

Report of the Chief Officer Elections and Regulatory

Report to Licensing Sub Committee

Date: Tuesday 21st January 2020

Subject: Application to renew sex establishment licence and amendment of standard condition for Simply Pleasure, 6-6A Briggate, Leeds

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Hunslet & Riverside		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Summary of Main Issues

This is an application to renew a sex establishment licence for a sex shop. The application is made by Mr Timothy Hemming, ABS Holdings, Spring Lane, Forest Gate, Ringwood, Hampshire BH24 3FH for the premises known as Simply Pleasure, 6-6A Briggate, Leeds, LS1 4AF.

Due to a change in data protection regulations, Members are asked to consider a change to the wording of a condition relating to the retention of personal data on the existing licence.

As there have been no objections received the only matter for Members' consideration is the change to the wording of the condition.

1 Purpose of this report

- 1.1 To advise Members of an application made under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) for the renewal of a sex establishment licence for the premises known as Simply Pleasure, 6-6A Briggate, Leeds, LS1 4AF.
- 1.2 Members are required to consider this application due to a need to change the wording of standard conditions applied to the existing licence, due to a change in data protection legislation.

2 Background

- 2.1 In September 1982 the council resolved to adopt the provisions of the Local Government (Miscellaneous Provisions) Act 1982 which made it an offence to operate a sex establishment without a licence. From 1st January 1983 all sex establishments (sex shops and sex cinemas) had to be licensed.

3 History of these premises

- 3.1 These premises have been licensed as a sex shop for many years. Each year in February Simply Pleasure have successfully renewed their licence without objection.

4 The application

- 4.1 The application is made by Mr Timothy Hemming, ABS Holdings, Spring Lane, Forest Gate, Ringwood, Hampshire BH24 3FH.
- 4.2 Members are asked to consider this renewal application due to a change in the legislation related to data protection. This changes the requirements placed on businesses when retaining personal data. In the past sex shop businesses have been required to hold records of all people employed by the business and this information should be made available to an authorised officer on request. Under the General Data Protection Regulations (“GDPR”), this condition would not be lawful.
- 4.3 The current conditions affected are:

The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1974).

An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.

4.4 The proposed replacement condition is:

The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1974). This information will be processed, stored and handled in compliance with The General Data Protection Regulation. The licence holder will provide this record to an authorised officer of The Council or West Yorkshire Police in a timely manner on receipt of a subject access request made under The Data Protection Act 2018.

4.5 This amendment is a matter for determination by the licensing subcommittee as the condition was originally a standard condition approved by Licensing Committee when the Statement of Licensing Policy was adopted by the Council.

5 Equality and diversity implications

5.1 At the time of writing this report there were no implications for equality and diversity.

6 Options available to Members

6.1 The licensing sub-committee, in considering the application under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, may take any of the following steps it considers necessary:

- a) Grant the renewal application as requested attaching the standard conditions.
- b) Grant the application whilst imposing additional conditions and/or altering the standard conditions (or altering in any way the proposed application).
- c) Refuse the application on the following mandatory grounds;
 - if the applicant is under the age of 18,
 - if the applicant has a disqualification following the revocation of their licence
 - if the applicant is not resident in an EEA state,
 - If the applicant is a company not incorporated in an EEA state,
 - if the applicant has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

- d) Refuse the application on one or more of the following discretionary grounds:
- That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - That if the licence were to be granted, renewed or transferred the business to which it relates would 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 made the application himself;
 - That the number of sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality;
 - That the renewal of the licence would be inappropriate, having regard:
 - To the character of the relevant locality; or
 - To the use to which any premises in the vicinity are put; or
 - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

6.2 In paragraph 6.1 "the relevant locality" means:

- In relation to premises, the locality where they are situated; and .
- In relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment

6.3 As this premises has renewed their application each year without issue, and no other factors have changed, officers advise that there are no concerns with regards to the mandatory or discretionary grounds for refusal. In particular the Statement of Licensing Policy for the Licensing of Sex Establishments does not impose a locality or number of sex shops that would be appropriate.

7 Recommendation

7.1 Members are asked to consider the application for a renewal of a sex establishment licence for the premises known as Simply Pleasure, 6-6A Briggate, Leeds, LS1 4AF and to grant the application with the amended condition (option b at 6.1).

8 Background papers

None