

# REPORT TO LICENSING COMMITTEE

**REPORT OF:** Mark Jones, Community Safety & Licensing Manager

**REPORT NO:** CSL/030

**DATE:** 10 May 2013

<b>TITLE:</b>	Application to a renew a Sex Shop Licence Pulse & Cocktails, A1 southbound, Stoke Rochford, Grantham.	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	N/A	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor John Smith, Green, Healthy and Arts	
<b>CONTACT OFFICER:</b>	Pam Robinson, Senior Licensing Officer 01476 406138 <a href="mailto:p.robinson@southkesteven.gov.uk">p.robinson@southkesteven.gov.uk</a>	
<b>INITIAL IMPACT ANALYSIS:</b>  Equality and Diversity	Carried out and Referred to in paragraph (7) below  N/A	Full impact assessment Required:  N/A
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Your Council and Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a>	
<b>BACKGROUND PAPERS</b>	SKDC – SEX ESTABLISHMENTS PROCEDURES <a href="http://www.southkesteven.gov.uk/index.aspx?articleid=1976">http://www.southkesteven.gov.uk/index.aspx?articleid=1976</a> (Appendix 1)	

## 1. RECOMMENDATIONS

- a. That the Committee decide whether to approve the renewal application for a Sex Shop Licence in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009)
- b. When determining the application the Committee shall have regard to:
  - i The authority's sex establishment procedures.
  - ii The Human Rights Act.
  - iii SKDC's regulations prescribing standard conditions. **Appendix 2**
  - iv Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- c. The options open to the Committee are:
  - To renew the application as applied for.
  - To renew the application with modifications and/or additional conditions.
  - Refuse the renewal. If, having considered the renewal application the committee decides to refuse it, it must provide the applicant with the reasons for the decision in writing.

## 2. PURPOSE OF THE REPORT

- 2.1 In accordance with the Authority's procedures, all applications relating to sex establishments, with the exception of uncontested transfer applications, will be heard by the Licensing Committee.

## 3. DETAILS OF REPORT

- 3.1 The Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to permit the Licensing Authority to license Sex shops.
- 3.2 A Sex shop means 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 is associated with sexual activity. This includes adult films and magazines.

- 3.3 Each application will be determined on its own merits. However, applications may only be refused on certain defined mandatory or discretionary grounds. These are:

#### **Mandatory grounds**

The Council must refuse an application if:-

- the applicant is under 18 years of age; or
- the applicant is for the time being disqualified from holding a licence under Schedule 3 Paragraph 17 (3) of the Act following revocation of a previous licence; or
- the person applying is not resident in the United Kingdom, or was not so resident during period of six months immediately preceding the date when the application was made; or
- where a body corporate is the applicant - it is not incorporated in the United Kingdom; or
- the applicant has been refused the grant or renewal of a licence for the same premises within a period of 12 months immediately preceding the date when the application was made, unless the refusal has been reversed on appeal.

#### **Discretionary grounds**

The Council may refuse an application for the grant or renewal of a licence if:-

- the applicant is unsuitable to hold the licence by reason of conviction of an offence or for any other reason;
- the business 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;
- the number of sex establishments or sex establishments of a particular type in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality;
- “the grant or renewal of the licence would be inappropriate, having regard -  
(i) to the character of the relevant locality; or  
(ii) to the use to which any premises in the vicinity are put; or  
(ii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.”

- 3.4 The applicant has run a sex shop at these premises since April 2009. There have been no complaints about these premises during this time.

- 3.5 We received the renewal application for Pulse & Cocktails to hold a Sex Shop Licence on 5 March 2013 and we have received no objections during the 28 day consultation period. **Appendix 3.**

3.6 They are not varying the licence in any way and are only applying to renew the licence as it stands. The days and times the premises are open are:

Mon – Sunday 09.00 to 2200hrs (including Bank Holidays)

#### **4. OTHER OPTIONS CONSIDERED**

N/A

#### **5. RESOURCE IMPLICATIONS**

5.1 The cost of a sex establishment licence is £1,420.00. The cost of renewal is the same as application but this is under review.

#### **6. RISK AND MITIGATION**

Risk has been considered as part of this report and any specific high risks are included in the table below:

<b>Category Risk</b>	<b>Action / Controls</b>

#### **7. ISSUES ARISING FROM IMPACT ANALYSIS**

N/A

#### **8. CRIME AND DISORDER IMPLICATIONS**

N/A

#### **9. COMMENTS OF FINANCIAL SERVICES**

9.1 If a licence is granted the appropriate licence fee as outlined in the report will need to be levied upon the establishment. The only other potential financial impact is in the event of an applicant making an appeal against a decision which was then subsequently upheld, the Council may incur additional legal costs.

#### **10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES**

10.1 The grant, renewal and transfer of licences for sex establishments are governed by the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing & Crime Act 2009. The Committee should consider any representations from the Chief Officer of Police or any other person who objects to the application and has submitted a representation in writing. The proper grounds for considering the application are found within the body of the report. The decision to grant or refuse the licence must be reasonable and proportionate and made in accordance with the attached sex establishment procedures. Any refusal

must be supported by evidence that the statutory grounds for refusal are met and full reasons must be given to the applicant.

**11. COMMENTS OF OTHER RELEVANT SERVICES**

**12. APPENDICES:**

- 1 SKDC – Sex Establishments procedures
- 2 SKDC's regulations prescribing standard conditions
- 3 Application