

**A MEETING OF THE LICENSING BOARD
WAS HELD ON 8 JANUARY 2008**

Councillors

The Mayor (Councillor Gill) (ex officio), Chairman of the Policy and Organisation Board (Councillor Cully) (ex-officio); Councillors Ms Ballard (P), Carter (P), Champion (P), Mrs Cully (P), Davis, Farr (P), Foster, Foster-Reed, Jacobs (P), Rigg, Smith (P) and Ward (P).

It was reported that, in accordance with Standing Orders, notice had been received that Councillors Allen and Kimber would replace Councillors Foster and Rigg for this meeting.

Also in attendance

Mr Robinson, Mr J D Coughlan, Mr C Blake, Mr J Barry, Mr Orhan Arda, Miss Dawn Chalton and Mr B H Gibson.

39 APOLOGIES

Apologies for inability to attend the meeting were submitted on behalf of the Mayor and Councillors Davis, Foster, Foster-Reed and Rigg.

40 DECLARATIONS OF INTEREST

Councillor Carter advised that an article that had appeared in "The News" concerning Agenda Item 6 had contained a quote allegedly from him concerning the application for a Sex Establishment Licence that was currently before the Board. He confirmed that the statement quoted referred to a previous application and not to the current application, on which he had not made any statement. Councillor Allen declared an interest in Agenda Item 11 as the applicant was known to him.

41 MINUTES

RESOLVED: That the Minutes of the meeting of the Licensing Board held on 19 November 2007 be approved and signed by the Chairman as a true and correct record.

42 DEPUTATIONS

There were no deputations.

43 PUBLIC QUESTIONS

There were no public questions.

PART II

44 APPLICATION FOR A SEX ESTABLISHMENT LICENCE

Consideration was given to a report of the Environmental Services Manager (a copy of which is inserted in the Minute Book as Appendix 'A') which advised the Board of an application for a Sex Establishment Licence for premises situated at 147a Forton Road, Gosport.

The Chairman welcomed everyone to the meeting and advised that the hearing was not an adversarial contest and there would be no cross examination. She advised that only those members of the public who had made written representations could speak at the meeting and it was established that they were not present.

Mr Robinson, Legal Representative for the Applicant, was invited to address the Board. He circulated a presentation he had prepared to the Board (a copy of which is inserted in the Minute Book as Appendix 'B') and outlined to them the grounds for refusal that would need to be considered in determining an application in accordance with the Licensing Act 2003. He then proceeded to demonstrate to the Board that the applicants were fit and proper, the application was not for a third party and there would be no more than two sex establishments within the Borough.

Mr Robinson conceded that the location of the premises was of concern to residents but confirmed that, should a licence be granted, the window would be blanked out. He provided photographs of the premises in Andover and Aldershot run by his clients to show what the window would look like. He also confirmed that the interior of the shop was bright, not dingy or seedy as implied by objectors. It would not be possible for people under the influence of drink or drugs to lurk in dark corners. Objectors had referred to the door of the premises being left open, particularly when a staff member stood outside to smoke. Mr Robinson advised that this particular Member of staff had left and, in future, should the licence be granted, his clients were willing for a condition to be imposed requiring the installation of a double door entry system with self closing hinges that would comply with Fire Regulations. His clients would also accept a condition to operate a Challenge 21 policy. Customers under 18 were not allowed to enter a licensed sex shop establishment and proof of age would be required for those people who appeared under 18, or, in the case of a Challenge 21 policy, under the age of 21. A CCTV system would also be operated with hard drive recordings available for a period of time for the Police to check should they require so to do. Mr Robinson was of the opinion that conditions could be attached to the licence which would address the concerns of objectors who had written to the Council.

Since his clients' first application for a Sex Establishment Licence was refused, Mr Robinson pointed out that the shop had been operated without complaint to the

Licensing Authority and the Manager had complied with observations made by Licensing Officers following inspection of the premises. He also produced a letter from Mr White, of Test Valley Borough Council, confirming that the business run by his clients in Andover had operated without complaint and, to the best of Mr White's knowledge, in compliance with the conditions of the licence.

To clarify issues to Members, Mr Robinson and the Senior Licensing Officer confirmed that the shop as it traded currently did not require a Sex Establishment Licence. Should it be granted such a licence, the Licensing Officers' powers of inspection and enforcement would be greatly enhanced.

Members expressed their disappointment that, despite the applicants knowing that local residents, churchgoers and local schools had been unhappy with the content of the window, nothing had been done to tone down the display which, had it been done, would have gone some way in appeasing those against the granting of a licence. It was felt that by retaining the display but offering to accept a condition to remove it as part of the licence, the applicants were trying to force the Board's hand.

In answer to a Member's question concerning the problem of identifying an undesirable person or paedophile, Mr Robinson replied that there would be no reason for such a person to visit a licensed sex shop as no pornographic material or 'snuff movies' could be displayed or sold on the premises as it was against the law. A licensed sex shop was subject to random inspection by licensing officers to ensure that the material supplied complied with the law. He also confirmed that the majority of the current customer base was local and not coming in from outside the area.

In answer to Members' questions as to why the premises in Forton Road were chosen, Mr Robinson advised that his clients had made a commercial decision. They had looked at other commercial areas of the town but the premises in Forton Road were vacant and, having considered the secondary businesses in the area, for example the Tattooist, had decided this point provided the best customer flow.

A Member queried whether enough ventilation could be provided for the premises, especially in the summer, if a double door entry system was installed. An assurance was given that air conditioning would be installed if it was found necessary and the doors would not be propped open to provide a flow of air.

Following the Board's deliberations the Chairman advised that in its determination of the application they had had regard to:-

- the requirements set out in the Council's policy in relation to Sex Establishments in the Borough;
- the observations set out in the report to the Licensing Board prepared by the Environmental Services Manager;
- the written representations to the application made by members of the public as appended to the report;
- the oral representations made to the Licensing Board by the applicant's Solicitor;
- the grounds of refusal prescribed by S12(3) Part II 'Control of Sex

Establishments' Local Government (Miscellaneous Provisions) Act 1982.

RESOLVED: That the application for a Sex Establishment Licence be refused on the grounds that :-

- i. the premises are not fit for purpose as the provision of a double door entry system to the premises is a potential Health and Safety risk due to the restricted size of the doorway to the premises ;
- ii. since the refusal of his first application for a Sex Establishment Licence the applicant has not been more discreet with the display in the front window of the premises;
- iii. the grant of the licence would be inappropriate having regard to the character of the relevant locality.

45 EXCLUSION OF THE PUBLIC

RESOLVED: That in relation to the following items the public be excluded from the meeting, as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items there would be disclosure to them of exempt information within Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972, and further that in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons set out in the reports.

46 REVIEW OF A DUAL HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE

Consideration was given to an exempt report of the Environmental Services Manager (a copy of which is inserted in the Minute Book as Appendix 'C') advising the Board of a review of a Dual Hackney Carriage and Private Hire Vehicle Driver Licence.

The report was exempt from publication as the public interest in maintaining the exemption outweighed the public interest in disclosing the information by reason that it contained personal information that was not considered appropriate to be released to the public.

RESOLVED: That, following a review of the Dual Hackney Carriage and Private Hire Vehicle Driver Licence, the licence be approved.

47 RENEWAL OF A HACKNEY CARRIAGE VEHICLE DRIVER LICENCE

Consideration was given to an exempt report of the Environmental Services Manager (a copy of which is inserted in the Minute Book as Appendix 'D') advising the Board of an application for the renewal of a Hackney Carriage Vehicle Driver Licence.

The report was exempt from publication as the public interest in maintaining the

exemption outweighed the public interest in disclosing the information by reason that it contained personal information that was not considered appropriate to be released to the public.

RESOLVED: That the application for a Hackney Carriage Vehicle Driver Licence be approved.

48 REVIEW OF A DUAL HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLE DRIVER LICENCE

Note: Councillor Allen declared an interest in this item, left the room and took no part in the discussion or voting thereon.

Consideration was given to an exempt report of the Environmental Services Manager (a copy of which is inserted in the Minute Book as Appendix 'E') advising the Board of a review of a Dual Hackney Carriage and Private Hire Vehicle Driver Licence.

The report was exempt from publication as the public interest in maintaining the exemption outweighed the public interest in disclosing the information by reason that it contained personal information that was not considered appropriate to be released to the public.

RESOLVED: That the applicant produce a valid CRB check to the Licensing Department of Gosport Borough Council within 21 days of the date of this hearing.

The meeting commenced at 6.00 pm and concluded at 9.20 pm.

CHAIRMAN