.
- (b) Straightforward objections on the grounds that sex establishments should not be allowed, will not be taken into account when assessing applications.
- (c) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
- (d) That if the licence was to be granted, renewed or transferred, the business to which it relates will 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/she had made the application himself/herself.
- (e) That the grant or renewal of a licence would be inappropriate having regard to:
 - (i) the character of the relevant locality;
 - (ii) the existence of other similar businesses within the locality;
 - (iii) the use to which any premises in the vicinity are put;
 - (iv) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- (f) No new sex establishment will be permitted if it will be situated within “inappropriate proximity”:
 - (i) near to housing;
 - (ii) near, or near to access routes to and from schools, play areas, nurseries, children’s centres or similar premises;
 - (iii) in shopping centres;
 - (iv) near places of worship;
 - (v) near a community facility or public building, including but not limited to swimming pools, leisure centres, public parks, youth centre’s/club and sheltered housing;
 - (vi) near historic buildings or tourist attractions.

“Inappropriate proximity” is defined as a distance of 200m in direct line of sight between the proposed establishment and any locations listed above, or 100m distance if there is no direct line of sight.

- (g) An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence or a transfer the Council will take the following into account:
 - (i) previous relevant knowledge and experience of the applicant;
 - (ii) any evidence of the operation of any existing or previous licence held by the applicant, including any licence held in any other council area;
 - (iii) any report about the applicant and management of the premises received from statutory objectors.

6.3 Section 12(1) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 prohibits the Licensing Authority from granting a licence:

- (a) “to a person under the age of 18; or

- (b) to a person who is for the time being disqualified from holding a licence following revocation of such a licence; or
- (c) to a person, other than a body corporate, who is not resident in a European Economic Area (EEA) state or was not so resident throughout the period of 6 months immediately preceding the date when the application was made; or
- (d) to a body corporate who is not in an EEA state; or
- (e) to a person who had, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a sex establishment licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.”

- 6.4 The Licensing Authority will give clear reasons for its decision.
- 6.5 Any sex establishment licence may be granted subject to conditions imposed by the Council; therefore an application should not be refused if conditions could adequately address any area of concern.
- 6.6 All licences will be subject to the Council's Standard Conditions for sex establishments as at Appendix A.
- 6.7 in the event of conflict between Standard Conditions and Special Conditions contained in the sex establishment licence, the Special Conditions shall prevail.

Grant of a Licence

- 7.1 All applications for the grant of a new licence will be determined by the Licensing Committee, irrespective of whether objections are received.

Renewal or Transfer of an Existing Licence

- 7.2 Where no valid objections or observations have been received, the application will be considered under officer delegated powers.
- 7.3 If the officer is minded to refuse such an application it will be referred to the Licensing Committee.
- 7.4 Where valid objections are received the application will be determined by the Licensing Committee.
- 7.5 At a Licensing Committee hearing the applicants and any objectors/observers will be given an opportunity to address the Committee.

Hearing Procedure

- 8.1 Where the Council is required to determine an application by referral to a Licensing Committee, the applicant and objectors/observers will be advised of the date, time and venue of the hearing.
- 8.2 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report prior to the hearing. The report will contain a summary of the application, representations and any other relevant information.

- 8.3 At the hearing all parties will have the opportunity to address the Committee and ask factual questions of other parties. The Licensing Committee may also ask questions of all parties that they feel relevant to determine the application.
- 8.4 The Licensing Committee will communicate their decision at the end of the hearing and all parties will receive written confirmation within 7 days.
- 8.5 If a licence is to be granted the Licensing Authority will aim to do this within 5 working days of the Committee's decision.

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