

SOUTHERN AREA LICENSING SUB COMMITTEE

DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 24 JANUARY 2018 AT NADDER CENTRE, WEAVELAND ROAD, TISBURY, SP3 6HJ IN RESPECT OF AN VARIATION OF A SEX ESTABLISHMENT LICENSE

Present:

Cllr Trevor Carbin, Cllr Jose Green, Cllr Robert Yuill

Also Present:

Cllr George Jeans - Substitute
Johnathan Spencer - Applicant
Paul Taylor – Legal Officer
Hannah Hould – Licensing Officer
Lisa Moore – Democratic Services Officer

1 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was:

Resolved:

To elect Councillor Trevor Carbin as Chairman for this meeting only.

Cllr Carbin in the Chair.

2 **Apologies for Absence/Substitutions**

There were none.

3 **Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the “Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications” (Pages 1 – 6 of the Agenda refers).

4 **Chairman's Announcements**

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

5 **Declarations of Interest**

There were no interests declared.

6 **Licensing Application**

Application by Mr J Spencer for the Variation to a Sex Establishment Licence in respect of Erotica-Belle, 105 Fisherton Street, Salisbury, Wiltshire SP2 7SP.

In accordance with the procedure detailed in the agenda, the Applicant was given the opportunity to address the Sub Committee.

The Licensing Officer, Hannah Hould, introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration.

Under the terms of the Council's Scheme of Delegation, any application to vary a Sex Establishment Licence must be made by Members and cannot be decided by an Officer.

Details of the variations applied for were included on page 8 of the agenda.

The application had been advertised by the applicant, and no representations had been received.

Key points raised by Mr J Spencer of AF Southern Ltd, in respect of Erotica-belle, were:

- He had been informed by the Licensing Manager, Linda Holland, at a previous meeting that she would be providing a statement, however it was noted that this had not been received.
- When he took over the business, he had applied for a variation to the conditions regarding window displays. He had understood those variations to have been approved, and that window displays were allowed, but later found out that those changes had not been added to the licence. He believed this was due to a clerical error.
- As he had believed the licence to have been varied, he had put window displays at the premises. It was only when an unnamed Councillor had complained to the Licensing Officer that he had become aware that window displays were still not allowed and he was then asked to remove them. This was why he had applied for the variations to the licence again.

- The applicant had won certificates in other counties for his window displays in the other sex establishments he owned in Andover, Weymouth and Bournemouth.
- The applicant felt that his business was losing money at the Salisbury shop due to there being no window displays.
- It was noted that other premises in Salisbury were able to display similar merchandise. Poundland and Boots both sold sexual health care products with no restrictions. In Anne Summers over 40% of their stock was sex toys, so he considered that they should be licensed. But when queried, the applicant had been told that they were too big a company to take to court.
- He was not asking to put sex items in the window. He would like to put advertisements for products, items of lingerie and pills and potions in the window.
- In September 2016, the applicant had been asked to support the local LGB Pride event. He had been asked to display a poster in the shop window. After this, the local Christian group had started to complain about the shop. The staff at the shop had been abused by several of the ladies from the Church group, who lived locally.
- The shops takings were down £66,000 from not having displays in the windows.
- Having blacked-out or obscured windows deterred people from entering the shop and gave an incorrect image of the premises. It was his aim to break down barriers for people who were too embarrassed to go in to a sex shop, but who may need the products sold there. This would be helped by the appearance of the shop being more like others on the High Street.
- Before being asked to remove the window displays he had lingerie in the front and he would like to go back to that. The shop had been trading 18 years prior to the applicant taking it on, and it had always had window displays.

The Members and Legal Officer were given the opportunity to ask questions of the Applicant, and Wiltshire Council Officers. A debate ensued in which the Sub Committee discussed:

- The layout and licensable area of the other premises owned by the Applicant. It was confirmed by the Applicant that, at his other shops, the whole of the premises was licensed.
- The proximity of this premises to a place of worship.
- Whether the other shops were in locations with a greater footfall.
- The proposed content of the window displays.
- The access points to the shop, which consisted of one main front entrance and a rear fire door, not accessed by customers.
- The suggestion to reduce the licensable area, and split the shop into two sections, with a front and rear. The front for non-sex related items, such as lingerie and the rear for the adult only items. With a divided section

between the two. The applicant confirmed that there would sometimes only be one member of staff on duty at the shop.

- What the applicant meant by health products.
- The barriers the business faced due to having an obscured window.

The Applicant was then invited to make a summary of his case:

- No objections to the variation had been made.
- No one had voiced their concerns.
- There were many customers who want to use the shop.
- People need the items.

The Licensing Officer made a summary:

- The Applicant has stated that he would be removing the DVDs so would no longer require a licence. This would need to be assessed at the time.
- The Applicant has asked to have window displays and for part of the shop to be visible through the window. Either or both of those could be achieved with conditions.
- The Applicant stated that he was losing trade due to not having window displays.

The Sub Committee members sought clarification on some points before retiring at 11.15am to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Panel reconvened at 11.55am

Resolved:

The Sub-Committee resolved:-

1. to amend Condition 6 to allow the display of approved advertisements within the shop window. Condition 6 to be amended to read as follows (additional wording underlined):-

6. The Licence Holder shall not display any advertisement, model, sign, notice, device, representation, drawing, or writing which is visible to persons outside the premises except as permitted by these Regulations or under the Act or with the approval of the Council and no such advertisements shall be displayed wherever visible which depict any sex article as defined.

2. to amend Condition 7 to allow the display of non-sex articles within the window of the premises, provided that the rest of the interior of the premises is not visible from outside the premises. Condition 7 to be

amended as follows (additional wording underlined):-

7. Subject to 7A, the Licence Holder shall ensure that the premises has screening and/or 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.

7A The display of items within the windows of the premises shall be permitted on the following conditions:-

- a) Opaque screens shall be placed behind any window displays so as to ensure that no part of the rest of the interior of the premises is visible from outside the premises.*
- b) Window displays must not include any sex articles, as defined in the Act and must be approved by Wiltshire Council.*

Reasons:

The current licence conditions prevented any window displays at the premises and also prevented any advertising on the premises, other than that prescribed or allowed in the legislation.

The Sub-Committee were informed that the Premises sold a range of non-sex items, such as lingerie, which were also sold by other retailers within the city. They accepted that the current restrictions on window displays and advertising put the Applicant at a commercial disadvantage compared to those other retailers. They also accepted that fully obscured windows did make the premises less attractive to potential customers.

The Sub-Committee were also informed that the Applicant operated a number of sex shops in other towns. Those shops were allowed to have window displays and advertising, subject to various restrictions. In particular, the displays and advertising were subject to the approval of the relevant local authority and the interior of the shop premises, beyond any window displays remained obscured to persons outside the premises. The Sub-Committee noted that these arrangements seemed to be operating reasonably successfully in those other towns.

The Sub-Committee therefore considered that it would be appropriate to amend the existing licence conditions to allow controlled window displays and advertising within those displays, as set out in the agreed variations. They did not consider it appropriate to amend the extent of the licensed premises, so as to limit it just to the rear section, particularly as the premises would still be operating as a single business, and as it would affect the ability of the Council to control the window displays. In view of the proposed amendments to the licence

conditions (which would allow window displays with screening behind), it was not necessary to add any conditions regarding the layout of the premises.

(Duration of meeting: 10.30 am - 12.00 pm)

The Officer who has produced these minutes is Lisa Moore 01722 434560 or email: lisa.moore@wiltshire.gov.uk, of Democratic Services, direct line 01722 434560, e-mail lisa.moore@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115