

AGENDA

LICENSING COMMITTEE MEETING



Date: Tuesday 30 October 2012

Time: 10.00 am

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors Barned, Mrs Gibson, Mrs Gooch,
Mrs Grigg, Mrs Hinder, Mrs Joy,
B Mortimer, Naghi, Parvin (Chairman),
Mrs Parvin and Yates

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members
4. Disclosures by Members and Officers
5. Disclosures of Lobbying

Continued Over/:

Issued on 22 October 2012

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact JANET BARNES on 01622 602242** To find out more about the work of the Committee, please visit www.maidstone.gov.uk

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

6. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
7. Report of the Head of Democratic Services - Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 – Application For Sex Establishment Licence – For Tantric Blue, 9 Gabriels Hill , Maidstone, Kent, ME15 6HL 1 - 198

PART II

To move that the public be excluded for the items set out in Part II of the Agenda because of the likely disclosure of exempt information for the reasons specified having applied the Public Interest Test.

Head of Schedule 12A and Brief Description

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| <ol style="list-style-type: none"> 8. Exempt Appendices to the Report of the Head of Democratic Services - Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 – Application for Sex Establishment Licence – for Tantric Blue, 9 Gabriels Hill , Maidstone, Kent, ME15 6HL | <p>1 = Individual
3 = Financial/
Business Affairs</p> | <p>199 - 212</p> |
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MAIDSTONE BOROUGH COUNCIL

LICENSING COMMITTEE

30 OCTOBER 2012

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Report prepared by Lorraine Neale

1. **LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 3 – APPLICATION FOR SEX ESTABLISHMENT LICENCE – FOR TANTRIC BLUE, 9 GABRIELS HILL , MAIDSTONE, KENT, ME15 6HL**

1.1 Issue for Decision

1.1.1 To consider and determine the application made on 17 July 2012 by Illuminati Ventures Ltd for a Sex Establishment Licence for a Sexual Entertainment Venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 as amended by the Policing and Crime Act 2009

1.2 Recommendation of the Head of Democratic Services

Prior to consideration of the application

- i. That the Committee consider any representations from persons who made objections out of time and the applicant, on whether they should exercise their discretion to have regard to objections made after 14 August 2012 and determine whether or not to exercise that discretion.
- ii. That the Committee consider and determine the application, (including in respect of the variation of 3 standard conditions), for a sexual entertainment venue licence received from Illuminati Ventures Ltd for Tantric Blue, 9 Gabriels Hill, Maidstone, Kent, ME15 6HL, in accordance with the statutory test pursuant to Schedule 3 of the LG(MP)A 1982..
- iii. If required following a decision to have regard to late objections at i) above;

That the Council retains its policy that the locality and appropriate number of sex establishments, if any, be determined in relation to each application for a sex establishment licence. Such determination

will be made on its individual merit, at the time the application is decided.

1.3 Reasons for Recommendation

- 1.3.1 On 2 March 2011 the Council resolved to adopt the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009; therefore, subject to limited exceptions and exemptions, or in the absence of a waiver, premises offering relevant entertainment require a Sexual Entertainment Venue (SEV) licence to operate in Maidstone. The date the full requirements for any new licences granted to applicants, come into force in Maidstone. was 1 May 2012.
- 1.3.2 Where a licence is granted any standard conditions adopted by the Council will automatically be imposed unless expressly excluded or varied. The Council has adopted standard conditions to be applied to a licence and a policy to facilitate consideration of applications and guidance is provided to the committee later in this report.
- 1.3.3 An application was received on 17 July 2012 from Illuminati Ventures Ltd for a Sexual Entertainment Venue licence in respect of Tantric Blue, 9 Gabriels Hill, Maidstone, Kent, ME15 6HL and a copy is attached at Appendix A. The application is accompanied by a location plan and a layout plan of the premises (these documents are large and are available to view at the Council offices during normal office hours Monday to Friday, you may contact the licensing office on 01622 602028 to arrange a viewing, they will also be made available on the day of the hearing), also the Operation and Background supporting documentation including an advertising example is attached as Appendix B.
- 1.3.4 The applicant is required to serve a copy of their application on the Chief Officer of Police and to give notice to other interested parties by way of a notice on site for 21 days and in the local paper once within 7 days of application. These requirements have been satisfied for this application. A copy of the site notice and newspaper advert as it appeared in the Kent Messenger on 20 July 2012 is attached as Appendix C. Any objections were required by 14 August 2012.
- 1.3.5 There have been no observations from the police on this application.
- 1.3.6 Three letters of objection were received up to 14 August 2012, which include 1 from Maidstone Town Centre Management Ltd and 1 from Players, a sexual entertainment venue at 57 High Street, in summary their objections are:-

-The area is inappropriate, having regard to the character of the relevant locality and the use to which premises in the vicinity will be put. The uses referred to include; shops, cafes and businesses that are family orientated.

- The potential effect on crime and anti social behaviour in the area.

- That families/children walking by would be affected by the presence of a SEV.

- That a use of this nature would not be appropriate in a town which encourages families and the creation of housing in the town.

- the premises are not suitable.

Members should note that licences cannot be refused on solely moral grounds i.e. sex establishments are immoral and none should be allowed. They need to confine their considerations to matters relevant to the statutory grounds, (12.3 policy).

Copies of the objections providing full details of the comments are attached as Appendix D. The names and e-mail addresses of one of the objectors has been redacted as this objector has not provided consent to their details being revealed to the applicant.

1.3.8 There have also been, to date, 43 late letters of objection. These were received after the 14 August 2012 deadline date. All the objections except two were received by e-mail, they were received on the following dates 3 on 28.8, 16 on 29.8, 11 on 30.8, 5 on 31.8, 2 on 1.9, 2 on 2.9, 1 on 3.9, 2 on 5.9 and 1 on 8.10, 10 of the objectors gave no reasons as to why their objections were late, 33 of the objectors indicated that the matter had just been brought to their attention. There are no new issues raised within them and the applicant has been supplied with all the objections including the late ones so that they may have the opportunity to consider and comment should the necessity arise. It has been explained to the applicant and the late objectors that the Committee have to have regard to objections lodged in time but also that the Council have a discretion to take into account late objections. It is for the Licensing Committee to decide if they will exercise that discretion. Members will need to consider whether any late objections appear to be intentionally last minute and would cause any prejudice to the applicant or unacceptable disruption to Council business and any reasons given for lateness.

These will be available on the day of the meeting should Members decide to admit them.

1.3.9 The definition of a Sexual Entertainment Venue is any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

An application for a licence for such a premises can only be refused on statutory grounds, some of these are mandatory grounds, see 1.3.17 and some discretionary, see 1.3.18. The Committee, therefore, have to consider only objections relevant to the statutory grounds of refusal.

1.3.10 In considering this application the Committee should have regard to:

- Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, as amended by Policing and Crime Act 2009 (Appendix E)

In considering this application the Committee may be assisted by having regard to:

- The Council's Sex Establishments Policy (Appendix F)
- Home Office – Sexual Entertainment Licence – Guidance for England and Wales, (Appendix G)

1.3.11 Additionally Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 will apply to this application:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of a licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

Article 10

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

See item 7, page 7 of the Council's 'Sex Establishments Policy.

1.3.12 The Provision of Services Regulations 2009 imposes three tests on any refusal of a licence under the Act, they must be:-

- Non discriminatory
- Necessary
- Proportionate

1.3.13 Section 17 of the Crime and Disorder Act 1998 imposes a duty on Licensing Authorities to have due regard to the likely effect of the exercise of their functions on and the need to do all they reasonably can to prevent Crime and Disorder.

1.3.14 The Equality Act 2010, Section 149 requires public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity between the sexes and foster good relations between them. Consideration of this may inform Conditions. This duty also covers religious belief and disability.

1.3.15 The premises situated at 9 Gabriels Hill, Maidstone, Kent, ME15 6HL, formerly known as Ethos already holds a premises licence under the Licensing Act 2003 which was issued on 2 September 2005. The premises when operating as Ethos ran with no issues or complaints being reported to the Licensing Department. The premises have been closed and vacant for at least two years. However, the application under consideration is separate to the regime imposed by the 2003 Act. A copy of the current premise licence is attached as Appendix H.

1.3.16 Extent and Nature of the Relevant Entertainment.

The application is for the provision of sexual entertainment, specifically lap dancing, pole dancing, stage striptease and erotic dance. Sunday to Wednesday between the hours of 20:00 – 05:00 on the following day and Thursday to Saturday 20:00 – 06:00 on the following day.

The premises have altered significantly since it operated as Ethos, the Gabriels Hill side of the premises is now a betting shop occupied by Paddy Power. Tantric Blue is proposed to operate on the first floor of the premises and could only be accessed from King Street, set back from the main road and it would not be possible for the passing population to see into the premises. The windows of the premises would either have blinds or will be blacked out. Minimal signage would be on the street and would be subject to any planning requirements and approval of the licensing department.

1.3.17 Mandatory Grounds of Refusal.

Paragraph 12(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and

Section 12.1 of the Sex Establishments Policy detail the mandatory grounds for refusal of an SEV licence which are:-

- (a) to a person under the age of 18 years; or
- (b) to a person who is for the time being disqualified due to having had a previous licence revoked in the area of the appropriate authority within the last 12 months ;or
- (c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA state; or
- (e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused that 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.

There is no evidence that any of these grounds are applicable to this application and none are raised by Police observations or representations by the objectors to this application.

1.3.18 Discretionary Grounds of refusal.

Paragraph 12(3) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and Section 12.2 of the Sex Establishments Policy detail discretionary grounds for refusal of an SEV licence.

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason
- (b) 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
- (c) the number of sex establishments or sex establishments of a particular kind in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for the locality

(d) 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
- (iii) to the lay out, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

1.3.19 Suitability of Applicant/ Business to be Managed or Carried on for the Benefit of a Person who Would be Refused- (paragraph 12.4 a) and b) policy).

The applicant of the premises is Illuminati Ventures Ltd.

The following are named in the application as the persons responsible for the management of the establishment.

- Ricardo Monty (Director)) is also is involved with the Tantric Blue at Heathrow Annex A, Appendix A, in Part II, provides information on suitability.
- Spencer Tregidgo (Director) Annex A, Appendix B, in Part II, provides information on suitability.
- Anne Marie Harris (Manager) is also is involved with the Tantric Blue at Heathrow Annex A, Appendix C, in Part II, provides information on suitability.

This is a new venture for the applicant at Maidstone. However Ricardo Monty and Anne Marie Harris are involved with the Tantric Blue venue at Heathrow. On making enquiries with the Licensing Officer at Slough Council we were informed there had been no issues or problems reported in relation to the premises.

There is no evidence that these grounds are applicable to this application and none were raised by Police observations or representations by objectors to this application.

1.3.20 Appropriateness of the layout, character or condition the Premises Paragraph 12(3) (d) (iii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and

(paragraph 12.12 Policy).

The applicant has included layout plans which clearly show the proposed size and general appearance of the club. The applicant has applied for lap dancing, pole dancing, stage striptease and erotic dance on Sunday to Wednesday between the hours of 20:00 – 05:00 on the following day and Thursday to Saturday 20:00 – 06:00 on the following day. Included as part of the application are Statements from Ricardo Monty, Spencer Tedgidgo and Anne Marie Harris, a report from Graham Murdoch, Code of Conduct for Dancers and Customers, Operational Guidelines, Dancers Welfare Policy, Policies on ejection, drugs and searches, photographs, menus and a brochure. These documents combined are provided to illustrate the suitability of the managements systems with regard to these premises.

The layout plan shows a stage situated toward the rear of the sexual entertainment premises that is surrounded by seating. It shows eight private booths used for private dances and six of these have individual CCTV cameras installed in them which are also monitored. The matter of the two private booths that do not have CCTV installed has been brought to the applicant's attention and will be resolved before the meeting. The dancer's facilities are shown on the second floor of the building, this is also where the public toilets are and there does not appear to be any facilities to monitor the access to the dancer's changing room, this has been brought to the applicant's attention and will be resolved before the meeting.

1.3.21 What is the Relevant Locality?

This is relevant to Paragraphs 12(3) (c) and (d) (i) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and Paragraphs 12.5 to 12.10 policy refer.

The building is located in Gabriels Hill, an area with mixed uses, see paragraphs 1.3.22 and 1.3.23 for further detail. Members may wish to consider the locality at the time of this decision and consider the locality at the time when it is proposed the premises will be operating as an SEV. Parties at the hearing will be able to make submissions on this issue.

Locality may be a large area, probably larger than vicinity, but the locality is a matter for members and will depend on the circumstances of the case. It has been held that locality cannot be the entire administrative area and further that locality is likely to be a homogenous area. Case law has held that a whole town may be too large. There does not have to be a clearly predefined area or precise boundaries.

1.3.22 What is the Character of the Relevant Locality?

Paragraph 12(3)(d)(i) of Schedule 3 to the Local Government (Miscellaneous provisions) Act 1982 and paragraph 12.10 policy.

The area is in the Maidstone Town Centre conservation area, there are numerous listed building in the vicinity including 9 Gabriels Hill for further details see the plan attached at Appendix I

There are no residences located immediately adjacent to the premises, but there are residential premises in the area. In general there are 40 residential properties in Gabriels Hill. There are 20 residences at Granada House, which is situated at the Lower Stone Street end of Gabriels Hill, 13 of these are occupied. The other 20 are residences above properties 12 of which are occupied with the nearest residence being Flat 2, 15A Gabriels Hill.

There are other licensed premises, (Licensing Act 2003), in Gabriels Hill and nearby that also form part of the night time economy, they are:-

Name of premises	Address	Opening Hours
Attila Kebab House	16 Gabriels Hill	Sun – Thurs 23:00 – 03:00 Fri & Sat 23:00 – 05:00
Strawberry Moons	24-32 Gabriels Hill	Mon – Sun 11:00 – 05:00 Max Capacity n/a
Roadhouse	33 Gabriels Hill	Mon to Sun 11:00 – 06:00 Max Capacity n/a
R Bar	34a-34b Gabriels Hill	Mon to Sun 00:00 – 00:00 Max Capacity n/a
Britannic Fish Bar	54 Gabriels Hill	Mon to Sun 23:00 – 04:00 Max Capacity n/a
Stone Street Club	2 Lower Stone Street	Mon to Sun 10:00 – 00:30 Max Capacity n/a
Newsplus	7-8 Granada House, Lower Stone Street	Mon to Sun 07:00 – 23:00
Kent Food Centre	9-10 Granada House, Lower Stone Street	Mon to Sun 07:00 – 00:00
Gala Bingo	Lower Stone Street	Mon to Sat 10:00 – 00:30 Sunday 12:00 -00:30
Inkbar	15-17 King Street	Sun to Wed 09:00 – 02:30 Thurs to Sat 09:00 – 05:00
AMF Bowling	59 – 71 King Street	Mon – Sat 10:00 – 01:30 Sunday 10:00 – 23:00

There are shops/businesses that operate during the day immediately around the premises. Gabriels Hill is a retail thoroughfare and pedestrian street, see policy paragraph 12.13. However the premises will not be accessed from Gabriels Hill but from King Street. The

access from King Street is adjacent to the entrance of the Mall shopping Centre which closes by 18:30. The premises are proposed at first floor level and standard conditions would restrict advertising.

There is a newly established space not far approximately 40 – 50 metres from the proposed premises which is used for civic and community events, which will be held on a number of days in the year during both the day and evening. Some examples of events already held are Olympic Torch Event, Japanese Dancers and the Flag Ceremony. The square contains seating and is used by the public as a meeting and resting place also during the summer months there are children's funfair rides in position there.

There are bus stops located in King Street but as Tantric Blue would lie back in a courtyard and behind shops that are in King Street, it is not possible to see the premises at all from the bus stops, however if the premises were to open any advertising material which may be displayed outside the courtyard gates may be seen. The premises would not operate until 20:00 hours however which would be after schools finish and normal commuting times.

Parties at the hearing will be able to make submissions on the character of the locality and their reasons at the hearing.

1.3.23 What is the vicinity and What are the Uses of Other Premises in the Vicinity?

Paragraph 12(3)(d)(ii) of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and paragraph 12.11 policy.

Vicinity is likely to be a narrower area than "relevant locality" and parties will be able to make representations on this issue. Paragraph 1.3.22 describes the character of the locality and here I concentrate on the uses of premises which may be relevant to members consideration if they are considered to be in the vicinity of the premises.

The nearest residential properties are at Flat 2, 15A Gabriels Hill, there are other Licensing Act 2003 premises nearby that attract a significant number of customers.. There is already a Premise licence in place at 9 Gabriels Hill which could be utilised without the premises having a Sexual Entertainment Venue licence.

The nearest churches are Maidstone Baptist Church at the corner of Knight rider street and Mill Lane and All Saints Church which is directly opposite on College Road (0.5 mile). There is also the United Reform in Week Street (0.3 mile) and the Life Church and Methodist Church in Brewer Street (0.3 mile).

The nearest schools are Maidstone Boys Grammar School at Barton Road (0.7mile) Invicta Girls Grammar School and Valley Park School are at Huntsman Lane (0.6 mile).

The nearest public recreation spaces are the amphitheatre by the riverside and Brenchley Gardens.

Bus stops are situated on King Street opposite the shops adjacent to the Chequers shopping centre entrance, the only Licensing Act 2003 premises in King Street are the Inkbar on the corner at Church Street and AMF bowling which is further up King Street opposite the Council Gateway offices.

The premises are within the Maidstone conservation area and the nearest historic buildings are Archbishops Palace, All Saints Church, Carriage Museum and the Town Hall. Also the majority of the buildings in Gabriels Hill are also listed see the plan attached at Appendix I

There is one licensed sex establishment at 57 High Street. There has been application received for a Sexual Entertainment Venue at 87 – 88 Bank Street and the hearing to determine that matter is to be held on 22 October 2012. The decision will be known when this matter is heard at Licensing Committee and an oral update provided.

The premises in the area mainly reflect two types of economy namely the retail outlets during the day and those establishments relevant to the night time economy. Gabriels Hill is a mix of these but King Street is largely day time economy only.

1.3.24 Would a Sex Establishment of this Type be Appropriate?

Would an SEV of the nature proposed be appropriate having regard to the premises, the character of the relevant locality and the use of the premises in the vicinity? Members should consider the facts that have been established from the application, representations in writing and all submissions made at the hearing and determine whether a grant in these circumstances would be appropriate.

1.3.25 What is the Appropriate Number of Sex Establishments in the Relevant Locality?

Paragraph 12(3) (c) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and paragraph 12.4 c and 12.5 - 9 policy.

The Council has currently resolved not to determine localities and appropriate numbers of establishments in advance of applications being received. It will consider each application on its merits and

determine the locality and appropriate number for all, or the relevant type of premises, at the time of deciding on the application.

At a licensing Committee meeting on 22, March 2012 an application for Players, an SEV, at 57, High Street, Maidstone was considered. These premises were already in operation as a lap and pole dancing venue covered by the Licensing Act 2003 premise licence until 30, April 2011. Members at that meeting considered the relevant locality and how many sex establishments or SEVs would be appropriate, if any. They considered the relevant locality to be the High Street area between Mill Street and the bridge area, (Bishops Way/Fairmeadow). An appropriate number of one was set for sexual entertainment venues for that locality at that time.

At the hearing on 22 October 2012 a relevant locality will be determined for the premises at 87-88 Bank Street and an appropriate number, if any, sexual establishments appropriate for that locality set. That decision will be relevant to consideration of this application.

In considering this application the relevant locality has been considered at paragraph 1.3.21 and 1.3.22 which may or may not include the locality considered above and should take into account all the circumstances at the time of this decision. The number considered appropriate, if any, at the time of this decision may be for all sex establishments or only SEVs taking into account all the circumstances at this time.

1.4 Conclusions and Options.

Members should consider all the matters set out at paragraphs 1.3.10 – 1.3.14 of this report.

1.4.1 In having regard to the Councils Sex Establishments Policy (attached as appendix H) the principle is that each application will be determined on its own merit.

A licence if granted would last for one year and is subject to renewal annually.

The Committee may:

- Grant the application as applied for with Standard Conditions, or
- Grant the application as applied for with Standard Conditions and additional conditions, or
- Grant the application on varied terms, with or without additional conditions.

- Refuse the application on one or more of the statutory grounds.

1.4.2 Conditions.

Under Paragraph 8 of Schedule 3 of the Act the Council may grant a Sex Establishment Licence on such terms and conditions and subject to any restrictions as may be specified and that these specific terms and conditions will be tailored for each individual premises.

- 1.4.3 The Council has approved a set of Standard Conditions which are applicable to the type of licence that may be granted, unless, the application has requested that one or more of the Standard Conditions are removed or varied or if this appears to the Members to be necessary and proportionate in this particular case. This is a matter for the Committee to consider in their determination should they be minded to grant a licence. There has been a request from the applicant to make changes to standard condition 15, 19 & 26.

Standard Condition 15:

The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people on into the premises”.

Proposed Condition 15:

“The premises shall not advertise by means of cruising vehicles. There shall be no personal solicitation from the entrance or immediately outside of the premises to invite people on the public highway into the premises”.

Condition 15 Reasoning — The premises do not intend to advertise by means of cruising vehicles, nor is there any intention for any person at the premises or immediately outside the premises to solicit people to enter into the premises. However, the variation is sought because in its current form it would, for example, prevent a Director of the premises at a dinner party within his own home inviting guests to Tantric Blue as that would be a form of solicitation. There may also be occasion when the operator would look to distribute flyers and business cards.

Standard Condition 19:

‘No fastening of any description shall be fitted upon any booth or cubicle within the premises”.

Proposed Condition 19:

Within the area set aside for relevant entertainment, no fastening of any description shall be fitted upon any booth or cubicle”

Condition 19 Reasoning — In respect of this condition, on the face of it, it would also include w.c. facilities and therefore it is proposed to amend condition 19 so that it only relates to the area within which sex entertainment may be provided.

Standard Condition 26:

“At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience”.

Proposed Condition 26:

‘After performing on the stage, dancers shall get dressed before leaving the stage area”.

Condition 26 Reasoning - Condition 26 concerns access to a dressing room. A dressing room is provided for the use of performers and it is located on the first floor. The dressing room is a secure area and is of sufficient size to provide facilities for performers attending the premises. The performances on stage will not be fully nude and at the end of the performance there is a space to the side of the stage where the performer may dress. In relation to private dancers, after the performance the dancer will dress where she is before accompanying a customer back to the main entertainment area.

There will be an opportunity at the hearing for all parties to make representations about possible conditions and the amended conditions should the licence be granted. This does not indicate that a licence will be granted.

If Members are minded to approve the application I can confirm that I have no objection to the proposed amended conditions and accept the reasoning behind them. I would also wish to recommend the addition of conditions relating to security, set out in the standard conditions pool of possible additional conditions, as detailed below:-

Security

Condition b

Door supervisors, registered in accordance with the Security Industry Authority (SIA) shall be on duty at all times when relevant entertainment is taking place.

Condition c

An adequate number of door supervisors shall be on duty on the premises whilst relevant entertainment takes place.

Condition d

CCTV to be installed to a standard agreed by Police to cover all public areas, including all access and egress points in accordance with CCTV Code of Practice. Maintained and serviced on a regular basis and records to be kept. The system to have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system to be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings to be made available at any reasonable time to Police and Local Authority officers upon request. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed.

1.4.4 Policy- Locality and Numbers.

Many of the late objections received request that the authority consider changing its current policy and decide that the number of SEVs in Maidstone should be nil. Should the Committee exercise its discretion to admit these then the following should be considered. The current policy is set out at 12.9 of the statement of policy and indicates that the Licensing Authority has not determined specific relevant localities and will judge each application on its own individual merits and the character of the locality at the time of the decision. This means that the authority will consider the relevant locality of the application at the time of the decision and decide what is the appropriate number for that area of that type or all sex establishments. That locality is flexible and something on which submissions can be heard. It may be a large area but case law has held that a whole town may be too large. There does not have to be a clearly pre defined area or precise boundaries. The number may be nil.

An authority may publish a policy but that cannot prevent any individual application from being considered on its merits at the time of the decision, when submissions can be made by all parties. Thus a policy predetermining localities and numbers would have to be reviewed on each application, in any event, and the circumstances of any area may change over time. Any major change to policy should be subject to consultation should members wish to give consideration to

changing the policy made, following consultation, in 2011. My recommendation is that members retain their current policy, avoid raising expectations for future decisions which may not be possible to follow at that time and keep the flexibility of deciding on locality and appropriate numbers at the time of individual decisions on any application. The policy currently in place would remain applicable to applications already received.

1.4.5 Appeals.

A statutory right of appeal against any decision to refuse in this case, or to impose conditions, is given to the applicant, in respect of mandatory grounds of refusal only on the basis that the ground does not apply to the applicant and in respect of discretionary grounds in paragraph 12 (3) (a) and (b), (suitability of applicant, manager and beneficiary of the operation). This is to the Magistrates' Court, by way of complaint for an order, within 21 days beginning with the date the decision is notified. There is no right for other parties to appeal in this way but they can apply to the Court to be heard at any appeal. In respect refusal for grounds under paragraph 12 (3) (c) and (d) (i) – (iii) these rights do not apply. Any other appeal would be by way of judicial review.

1.5 Alternative Action and why not Recommended

1.5.1 The only alternative would be to fail to consider an application made and failure to determine this application would be likely to result in legal challenge.

1.6 Impact on Corporate Objectives

1.6.1 Arriving at a carefully considered decision meets the Councils objective of corporate and customer excellence

1.7 Risk Management

1.7.1 The amendments to the legislation were introduced in order to regulate premises offering sexual entertainment. The Committee are to consider the application and decide whether or not to grant the licence. The Committee must have regard to all matters set out at paragraphs at paragraphs 1.3.9 – 1.3.14 and must carefully consider the applicant's rights balanced against the public interest. The only grounds on which a licence can be refused are set out in legislation.

1.8 Other Implications

1. Financial



1. Staffing	
2. Legal	X
3. Equality Impact Needs Assessment	X
4. Environmental/Sustainable Development	
5. Community Safety	X
6. Human Rights Act	X
7. Procurement	
8. Asset Management	

1.8.1 **Financial** – The appropriate application fee has been paid in accordance with the Council’s fees and charges.

1.8.2 **Legal** – The relevant legislation is the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3, as amended. Considerations are as set out in the report.

1.8.3 **Equality Impact Assessment** - The Equality Act 2010, Section 149 requires public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality of opportunity between the sexes and foster good relations between them. Consideration of this may inform Conditions. This duty also covers religious belief and disability. An assessment was made at the time of the adoption of the Policy.

1.8.4 **Community Safety** - Section 17 of the Crime and Disorder Act 1998 gives authorities a duty to have regard to the likely effect of the exercise of their functions on the need to do all they reasonably can to prevent, crime and disorder.

1.8.5 **Human Rights - The** Human Rights Act 1998 should be taken into consideration when reaching a decision. The rights potentially engaged are:-

Art 10 – right to freedom of expression – the right to expression through sexual entertainment or sex articles may be included. The right is a qualified one and may be subject to conditions and restrictions as are necessary, in the interests of public safety, for the

prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights or others etc.

Art 1, First Protocol – peaceful enjoyment of possessions. Possessions may include a premises, goodwill of a business and the benefits of an existing licence. There may be removal of possessions if the law provides for it and it is in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

The Licensing Authority taking a decision need to demonstrate that these rights have been taken into account and formed part of the factors balanced in making the decision.

1.9 Relevant Documents

Appendix A Application form

Appendix B Operation and background supporting documentation including advertising example

Appendix C Applicants site notice and newspaper notice

Appendix D representations from objectors.

Appendix E Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, as amended by Policing and Crime Act 2009

Appendix F Sex Establishments Policy

Appendix G Home Office – Sexual Entertainment Licence – Guidance for England and Wales.

Appendix H Copy of Premises Licence

Appendix I Plan of the Area showing conservation area and listed buildings & normal plan of the area

Appendix J MBC Standard conditions

Appendix L Hearing Procedure

IS THIS A KEY DECISION REPORT?

Yes

No

If yes, when did it first appear in the Forward Plan?

.....

This is a Key Decision because:

.....

Wards/Parishes affected:

.....

MAIDSTONE BOROUGH COUNCIL
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 SCHEDULE 3
POLICING AND CRIME ACT 2009 SECTION 27
APPLICATION FOR A GRANT/RENEWAL/TRANSFER (DELETE AS APPLICABLE) OF A
LICENCE TO USE ANY PREMISES, VEHICLE, VESSEL OR
STALL AS A SEX ESTABLISHMENT

A. APPLICANT DETAILS:

1.	Is the application being made by:-	Tick or enter where appropriate:												
	(a) An individual? Please go to question 2													
	(b) A Company or other Body Corporate? Please go to question 3 & 5	✓												
	(c) A Partnership or other unincorporated body? Please answer questions 4 & 5													
2.	If the applicant is an individual please give the following information:-													
	(a) Full name of the applicant.													
	(b) If the applicant has ever been known by a different name, please state the former name. Please go to question 5													
3.	If the applicant is a Company or other corporate body please give the following information:-													
	(a) The name of the Applicant?	ILLUMINATI VENTURES LIMITED												
	(b) Where is the Applicant registered?	UK												
	(c) What is the registered number of the Applicant?	08129952-30												
	(d) Has the Applicant previously been known by any and if so what name?	NONE												
	(e) Has the Applicant:	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%;">YES</th> <th style="width: 10%;">NO</th> </tr> </thead> <tbody> <tr> <td>• Ever been convicted of a criminal offence?</td> <td></td> <td style="text-align: center;">✓</td> </tr> <tr> <td>• Ever had a grant or renewal of a sex establishment licence refused or a sex establishment licence revoked?</td> <td></td> <td style="text-align: center;">✓</td> </tr> <tr> <td>• Ever been served with a winding up petition?</td> <td></td> <td style="text-align: center;">✓</td> </tr> </tbody> </table>		YES	NO	• Ever been convicted of a criminal offence?		✓	• Ever had a grant or renewal of a sex establishment licence refused or a sex establishment licence revoked?		✓	• Ever been served with a winding up petition?		✓
	YES	NO												
• Ever been convicted of a criminal offence?		✓												
• Ever had a grant or renewal of a sex establishment licence refused or a sex establishment licence revoked?		✓												
• Ever been served with a winding up petition?		✓												
If the answer to any of these questions is Yes, provide full details.														
	(f) What are the names of the Applicant's Directors.													
	RICARDO MONTY													
	SPENCER TREGIDGO													

(g) Are there persons responsible for the management of the Applicant other than the Directors and the Company Secretary? If so, state their names.

ANNE MARIE HARRIS

(h) State the names of all persons with a shareholding greater than 10% in the Applicant.

RICARDO MONTY
SPENCER TREGIDGO

(i) Is the Applicant a wholly owned subsidiary of another company or corporate body? If so state the name, place of registration and identity of its Directors and Company Secretary.

NO

Please go to question 5

4. If the applicant is a partnership or other unincorporated body please give the following information:-

(a) The name of the Applicant.		
(b) The name of the Applicant's partners.		
(c) Are there persons responsible for the management of the Applicant other than the partners? If so, state their names		
(e) Has the Applicant ever had a grant or renewal of a sex establishment licence refused or a sex establishment licence revoked?	YES	NO

If the answer is Yes, provide full details.

Please go to question 5

5. Does the Applicant have a trading name different from that given in answer to questions 2, 3 or 4 above?

If so, state the trading name.

TANTRIC BLUE

6. What is the Applicant's trading address?

9 GABRIELS HILL
MAIDSTONE
KENT ME15 6HL

7.	YES	NO
Will the business for which a licence is sought be carried on for the benefit of a person other than the Applicant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

If the answer is Yes, state the name of such person(s). If such person(s) are a company or other corporate body state their place of registration and registered number, and the identity of all Directors, the Company Secretary, and those with a greater than 10% shareholding.

8.	YES	NO
Does the Applicant operate any other sex establishments, whether licensed or not?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If so, state the name, address and type of sex establishment (e.g. sex cinema, sex shop, sexual entertainment venue) of each.		
NO		

9.	YES	NO
For each of the individuals named in the answers to Questions 2, 3, 4, 7 and 8, please confirm that the form at Annex A to this application has been completed and submitted as part of this application.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

B. THE PREMISES, VEHICLE VESSEL OR STALL TO BE THE SUBJECT OF A LICENCE

10. Is the application in respect of:-

(a) Premises	✓
(b) Vehicle	
(c) Vessel	
(d) Stall	

11. Answer only where the application is for a vehicle, vessel or stall

Where is it proposed to use the vehicle, vessel or stall?

12 Answer only where the application is for a premises

What is the full address of the premises for which a licence is sought?

9 GABRIELS HILL
MADSTONE
KENT ME15 6HL

13. YES NO

(a) Is the whole of the premises to be used as a sex establishment?	✓	
---	---	--

(b) If not, state the use of the remainder of the premises

(c) State the names of those who are responsible for managing the remainder of the premises.

14.

(a) State the nature of the Applicant's interest in the premises, vehicle, vessel or stall, e.g. owner, lessee, sub-lessee.

LESSEE

(b) If the Applicant is a lessee or sub-lessee, state:

(i) the name and address of the landlord;

MILFORD ESTATES
KESTRAL HOUSE
KNIGHT RIDER COURT
MADSTONE, ME15 6KU

(ii) the name and address of the superior landlord (if any);

(iii) the amount of the annual rental;

£40k

(iv) the length of the unexpired term

15 years

(v) the length of notice required to terminate the tenancy.

n/a.

15

(a) State the current use of the premises.

PREVIOUSLY NIGHTCLUB/BAR/RESTAURANT

(b) Is there a planning permission for the use of the premises, vehicle, vessel or stall as a sex establishment?

YES	NO
	✓

(c) If so, state the date of the planning permission.

(d) If not, state whether and why the use as a sex establishment is lawful, e.g. because there is a certificate of lawful use, giving full details.

PUBLIC HOUSE AND OPERATED AS A NIGHTCLUB FROM FOR MANY YEARS

16

(a) Are the premises, vehicle, vessel or stall licensed under any other Act, e.g. the Licensing Act 2003? Provide full details including the name of any Designated Premises Supervisor.

PREMISES ARE CURRENTLY CLOSED. THE PREMISES LICENCE DPS WILL BE CHANGED TO THE MANAGER OF THE PREMISES

(b) Does the Applicant intend to obtain a licence under any other Act or to apply to vary any existing licence under any other Act? If so, provide full details.

APPLICATION WILL BE REQUIRED TO TRANSFER AND TO VARY LICENCE AND CHANGE DPS

YES	NO
✓	
✓	

(c) Does the Applicant intend to operate the sex establishment in conjunction with any other licence? If so, provide full details.

PREMISES LICENCE - SEE ABOVE

17.

a) Is each customer access to the premises, vehicle, vessel or stall:

- Directly from the street or a public thoroughfare?
- From other premises? If so where from.

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

if from other premises, provide full details.

(b) Is each customer access from the street to be supervised at all times the premises are open to the public?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is No give full details of proposed door control and supervision.

(c) State whether all door supervisors are to be licensed with the Security Industry Authority.

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

18.

Are the premises, vehicle, vessel or stall so constructed or adapted and laid out as to permit access to, from and within the premises (including WC facilities) for members of the public who are disabled?

YES	NO
<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is No, state the Applicant's proposals for affording such access.

19.

(a) Are the premises, vehicle, vessel or stall being used as a sex establishment at the date of this application?

YES	NO
<input type="checkbox"/>	<input checked="" type="checkbox"/>

(b) If the answer is yes, state the name and address of the person or body now operating the business.

C. THE BUSINESS

20.

Under what name will the business be known?

TANTRIC BLUE

21.

Is the application in respect of:

a. A sex shop?

h. A sex cinema?

c. A sexual entertainment venue?

22.

Has the Applicant entered into any agreement (whether written or oral) in connection with the business, other than a tenancy agreement or lease, for example, a management agreement, partnership agreement or profit share arrangement? If so, provide full details together with a copy of any such agreement.

NO

23.

Give the name and addresses of any lenders, mortgagees or others providing finance with the full terms of such agreements.

NONE

24.

Is the business required to purchase merchandise from a particular person or body? If so provide full details.

NO

D. MANAGEMENT OF THE BUSINESS

25.

(a) State the identity of the person who will be responsible for the day to day management of the business at the premises, vehicle, vessel or stall ('the Manager').

ANNE MARIE HARRIS

(b) Confirm that the Manager will be based at the premises, vehicle, vessel or stall and that management of the business there will be his/her sole and exclusive occupation.

YES

(c) Which person(s) will be responsible for the day to day management of the business in the absence of the Manager ('the Relief Manager(s)')?

SPENCER TREGIDGO

RICARDO MONTY

(d) Confirm that the Relief Manager(s) or one of them will be based at the premises full-time in the absence of the Manager.

YES

(e) For each of the Manager and Relief Manager(s), confirm that the form at Annex A to this application has been completed and submitted as part of this application.

YES

26.

This question need not be answered in the case of renewals

Give details of the times during which it is proposed to open the business.

Days of the week SUNDAY TO WEDNESDAY . THURSDAY TO SATURDAY

Hours of the day 20:00 to 05:00 DAY FOLLOWING . 20:00 to 06:00
DAY FOLLOWING

27

State proposals in respect of exterior signage and advertising, including the nature, content and size of such signage, and any images to be used.

Please note that a plan of the exterior showing such signage and advertising is required to be submitted with this application.

SEE DRAWINGS ENCLOSED

28.

(1) What steps are to be taken to prevent the interior of the premises being visible to passers-by?

THE INTERIOR WILL BE OBSCURED WITH BLACKING
OUT OF WINDOWS.
BLINDS

(2) What if any window displays are to be exhibited? Please indicate the size and nature of any intended display.

NONE

29.

State any proposals for solicitation of business in public areas, e.g. through fliers, business cards, billboard advertising, personal solicitation or advertising on motor vehicles.

FLYER TEAM.
FLIERS AND BUSINESS CARDS.
A BOARD SIGN

30.

State what age restrictions are to be applied in respect of admissions, and how are these to be enforced. In answering, state what forms of identity will be accepted and whether it is proposed to use electronic identification systems. For sex shops provide details of arrangements for preventing proxy sales.

NO PERSON UNDER 18 WILL BE ADMITTED.
Challenge 25 Policy in place - ONLY ACCEPT
GOVERNMENT APPROVED PHOTO I.D.

31.

State the arrangements for CCTV and for retention of recordings. In answering, state whether all public areas are to be covered by CCTV at all times the business is open and whether the feed from all cameras will be recorded

SEE GUIDELINES FOR SAFE OPERATION

Answer only where the application is for a sexual entertainment venue

(1) State whether the proposal is for full nudity.

YES	NO
✓	

(2) Give full details of the nature of the entertainment, e.g. lap- dancing, pole dancing, stage strip-tease.

LAP DANCE, POLE DANCE, STAGE STRIPTease,
EROTIC DANCE

(3) State what if any separation between performers and audience is proposed, e.g. performers on stage, 1 metre, no contact or full contact.

STAGE PERFORMANCES.
PRIVATE DANCE PERFORMANCE
PATRONS MAY NOT TOUCH PERFORMERS

(4) State whether arrangements are proposed for private booths or areas. If so, provide full details, including proposals for supervision of such areas.

THERE WILL BE PRIVATE BOOTHS AND VIP AREAS.
THESE BOOTHS WILL BE COVERED BY CCTV IN EACH
BOOTH AND THE PREMISES INTERNALLY AND SUPERVISED
BY SIA REGISTERED DOOR SUPERVISION

33.

This question need not be answered in the case of renewals

(1) State proposals for preventing nuisance to residents and businesses in the locality.

SEE GUIDELINES FOR SAFE OPERATION

(2) State proposals for promoting public safety

SEE GUIDELINES FOR SAFE OPERATION

(3) State proposals for preventing crime or disorder

SEE GUIDELINES FOR SAFE OPERATION

(4) State proposals for protecting children from harm

SEE GUIDELINES FOR SAFE OPERATION

(5) Set out the Applicant's system for checking the age and right to work in the UK for all employees.

EMPLOYEES WILL BE REQUIRED TO SUPPLY A
PASSPORT IF NONE UK.
IF UK CITIZEN THEN REQUIRED TO PRODUCE
PASSPORT OR DRIVING LICENCE

6) For sexual entertainment venues, set out the system for training all staff in the Code of Practice for performers, and for monitoring and enforcing compliance.

Note, the Code of Practice must be attached to this form.

INDUCTION TRAINING

STAFF MANUAL

REFRESHER TRAINING AT REGULAR INTERVALS

(7) For sexual entertainment venues, set out the system for notifying customers of the Rules for Customers, and for monitoring and enforcing compliance.

Note, the Rules for Customers must be attached to this form.

DISPLAYED AROUND VENUE AND ON WEBSITE

(8) For sexual entertainment venues, set out the system for monitoring compliance with the venue's Policy for Welfare of Performers.

Note, the Policy for Welfare of Performers must be attached to this form.

CCTV. SECURITY OFFICERS PATROLLING THE PREMISES. MANAGEMENT SUPERVISION.

34

Set out any further information which you wish the authority to take into account. Include here any proposed conditions (you may attach a schedule of such conditions) or any reason relied upon to provide an exception to the authority's Sex Establishment Licensing Policy.

1. GUIDELINES FOR SAFE OPERATION
2. DAY TO DAY OPERATIONS
3. DANCER CODE OF CONDUCT
4. CUSTOMER CODE OF CONDUCT
5. DANCERS WELFARE POLICY

Application will be made to vary the standard conditions on such terms as discussed with the police and licensing authority

35

Is there any information on this form which you do not wish to be seen by members of the public? If so, state which information and the reasons why you do not wish it to be seen.

ANY PERSONAL DETAILS OF INDIVIDUALS CONCERNED

APPLICANT CONTACT DETAILS

Please give the contact details which you would like used for the purposes of this application

Name JEFFREY GREEN RUSSELL
Waverly House, 7-12 Noel Street
Organisation LONDON W1F 8GG
Address
Telephone Number 0207-339-7010
Mobile Number
Fax Number
E-mail address ATC@JGR.LAW.CO.UK

APPLICANTS ARE WARNED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT, OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING TWENTY THOUSAND POUNDS (£20,000).

F. SIGNATURE AND DECLARATION

The following declaration must be signed in all cases:

- a. If the Applicant is an individual, by that individual;
- b. If the Applicant is a partnership, by all individuals who are partners;
- c. If the Applicant is a company, by a director or the company secretary;
- d. In any other case, by a duly authorised officer of the Applicant.

Should the information provided in relation to this application form cease to be correct, or if there are any changes in the information provided in the application form between the date the application is submitted and the date it is determined, the Applicant must advise the licensing authority immediately. Failure to do so may result in any licence issued being revoked.

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

I/we agree to notify the Council should any of the information given in this application change.

Name	RICARDO MONTY
Position in organisation	Director
Date	16/07/2012
Signature	<i>R. Monty</i>

Name	
Position in organisation	
Date	
Signature	

Name	
Position in organisation	
Date	
Signature	

Name	
Position in organisation	
Date	
Signature	

Name	
Position in organisation	
Date	
Signature	

THIS APPLICATION SHOULD BE COMPLETED IN FULL AND RETURNED TO THE LICENSING DEPARTMENT, MAIDSTONE BOROUGH COUNCIL, MAIDSTONE HOUSE, KING STREET, MAIDSTONE, KENT, ME15 6JQ.

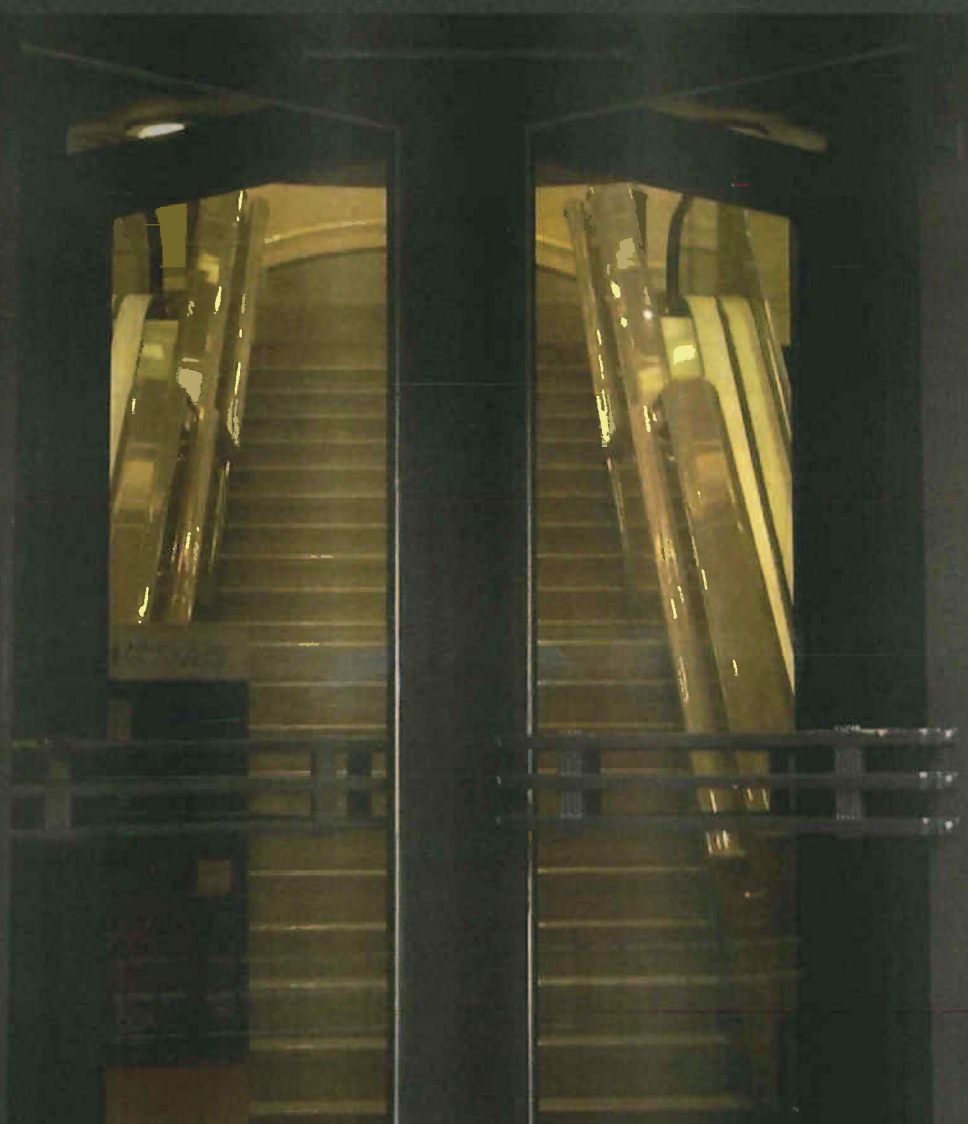
PLEASE NOTE THAT THE APPLICATION MUST BE ACCOMPANIED BY THE FOLLOWING:-

1. In respect of individual applicant and each of those named in response to Questions 3, 4, and 7, a birth certificate.
2. 1 copy of a passport size photograph in respect of the applicant (if an individual) and each of those whose names appear in response to Questions 3, 4, and 7. The photographs are to be dated, bear the name in block capitals of the person whose likeness it bears, and be signed by the person making the above Declaration.
3. All Annex A forms relevant to the application.
4. The Annex B form and all the required documents included – this form applies to new applications only.
5. The fee of **£4000** for a new application or **£2000** for a renewal or transfer application. A refund less Council costs will be made where an application is refused.

APPENDIX B

Tantric Blue

M A I D S T O N E
GENTLEMAN'S CLUB



GABRIELS HILL, MAIDSTONE, KENT. ME15 6HL

**TANTRIC BLUE - MAIDSTONE
APPLICATION FOR SEV
HEARING 30 OCTOBER 2012**

1	<p>Statements:</p> <p>Ricardo Monty Spencer Tregidgo Anne Marie Harris</p>
2	Report from Graham Murdoch
3	<p>CV's:</p> <p>Neil Culley Gaz Ejupi</p>
4	Policy - Code of Conduct for Dancers
5	Policy – Code of Conduct for Customers
6	Operational Guidelines and Procedures
7	Operational Statement
8	Dancers Welfare Policy
9	<p>Operational Policies:</p> <p>(i) Ejection (ii) Drugs (iii) Searches policy</p>
10	Photographs of premises (outside)
11	Menus
12	Brochure

IN THE MAIDSTONE BOROUGH COUNCIL
APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE
9 GABRIELS HILL, MAIDSTONE, KENT ME15 6HL

APPLICANT;

Illuminati Ventures Limited

WITNESS STATEMENT

OF

RICARDO MONTY

My name is Ricardo Monty. My date of birth is [REDACTED]. I reside at [REDACTED]
[REDACTED]

I am a Director of Illuminati Ventures Limited, the sexual entertainment venue licence applicant for premises known as Tantric Blue, 9 Gabriels Hill, Maidstone, Kent ME16 6HL (the Premises).

I shall divide my statement in the following way:-

1. Brief description of my own experience and background and my involvement with Tantric Blue, Maidstone.
2. Details of the operating of the club.
3. Objections

1. Background and Experience and Current Role

I have worked within the leisure and security industry for the past 15 years. Although I have run and owned many different venues. The most recent venues that I have owned and help to operate are Tantric Blue Heathrow, Mantra Windsor and Hustle Ashford.

I am a Director of Alpha One Security and I am responsible for the licenced leisure department. Alpha One Security provide door supervision and license consultancy to a large range of venues, including Nightclubs, bars and table dancing clubs.

I am a director of Runcan Limited. This company operates Mantra in Windsor.

I am a director of Illumanti (GB) Limited. This company operates at Tantric Blue at Heathrow.

My role within the applicant company is dealing with the finance and ensuring that we have the right persons in place to manage and operate the premises. My co-Director Spencer Tregidgo is responsible for the marketing. We have appointed Anne Marie Harris to be responsible for the management of the premises in conjunction with Neil Culley.

2. Operations

(A) Lease

We have an agreement to enter into a Lease with Milford Estates, the Landlord at these premises. This Lease is dependent upon the granting of a Sexual Entertainment Venue Licence for the premises.

(B) Investment and Works To Be Carried Out

Illuminati Ventures Limited are investing a sum of approximately £485,000 into Tantric Blue Maidstone. There is a considerable amount of work that needs to be carried out, in order to fit the venue to the high standard necessary in order to attract a high end clientele.

We expect to take approximately 10-12 weeks to complete the build refurbishment. Assuming we are granted a lease, we would hope to commence works immediately.

(C) The Site

I first indentified this site in November 2011 as a potential site for a table dancing club. Currently Kent has no upscale gentleman's club. The affluent clientele that tend to frequent these clubs currently have to travel into London, should they wish to attend such a venue. The venue is set back from the main road and has a very discreet entrance making it an excellent choice for such a venue.

There are many business people that visit Kent and Maidstone that currently are not catered for. It has been reported widely that Maidstone are looking to achieve city Status, most Uk cities have such businesses.

(E) Staff

I anticipate that we will locally employ 35 staff both part time and full time. Ranging from cleaners to bar staff. We will employ a pool of around 80 part time and full time dancers

Anne Marie Harris and Neil Culley will deal with the day to day running of the premises.

3. Objections

I have read through the objections received and would make the following comments:-

Concerning the Maidstone Town Centre Management Limited; the hours sought for the operation of the Sexual Entertainment Venue under the licence have been chosen specifically for the times when the main shopping centre within the town is closed. Mr. Murdoch, in his report, covers the area at the evening time and it is my respectful submission that Tantric Blue will not detract from the centre of Maidstone. As each application must be dealt with on its own merits their comment that such applications "open the door to similar proposal for all vacant premises in our town centre" is not valid. The Town Centre Management do not set out what adverse behavioural and anti-social issues will arise and indeed from my experience a venue such as Tantric Blue does not create nuisance and disorder that one would associate with a large capacity nightclub.

Comments have been made about the family orientated nature of Maidstone and protection of children from harm. Such a venue as Tantric Blue is an adult entertainment venue and no activity that takes place within the venue will be visible outside. In addition, there is no ground floor access from the premises directly onto the main street as the main entrance will be situated along a drive from the main road. The premises along Gabriels Hill will be at first floor level.

The objection from "Players" is clearly an objection from the trade to a potential additional operator coming into the town. The points raised by Mr. Pemble are indeed addressed by Mr. Murdoch in his report. We also spent much time considering the location and for the reasons set out above, we have chosen this particular location within Maidstone.

A vast majority of the objections to the application were submitted late and can generally be divided into a number of categories looking at the location, character of the locality, potential impact on crime and anti-social behaviour, moralistic and religious arguments. Mr. Murdoch deals with a number of these matters within his report. One of the reasons the location is chosen is because it is not directly opening onto a main road but is set back from view, thus making it a good location for such a venue.

In relation to the objection from Alta Saffrey the owner of Alta Costura Bride it is difficult for me to comment upon the location of the changing rooms and the window. However, whatever operation goes into the premises the window would always be in full view of the rear area of this particular premises. Tantric Blue will only open from the late evening until the early morning and at times it is likely that Alto Costura Bride is closed. The area leading to the main entrance of the property will be controlled as to the displays that can be set out as the conditions of the licence require the approval of the local authority in relation to advertising. People will not be encouraged to loiter or linger outside of the premises, if there are persons smoking they will be monitored by the door supervisors to ensure no nuisance is caused.

I believe that the facts and matters stated in this statement are true.

R. Monty

.....
Ricardo Monty

Dated

17/10/2012

2012

IN THE MAIDSTONE BOROUGH COUNCIL
APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE
9 GABRIELS HILL, MAIDSTONE, KENT ME15 6HL

APPLICANT;

Illuminati Ventures Limited

WITNESS STATEMENT

OF

SPENCER TREGIDGO

My name is Spencer Tregidgo. My date of birth is [REDACTED] I reside at [REDACTED]

[REDACTED]

I am a Director of Illuminati Ventures Limited the sexual entertainment venue licence applicant for premises known as Tantric Blue, 9 Gabriels Hill, Maidstone, Kent ME16 6HL (the Premises).

I shall divide my statement in the following way:-

1. Brief description of my own experience and background and my involvement with Tantric Blue, Maidstone.
2. Description of my role of the operation of the club

1. Background and Experience

I became involved in the hospitality industry at the age of 18, initially to help finance my studies. After several years working in the UK I travelled to Australia. I spent a year setting up a restaurant/bar in South Yarra, Melbourne, Australia and then a further 13 months on a

similar project in Queenstown New Zealand. This provided valuable experience in food, wine, bar and venue operations. On returning to the UK in 2003 I became the General Manager and licence holder for Bar 38 in Covent Garden. Bar 38 is owned by Scottish and Newcastle plc. I was there for 2 years. I undertook national staff training in connection with Licensing regulations, Health and Safety requirements and operations. Following this I was appointed by them to be the General Manager at 195 in Epping. I remained there 3 years approximately. After that I had leases on several different venues including The George in Hitchin, The Beehive in Tottenham, Bill Nicholson in Tottenham. I then moved back into the nightclub industry as a director at Hustle nightclub in Ashford and Mantra in Windsor.

I am a Director of the applicant company and I am responsible for marketing. Ricardo Monty has set out the structure. I have read through his statement and agree with the contents. I have read through the statement of Anne Marie Harris, the General Manager and agree with the contents of her statement. I attach a copy of a brochure which will help the committee have a feel with what we are trying to achieve with Tantric Blue in Maidstone. I also produce menus, again to illustrate the type of operation that is being intended for these premises.

Tantric Blue will strive to offer its clients the finest experience possible, with emphasis on customer satisfaction and product quality, that sets itself apart from its competitors. There is much work to be done but the premises will be set in comfortable and luxurious surroundings. We will be investing in staff training and care to ensure a fully focused and happy team, working towards a long standing and a professional business.

The company consists of several well motivated and experienced key managers and Directors, that between them have a wealth of relevant experience needed to achieve its goals and

ambitions, all conscientious and hardworking individuals that come together to make a strong energetic team.

The company's principles are based on service, self-pride, industry recognition and delivering a quality product. Our product is aimed at an affluent market who respect and enjoy quality.

Our aim is to provide a high end table top dancing venue for corporate parties and discerning clientele. Corporate entertainment will be high on the agenda and food readily available to provide the perfect opportunity to entertain guests and clients.

The venue's location offers ample opportunity to provide the customer with a prestigious and private setting with excellent transport and parking facilities close by.

With a set back entrance from the main walkway Tantric Blue is a self-sufficient and unobtrusive venue with an excellent smoking area that is also defined within its own boundaries.

One side of the premises is at first floor level and therefore is notobvious to passers-by.

Tantric Blue will market to businesses, local hotels and sporting clubs such as golf, rowing , tennis etc. By building relationships with these institutions we aim to achieve attracting a high per head spend rather than high numbers. This will ensure that our product remains unique.

Building harmonious relationships with local authorities and being fully committed to meeting there rigorous standards comes hand in hand with keeping Tantric Blue a well run and a strong long term business.

Much hard work on marketing will help us achieve our objectives, investing in professional

marketing companies that can attract our target clients. Working every opportunity to push the business forward through establishing a trusted working relationship with suppliers and potential business partners.

All marketing will be discreet, classy and of a high standard, distribution will be done intelligently rather than by volume. Special selected areas only will receive any marketing and much time and effort will go into viral and website areas allowing us to target specific interested markets rather than blanket coverage.

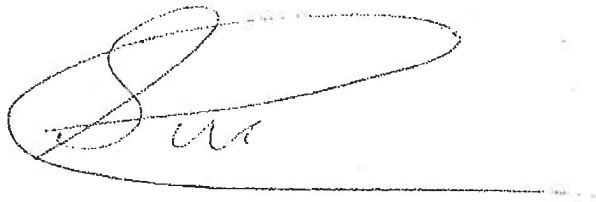
Reaching out to the affluent areas of Kent far and wide safe in the knowledge that our product will be superior to anything else within a wide radius. This benefit will attract the low numbers rather than the usual high volume of custom most similar venues require.

We remain confident of our differences by the pricing strategies we will implement, premium prices can be achieved by us offering top quality wines, champagnes, cocktails and spirit selections from quality houses.

Our standards and service will show the customer, along with the venue's facilities for example a special Cigar terrace and full restaurant menu. The attention to detail is of upmost importance to us.

I believe that the facts and matters stated in this statement are true.

.....

A handwritten signature in black ink, appearing to read 'Spencer Tregidgo', enclosed within a large, loopy oval shape. A horizontal line extends from the right side of the oval.

5

Spencer Tregidgo

Dated 17/10/2012

IN THE MAIDSTONE BOROUGH COUNCIL
APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE
9 GABRIELS HILL, MAIDSTONE, KENT ME15 6HL

APPLICANT;

Illuminati Ventures Limited

WITNESS STATEMENT

OF

ANNE MARIE HARRIS

My name is Anne Marie Harris. My date of birth is [REDACTED] I reside at [REDACTED]

I am the General Manager for premises known as Tantric Blue, 9 Gabriels Hill, Maidstone, Kent ME16 6HL (the Premises).

I shall divide my statement in the following way:-

1. Brief description of my own experience and background and my involvement with Tantric Blue, Maidstone.
2. Description of the operation of the club.

1. Background and Experience and Current Role

Before taking on a management role at Tantric Blue at Heathrow I worked extensively within the lap dancing industry. I started as a waitress approximately 15 years ago, I have been a dancer, bar manager and general manager at a variety of venues in London, Liverpool, Windsor and latterly Heathrow. My involvement with Heathrow and also with Maidstone is

not merely as an employee but also as an investor. It is important for me to protect my investment in the standards of our operation and in ensuring that compliance with the law.

2.Operation of the Club

A) General:

The general policies and operational guidelines and procedures are set out with the application. It is intended that a member of the management team will be on the premises at all times that the premises are open and trading and again, security and staff will also be present.

B) Staff Levels:

Sunday to Thursday, we will operate the venue with 1 barman and 2 waitresses. Friday and Saturday we will operate the venue with 2 barmen and 2 waitresses.

C) Management Levels:

There will always be a duty manager on shift, this will either be myself or Neil Culley. Gazimund Ejupi will be the assistant manager.

D) Security levels:

There will always be a minimum of 2 SIA registered door. However during peak times this will increase to 3.

Door supervisors will be responsible for ensuring that the incident report book is kept up to date and all incidents occurring to be recorded including refusal of admission, nuisance, any complaints received, any drug seizure or weapons.

E) CCTV:

CCTV cameras will be installed and maintained at the premises in accordance with Police recommendation. Sufficient staff will be trained in the use of the system so that a member of staff will be available to down load data from the recordable hard drive upon the request from the licensing officer or Police officer. The images shall be of evidential quality and recordings will be kept for at least 30 days. Cameras will cover all internal areas as required including all the booths and will also capture patrons entering and leaving the premises. Cameras will also cover the stairs and outside the dancers changing rooms which will have a coded lock on the door. Cameras will be located externally to cover the external courtyard.

F) Dancers:

Sunday-Thursday, there will be between 8- 10 dancers and on Friday and Saturday there will approximately 15 dancers.

Dancers seeking to work at Tantric Blue will be invited to attend for an interview. If they are considered to be appropriate for the venue they will be required to provide evidence of their identity such as a passport, proof of address and evidence of their age. Copies will be taken of these documents and retained on file. To ensure that the dancers are able to work in the United Kingdom if they are non-EU citizens they will be required to provide evidence of their entitlement to work within Great Britain. Again, such records will be retained within the dancers files. The dancers will then be invited to attend on a trial evening. If they pass their trial evening they will be invited to sign an agreement entitling them to perform at Tantric Blue at Maidstone. As part of the signing of the contract they will be informed of the Welfare Policy,

Code of Conduct both for dancers and customers. The disciplinary procedure will also be explained.

Dancers will be required to sign that they have received a copy of the Code of Conduct and that they understand it.

The Dancers Code of Conduct is displayed within the changing/dressing rooms for dancers and all staff within the premises are briefed in relation to the Code of Conduct both on induction and also refresher training at regular intervals. Staff are also trained in relation to the Customer Code of Conduct. A copy of the Customer Code of Conduct is displayed around the premises and will be available on menus on every table. Again, this will be the subject of training for staff both on induction and at refresher training on a regular basis.

G) Disciplinary Procedure:

If a dancer breaks a rule in the dancer code of conduct, depending on the level of the breach, they can be fined from £10-£50; they may be asked to leave the floor and sent home; suspended for a week or have their contract terminated. The procedure is explained to each dancer before they sign the contract.

H) Typical Operation:

Generally the premises will open at around 8pm. Staff will be expected to arrive an hour in advance and door supervisors 15 minutes before they start their shift. Performers will be at the premises 30 minutes before the patrons attend. As set out in the Admissions Policy the premises will operate a Challenge 25 Policy that any who appears to be under the age of 25 will be required to produce form of identification before they are permitted to enter the premises. Only acceptable forms of

photographic identification such as photo driving licence or passport will be accepted. On entering the premises the Code of Conduct for Customers will be relayed to customers orally by the door supervisor. They will go to reception where they will pay an entrance fee between £15-£20. Behind reception there will be a cloakroom and all coats, hats and bags will need to be deposited in the cloakroom.

A waitress will then direct the customers to a table, where their drinks orders will be taken. There will be no service at the bar, all patrons will be seated. Dancers will approach customer's tables and will sell their time. A private dance lasts 1 song, which lasts approximately 3 minutes and costs £20. The dance takes place in one of the private booths. Dancers may also charge £200 for half an hour and £400 for an hour in the VIP rooms. Here they can have unlimited dances and they can sit, drink and talk in private.

I) Smoking:

Customers wishing to smoke will be directed to the front courtyard area.

Dancers will have their own private smoking area out the back of the venue. The area is a completely private courtyard. The dancers smoking in that area will be suitably clothed.

J) Complaints:

As previously mentioned any complaint will be recorded within the Incident Book. It will be the responsibility of the manager to ensure that a complaint is brought to their attention as soon as it is made so that appropriate action may be taken. A note will be made against the entry to confirm what action has been taken in relation to that particular complaint.

K) Dispersal Policy:

In relation to dancers, before leaving they will inform a manager whether they require to be escorted to a taxi or waiting vehicle on the main road. In relation to patrons as they are looking to pay their bill or making arrangements to leave they will be asked if they require a vehicle for their onward journey. If they do require a vehicle, arrangements will be made with the preferred supplier for a vehicle to attend. Patrons will be asked to remain inside the premises until their vehicle arrives. Upon arrival at the premises the driver will send a text to the customer informing them that their vehicle is ready and available.

I believe that the facts and matters stated in this statement are true.

.....

Anne Marie Harris

Dated 17. Oct. 2012

TANTRIC BLUE, MAIDSTONE.

APPLICATION FOR SEX ENTERTAINMENT VENUE LICENCE.

POLICY CONSIDERATIONS ON LOCATION REPORT.

Prepared by:

Graham Murdoch. BSc(Hons), MRTPI.

Murdoch Associates.

Chartered Town Planners.

CONTENTS.

1. Introduction.
2. Qualifications and experience.
3. The site and the surrounding area.
4. The use.
5. A summary of the observation results.
6. Council Policy
7. The objections.
8. Analysis of the objections.
9. Conclusions.

1. INTRODUCTION.

1.1 I am instructed by Tantric Blue to assess the objections made to their application for the grant of a Sexual Entertainment Licence at premises known as 9 Gabriel's Hill, Maidstone ME15 6HL and report on the amenity implications of them for the surrounding area.

1.2 In order to do so, I visited the site on Friday 5th October 2012 between the hours of 4.00pm and 10.00pm. This enabled me to view the premises and the surrounding area during the times when the premises will be both shut (including during daylight hours) and open. I was also able to observe the activity associated with the Players Gentleman's Club in Bank Street which opened at 8.30pm.

1.3 For most of the visit the weather was wet, since it started raining about 6.00pm.

2. QUALIFICATIONS AND EXPERIENCE.

2.1 I am a Bachelor of Science (Honours) in Town and Country Planning from Heriot-Watt University and a member of the Royal Town Planning Institute.

2.2 I have over 38 years experience in Town Planning. I was employed in the local government service for over 13 years between 1974 and 1988, working for just over a year with South Yorkshire County Council and then for over 12 years at Harlow District Council. During most of my time at Harlow I was the Planning Officer responsible for all the Council's Development Control functions.

2.3 I entered private practice in January 1988 with Fibbens Fox Associates and was a director of the company from its incorporation in 1991 until its closure in May 2007. Since then I have been practising as Murdoch Associates.

2.4 I regularly handle work which involves an assessment of amenity issues and the relationship of a proposal to the character of an area, such as are involved here.

3. THE SITE AND THE SURROUNDING AREA.

3.1 Gabriel's Hill is a short street leading down from the junction of High Street and King Street towards Lower Stone Street within Maidstone town centre. It contains a mixture of predominantly retail but with some other uses, such as betting shop, restaurants and take-aways, at ground level.

3.2 The premises, known as 9 Gabriel's Hill comprise an existing club building, having last been occupied by Ethos. However the postal address is somewhat misleading since on the Gabriels Hill frontage they are situated at first and second floor level above a Paddy Power betting shop which occupies the ground floor.

3.3 As a result there is no entrance to the premises from Gabriels Hill. The entrance to the club is from Kings Street in a location adjoining one of the pedestrian entrances to the Chequers

Shopping Centre which opens until 5.30pm daily (4.30pm on Sundays). This is a gated entrance leading on to a paved forecourt and the entrance to the club is off this forecourt. The area around this entrance is largely in retail use although there are offices on the upper floors of the opposite side of the road.

- 3.4 The town centre contains an extensive range of shops, with in addition to the adjoining Chequers Shopping Centre the Fremlin Walk centre to the north of the club.
- 3.5 While there are various restaurants, public houses and entertainment facilities dotted around the town centre, the main concentration appears to be in Earl Street, close to the Fremlin Walk shopping centre. A number of restaurants, pubs and the Garrick Theatre are located here and this appears to be the main centre of evening activity. The only such activity close to the site is a Pizza Hut in a King Street unit on the opposite side of the entrance to the shopping centre. An adult only Gala bingo club is located down Lower stone Street.
- 3.6 There is also an extensive range of public transport in the town centre with numerous bus services, taxi ranks and railway stations at either end.
- 3.7 There is one existing sex entertainment venue in the town centre. This is the Players Gentlemans Club at 57 High Street. Unlike the application site, this is situated at the back of the footpath. It has windows facing on to the street which are in darkened glass. During opening times there are security staff stationed outside the door (as is the case with a number of the pubs and restaurants in the town centre). In comparison to this site, 9 Gabriel's Hill with its set back entrance is a much more discreet location.
- 3.8 There is a further location where a licence is currently being sought. The site is 87-88 Bank Street. It adjoins the Post Office and lies across a narrow pedestrianised street from the Town Hall with its entrance at the back of the footpath. It is close to the end of Bank Street where it joins Jubilee Square, an attractive paved square with seats for public use. In comparison to this site 9 Gabriel's Hill with its set back entrance is also a much more discreet location.
- 3.9 The site lies on the boundary of a Conservation Area. The building and Gabriel's Hill is in it but the King Street entrance is not. There are a number of Listed Buildings dotted around the town centre including a group at the junction of King Street and Gabriel's Hill.

4. THE USE.

- 4.1 It is necessary to consider how the use of the club building by Tantric Blue building is visible in, and therefore how it relates to, the character of the area
- 4.2 As identified above, although the building has a Gabriel's Hill postal address and a first and second floor presence on the street, its entrance is from King Street. This is set back from the pavement within a forecourt area accessed via a set of gates onto King Street. This is a very discrete entrance.

4.3 It is proposed to open the club daily from 8.00pm until 6.00am on Thursdays to Saturdays and 8.00pm until 5.00am on Sundays to Wednesdays.

4.4 The proposed club will not generate high numbers of visitors with between 40 and 50 patrons on Thursdays to Saturdays and 20 to 30 on other nights, all spread across the opening hours.

4.5 Security staff will be employed and stationed outside the entrance doors.

4.6 Any advertisements that the club proposed will have to be referred to the Council and where necessary an application for consent to display them will be made.

5. A SUMMARY OF THE OBSERVATION RESULTS.

5.1 In addition to the conclusions set out above it is also useful to look at what was happening in the town centre and also specifically in the streets (King Street and Gabriel's Hill) during the hours of my observations, which I shall do on an hourly basis.

5.2 Four o'clock – the shops were all open in the town centre and there were many pedestrians using the streets.

5.3 Five o'clock – very similar to four o'clock in that the shops were all open, but with more pedestrians in the street, particularly school-children many of whom appeared to be waiting for buses. This was the only time when they were present in the town centre.

5.4 Six o'clock – By now the majority of the shops were closed. This had started at 5.30pm and only a few stayed open beyond 6.00pm. There was much less pedestrian activity on the streets and few schoolchildren in the town centre, possibly a reflection of the weather as it had started to rain and continued to do so throughout the observation. The area around the entrance to the club in King Street was very quiet.

5.5 Seven o'clock – the town centre was quiet with relatively few pedestrians most of whom appeared to be bound for a destination. There was activity in the pubs and restaurants. There were a number of people outside both of these smoking. The area around the entrance to the club in King Street was still very quiet.

5.6 Eight o'clock – the town centre was starting to become busier with more pedestrian activity although the area around the club's King Street entrance remained quiet. By now there was more activity outside the pubs with loud music coming from some. A number of them had security staff outside and by now a police presence was appearing on the streets. This then remained throughout the rest of the period I was there.

5.7 Nine o'clock – by now there was a lot more activity in the town centre although the area around the club's King Street entrance still remained quiet. Pedestrian activity largely comprised younger adults. There was a lot of noise coming from some pubs. The Muggleton Arms was particularly noisy and had a queue outside. The Players Gentlemen's Club had

opened by now with two security staff stationed outside its entrance. There were also some smokers outside as was the case with pubs and restaurants, but this was a low key activity compared to some of the pubs.

5.8 Ten o'clock – the situation was similar to nine. There was pedestrian activity on the streets, still many younger adults and noise, activity and people outside some of the pubs. The level of activity outside the Players Gentlemans Club remained low-key and the area around the club's King Street entrance still remained quiet.

5.9 It is possible to draw a number of conclusions on the existing situation from this:-

- There were varying and different levels of pedestrian activity throughout the period of observation, starting with shoppers, then with schoolchildren, followed by people going to an entertainment venue in the early part of the evening restaurants but more going to the pubs later on.

- While the restaurant clientele appeared to be a mixture of ages, the pubs appeared to have one which had more younger adults.

- The level of noise generated by some of the pubs was the most discordant feature of the entertainment scene in the town centre.

- The area around the entrance to the club in King Street was very quiet once the shops closed. It is in a relatively quiet part of the town centre.

- Although it is located at the back of the footpath, the Players Gentlemans Club has a far less intrusive presence in the town centre than a number of the other entertainment uses, particularly some of the pubs.

6. COUNCIL POLICY.

6.1 The Council's policy identifies that in licensing sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the character of an area. This is set out in para 12.10 and would include, inter alia,:-

- The type of location (residential, commercial, industrial);

- The likely effects of increased footfall or vehicular traffic;

- Any advertising or displays of an erotic or pseudo-erotic nature;

- The cumulative impact of the venue with other licensed venues on crime and disorder and public nuisance.

6.2 A criteria relating to complaints about noise and/or disturbance caused by the premises can't apply as it does not exist at the moment.

- 6.3 In looking at these criteria and the policy as a whole it is important to remember the venue's proposed opening times and the fact that its entrance is discrete and set back from the street.
- 6.4 This is a part of the town centre that is primarily retail in character with shops that are closed before the club would open.
- 6.5 The level of custom is likely to be far less than some of the other town centre evening activities. It will be less than the night club that used to be here and will not have the sudden surge of departing customers it had. Particularly bearing in mind that this is a quiet part of the town centre, the extra pedestrians will be barely discernible.
- 6.6 There are no specific proposals for signage and advertisements at present. These would be subject to control under planning legislation. Those on the Players Gentlemans Club are discrete and there is no reason why that shouldn't be the case here, particularly as the entrance is set back from the street.
- 6.7 The venue is some distance away from the Players Gentlemans Club (the only other licensed venue in Maidstone town centre) and there will not be an accumulation.
- 6.8 In para 12.12 the policy also identifies that the Council would consider the use of other premises in the area and list a number they would look at. The list, with my comments, is:-
- *Establishments whose patrons are likely to be adversely affected by the premises.* There are none in the vicinity of the site where most establishments are shut during the times that the venue would be open.
 - *The proximity of residential premises.* There are none close to the site.
 - *The proximity of educational establishments to the premises.* There are none close to the site.
 - *The proximity of places of worship to the premises.* There are none close to the site.
 - *Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises.* Although there was evidence of schoolchildren in the town centre in the late afternoon there was none later in the evening and the site is not on an access route to any of these facilities.
 - *The proximity to shopping centres.* Although the Chequers Shopping Centre adjoins the entrance to the venue from King Street, there is no conflict since the centre closes well before the venue would open.
 - *The proximity to community facilities* – There are none close to the site.
 - *The proximity to Conservation Areas, historic buildings and tourist attractions.* Although the

site is partly in a conservation Area and there are historic buildings nearby, the proposal does not involve any physical alterations to the building and there will not be any impact on these. There are no nearby historic attractions.

- *The proximity of other sex establishments.* – There are none close to the site with the nearest being some distance away at 57 High Street.

6.9 I would therefore conclude that the use of the existing club as a sex entertainment venue complies with the locational aspects of the Council's policy and that this is an appropriate location for it.

7. THE OBJECTIONS.

7.1 It is fair to say that there is a common theme to many of the objections and the locational aspects of them can be summarised as that this is an inappropriate use for the site due to:-

- the presence of shopping in the area;
- the aspiration for the town centre to be a centre for family entertainment;
- the character of Gabriel's Hill;
- and the anticipated appearance of the club.

8. ANALYSIS OF THE OBJECTIONS.

8.1 In order to do this I propose to look at the points set out above and to comment on them in the following sections.

- *the presence of shopping in the area;*

8.2 Although located in an area where there are shops around the site, the venue will operate at times when they are shut and will have no impact on them.

- *the aspiration for the town centre to be a centre for family entertainment;*

8.3 From my observations on a Friday evening, the town centre had a feel that did not reflect a centre for family entertainment.

8.4 The predominant uses were the pubs and restaurants. The former are not family entertainment and the way they operate would not particularly encourage families into the town centre. The majority of the latter are located well away from the club and will not be affected by its operation should they be frequented by families.

8.5 Apart from these the only other entertainment venue near the site, the Gala bingo club is also an adult entertainment facility.

8.6 The venue's discrete location in a quiet area of the town centre will not have any adverse impact on the entertainment function of the town centre.

- the character of Gabriel's Hill;

- 8.7 The proposed use will not impact on the character of Gabriel's Hill.
- 8.8 It will replace a previous club use at first and second floor levels of a building used as a betting shop at ground level. There will not be an entrance on to the street.
- 8.9 Indeed the only connection the site has to Gabriel's Hill is its postal address.

- and the anticipated appearance of the club.

- 8.10 The fears that are raised under this heading arise from the appearance of the Players Gentlemans Club in the High Street. This comprises ground floor premises with darkened "shopfront" windows which sit on the back of the pavement at ground level where they are clearly visible to passing pedestrians.
- 8.11 That would also be the case at 87-88 Bank Street, which would have darkened "shopfront" windows at ground floor level sitting on the back of the pavement, should the Council be minded to grant a license there.
- 8.12 In contrast this proposal has an entrance which is set back from the King Street frontage and is screened from street view by the general public. It will also use first and second floor accommodation in Gabriel's Hill. While it may prove necessary to obscure some of these windows, they are not at street level and so the concern experienced at the Players Gentlemans Club will not arise.
- 8.13 I therefore conclude that the club does not contravene result in any of the problems that objectors have raised.

9. CONCLUSIONS.

- 9.1 As a result of my visit to the site and the observations of it and the surrounding area on Friday 5th October 2012, I believe that this is a discreet location which does not contravene the locational aspects of the Council's policy on Sex Entertainment Venue Licences.
- 9.2 The entrance is set back from King Street. Fears relating to the impact of the use on Gabriel's Hill arise from its postal address since it has no ground floor presence or entrance from the street.
- 9.3 The club's opening times will be when the shops are shut. It is in a quiet part of the town centre where there is little evening activity.
- 9.4 As a result the club does not have any impact on the character of the town centre.



Neil Culley

PERSONAL PROFILE;

Having been in the leisure/license industry for a number of years, I have built up a considerable knowledge in a wide range of outlets, giving me good all round experience which can be implemented into a variety of positions. Learning the trade from some of the best in the business has given me a very professional approach in all aspects of my work.

SKILLS SUMMARY;

Multi Site Experience, Design & Structure Layouts, Project Management, Openings & Club/Bar Set up, Budgeting, Account & Stock/Audit Controls, Marketing & Promotion, Table Dancing Knowledge, Licensing Laws, Personnel Skills & Man Management, Menu Design & Food Knowledge, Computer Literacy, Cellar Management

EXPERIENCE;

July 2010 to present
Manager

Spearmint Rhino Gentlemens Clubs

December 2009 to July 2010
Manager

Platinum Lace Gentlemens Clubs

March 2007 to November 2009
General Manager & Operations

Pizza Express Restaurants

September 2005 to September 2006
General Manager

Spearmint Rhino Gentleman's Clubs

March 2005 to August 2005
Manager

Richings Park Golf Club, Iver, Bucks

Short term role, helping out a friend.

Responsibility for bringing the clubhouse offering up to a higher standard, gaining an increase in turnover on previous year of over 50%, through marketing, promotion and re-evaluating the costs and overheads of the business as well as the implementation of stock controls and par levels.

July 2004 to February 2005
Consultant & Project Manager

Red Cabaret Club

Role to design and establish a new concept in the heart of London's West End. Having to take it from conception through planning and opening for the present owners.

June 2003 to June 2004
Operations Manager

Urban Tiger Gentleman's Club

Head hunted to help design and open the first table dancing club in Northampton, a twelve month contract taking the club from paper and turning it into reality. Making the most of local press and media attention. With marketing strategies targeting the wide variety of businesses in the area. All staff/dancer training packs and contracts through to bar stocking policy/controls, profit & loss and budget accounts and other procedures had to be implemented prior to the opening.

January 2000 to April 2003

RKW Ltd to Spearmint Rhino Gentlemens Clubs

General and Area Manager

Took Business from conception as Goldeneyes in 2000 to completion of transition to Spearmint Rhino. Increased turnover year on year and made it one of the most profitable units in the company. Moved into operations to aid in the construction of the company by designing training packs, opening schedules, profit & loss accounts, stock controls and numerous programmes designed to aid managers in their own units. Controlling all 8 venues, helping the managers to get the most from their units and maintaining the company standards.

July 1997 to December 1999

Slurping Toad, Bishopsgate, London

General Manager

Being the first of the brand, I had to make the 'Toad' a respected venue in a very competitive market, helping progress not only the bar but the brand as well. Constructing food menus, drink promotions, while implementing high standards and controlling the opening of new venues to ensure stability in their own location, as well as aiding those sites that were falling behind their respective targets.

January 1995 to July 1997

Richardsons Inns – 5th Avenue Café Bar & Rest.

Deputy & General Manager

Minster Pavement, For Your Eyes Only Working in three of their outlets learning the necessary skills required from an established and well respected company. Helped them achieve an 'Investor In People' award through staff training and incentives.

August 1993 to December 1994 Working Holiday - Australia

Bar & Restaurant Positions

June 1993 to August 1993

Great Hadham Golf Club, Much Hadham, Herts

F & B Consultant

Small contract to set up account procedures for the food and beverage department, covering all aspects including stock control, wage costs & payroll, menu costing and designing.

July 1990 to June 1993

Hanbury Manor Golf & Country Club, Ware, Herts

Management Trainee/F&B Controller

Spent two years working around the F&B departments, from Room Service to the fine dining atmosphere of the Zodiac Restaurant. This led to an opportunity in the accounts department as F&B Controller responsible for daily auditing of accounts, stock takes, wage control, menu costing and expense monitoring. Also spent three months as night auditor, processing all revenue produced in the hotel.

EDUCATION;

1982 to 1988

Alec Hunter High School, Braintree, Essex

English Literature

Geography

Economics

English

Biology

Mathematics

Chemistry

History & Moral Studies

French

PROFESSIONAL QUALIFICATIONS & TRAINING;

1988 to 1990

Braintree College of Further Education

City & Guilds;

General Catering Certificate – 705

Cert. for Cooking in the Catering Industry – 706 parts 1&2

Food & Beverage Service Certificate – 707 parts 1&2

Communication Skills 361

Royal Society of Hygiene Certificate – RSH

Beverage Sales & Service March 1995

Whitbread Beer & Cellar Management Course May 1995

P.P.I Building Effective Working Environments June 1995

P.P.I Building Effective Working Relationships Sept 1995

National Licensee's Certificate

HOBBIES;

Golf, Football, Fishing, Motorbikes & Motor Racing

References Available on request



PROFILE

A focused and hard working individual passionate about the hospitality industry with the ability to work effectively within different bar environments where developing strength and confidence and transmitting enthusiasm and ideas to a Management team is priority. Possessing great organizational management skills and experience as well as an ambitious attitude with the commitment and determination to drive staff and businesses forward where presenting high service standards that are customer focused at all times is key.

EMPLOYMENT HISTORY

Mar'2012-To Date www.tanticblue.com
TANTRIC BLUE Colnbrook By-Pass, Colnbrook, Heathrow, S13 0EH
ASSISTANT MANGER

- Responsible for day to day runnings of the club.
- Managing a training a team of 15 staff and 80+ Dancers
- Responsible for controlling day to day costs and overheads
- Managing suppliers
- Producing budgets and target reports for general manger
- Implementing and overseeing marketing strategies.

Feb'2008 – Jan 2012 www.platinumlace.com
PLATINUM LACE 13 Coventry Street, Piccadilly Circus, London W1D, 7DH
FLOOR MANAGER

- Hired and trained all the floor staff, set up and created epos system-Zonal
- GP and budgeting, staff pay roll and orders, Set up Marketing strategies for the Club
- Club capacity of 450, managed a team of 18+ staff members and 60 + Dancers
- Weekly Club turnover over £35k on beverage only
- Designed and organized interior and exterior of VIP lounge.
- Worked with 5 star Central London Hotels to promote the Club and improve sales & service
- Openings & Closing procedures set and followed

June 2004 – Jan 2008 www.stringfellows.com
STRINGFELLOWS, Gentleman Club & Restaurant, 16-19 Upper St. Martins Lane, London WC2H 9EF
BAR AND FLOOR MANAGER

- Managed a team of 18 + Bar & Restaurant staff members
- Club capacity of 200, with 80 + Restaurant covers
- Looked after 120+ Dancers on each evening
- Marketing, Promotions, GP, Stock orders, Stock Takes
- Staff incentives and motivation, training and recruitment
- Weekly turnover of 30k+ food & drinks
- Renegotiated Suppliers & Brand Companies deals, 40k cash support received towards Lane Bar
- Managed opening & closing procedures

May 2001 – June 2004
ATLANTIC BAR & GRILL LTD, Bar/Restaurant, 20 Glasshouse Street, London W1B, 5DJ
MAITRE'D (Host)

- Promoted & Hosted the Bar & Floor
- Looked after VIP guests (tables)
- Table bookings, In charge of 8+ staff members Door & Reception
- This was a start for me in night life industry & catering to understand the importance of customer service and Management skills.

OTHER SKILLS & OUALIFICATIONS

- ✔ PARTICIPATED ON FIRST AID, HEALTH & SAFETY, FOOD, & HYGIENE FIRE TRAINING LONDON (2008).
- ✔ SIA BADGE LONDON (Feb' 2009)
- ✔ PERSONAL LICENSEE CERTIFICATE London W9 (July 2011).
- ✔ CENTRAL SAINT MARTINS COLLEGE OF ARTS & DESIGN, UNIVERSITY OF ARTS,
BA (HONS) FINE ARTS-GRADUATED WITH FIRST HONORS, LONDON (2002-2005)
- ✔ ACADEMY OF ARTS-UNIVERSITY OF PRISHTINA, BA(HONS) GRAPHIC & DESIGN (1991-1994)
- ✔ GCSE EQUIVALENTS GAINED AT OPATIA COLLEGE, CROATIA (1987 TO 1991),
- ✔ WORD-2003 & 2007, MAC, EXCEL, POWER POINT, MICROSOFT OUTLOOK EXPRESS.

CERTIFICATES AND REFERENCES CAN BE PRODUCED UPON REQUEST

Tantric Blue

M A I D S T O N E

DANCER CONDUCT

1. Dancers may never give out any personal information, including telephone numbers, or contact details away from the Club. Dancers may provide a customer with the days and the shifts they or other dancers work at the club.
2. Dancers may never accept telephone numbers, address or any other contact information from any customer, except in the form of a business card. Before leaving the premises, dancers must permanently surrender such cards to a member of management (without copying any information).
3. Dancers are never to be in the company of a customer except in designated dance areas.
4. Dancers must never perform a nude table dance except in the designated dance area.
During the performance:
 - a. Customers must be seated in an upright position against the back of the booth with their hands by their sides before a dancer can commence a table dance. Customers must remain so seated during the entire dance.
 - b. Dancers may only touch a customer above the customer's chest with only the dancer's hands.
 - c. Dancers must not sit on or straddle the customer.
 - d. Dancers must retain one shod foot on the floor at all times and not place their feet on the booth seat.
 - e. Dancers may not use language of an inappropriate, suggestive or sexually graphic nature at any time.
5. Customers are not permitted to dance at any time. Customers must remain appropriately clothed at all times. Neither customer or dancer may remove any of the customers clothing during a performance.
6. If a customer attempts to touch, or speak to a dancer inappropriately, the dancer must immediately stop the performance and explain the relevant rules. If necessary, ask for assistance from and cooperate with a floor supervisor, who will take appropriate action, which may include escorting the customer out of the Club.
7. Dancers are never to engage in an act of **prostitution** (the receiving of gratuities or payments for any form of sexual favour or offer as such).
8. Dancers may not accept a customer's offer of payment in return for sexual favours (**solicitation**).
9. Dancers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the dancer has no intention of carrying out the act.
10. Dancers are never to intentionally meet any customers outside of the club.
11. Dancers are never to agree to meet a customer outside the club.
12. Dancers must never engage in any unlawful activity within the club.
13. Dancers may never leave the premises during a shift, except in the case of an emergency and then only with the express permission of the duty manager. In that event, dancers must sign out before leaving the premises. If a dancer leaves early, for any reason, the dancer will not be re-admitted during that shift.

Tantric Blue

M A I D S T O N E

DANCER CONDUCT cont.

14. Dancers will either leave at the end of a shift in a nominated taxi, or a member of security will escort them to their car or off the premises.
15. At the end of the shift, dancers must not leave the premises until they have been cleared to leave by the manager.
16. Dancers may only consume alcohol in moderation.
17. Dancers must never consume, possess or be under the influence of any unlawful drug or substance, unless it is personally prescribed medication by a registered GP.
18. Dancers are never to invite or knowingly permit dancer's spouse, boyfriend nor anyone else with whom dancers are romantically involved to enter the Club.
19. Dancers are required from time to time to participate in promotional activities and offers as designated by the Club manager.
20. Dancers are required from time to time to participate in stage and podium performances as designated by Club staff.
21. For the purposes of safety and standards, the Club may employ the use of closed circuit cameras and radio communications throughout the premises.
22. Any dancer found to be in violation of any of these rules, without exception, will be subject to the disciplinary procedure.

GENERAL HOUSE RULES

1. For smokers you must be seen to wash your hands afterwards and freshen up. When you go out to smoke you must wear a knee length coat outside. All dancers must inform the DJ before going out to smoke.
2. You must enter and exit via the changing rooms for all stage shows.
3. Themed nights will change each month and sufficient notice will be given prior to these nights. Please read all posters in the changing room, as all dancers must take part in these events.
4. All dancers must try to work a minimum of 3 shifts per week and this will include one weekend night. You must book your shifts a week in advance. You cannot just turn up to work; if you do you will be charged a specified additional house fee on arrival. 24 hours notice needs to be given when cancelling a shift. If no notice has been given, you will be charged double the house fee when you next work.
5. All holiday must be confirmed with Management in advance before booking.
6. Dancers must sign in before entering the changing room and pay house fee on arrival. House fees will change throughout the year but sufficient notice will be given prior to the change.
7. No mobile phones on the floor, no chewing gum. If you are caught you will be fined £50.
8. All dancers must declare any money on them prior to the start of a shift to management. Any money found in a dancers possession not accounted for will be confiscated.
9. Dancers must also obey at all times the additional house rules. These are subject to change at any time and posted in designated areas.

CUSTOMER CODE OF CONDUCT

1. Customers should be aware that CCTV is in force throughout the premises during operational hours. This may be reviewed by police and the local authority at any time in line with our statutory obligations.
2. Management reserves the right of admission to the venue.
3. Customers may not touch dancers during a performance.
4. Customers may not make lewd or offensive remarks to dancers.
5. Customers may not harass or intimidate dancers.
6. Customers may not ask dancers to perform any sexual favour.
7. No photography or videoing to be permitted on the premises this includes the use of mobile phones,
this is restricted to the lobby area only.
8. Any customer failing to adhere to the above will be ejected from the premises

Guidelines for Safe Operation

- 1) No Person under 18 shall be permitted and a Challenge 25 policy will be in force only accepting government approved photo ID.
- 2) No person under 18 will be permitted to work at the premises.
- 3) No solicitation or prostitution is permitted in the premises or its car park area.
- 4) The premises will be subject to the presence of a Duty Management including staff and door supervisors at all times during operation. This includes the regular inspections of public toilet areas.
- 5) Access will not be permitted to any other areas of the building by passing through SE licensed areas during operation.
- 6) All windows and openings will be blocked from public view from the external areas of the premises.
- 7) The duty manager will ensure that on all external access doors that closers are operational to ensure that public view in external areas is restricted.
- 8) The SE License will be clearly on display available for inspection at all times during operations.
- 9) CCTV will be installed and in operation during the hours of operations as agreed with local Police. Prominent signs will remind customers of the use of CCTV.
- 10) Performers may not stand in the lobby area nor may it be permitted for them to be visible in any way from the public highway.
- 11) The duty manager will be named on a sign for each shift.
- 12) All dancers will be subject to the code of conduct (as detail in separate section). This will include details of a disciplinary procedure to deal with breaches in the code of conduct.
- 13) All managers, staff and security staff must sign to acknowledge understanding of the 'Code of Conduct for Dancers'. Any breaches should be reported to the Duty Manager immediately.
- 14) Duty Manager will check documents regarding proof of age and eligibility to work in the UK and retain photocopies in employment files signing and dating each copy, Employment files to include full facial photograph of all dancers, proof of ID e.g. Passport or driving license, proof of residence and eligibility to work in the UK.
- 15) Employment files to be retained for 6 months after the employment ends and to be made available to Police and relevant authorities upon demand.
- 16) The Duty Manager shall not permit any dancer to perform if they are clearly under the influence of alcohol or drugs.

Guidelines for Safe Operation

- 17) The license holder must retain a incident log at the premises to record any of the following:
 - A. Ejections from the premises
 - B. Breaches of Dancer Code of Conduct
 - C. Inappropriate customer behaviour
 - D. Incidents of Crime and Disorder
 - E. Any complaint made by public, customer or dancer
 - F. Any disciplinary action taken against dancers this log must included;
the date, details of staff involved and operational shift when SE license is in use
which will be displayed in the reception area to assist police or council officers inspecting the premises.
- 18) The duty manager will ensure that the premises operates in accordance with any specific conditions outlined by the SE license.
- 19) Management, security and staff will be asked to sign a declaration statement that they fully understand the dancers and customers codes of conduct and they will actively promote them by informing management of any breaches that they see.
- 20) The duty manager will ensure that the appropriate levels of SIA approved door supervisors are present (for the purpose of monitoring the premises).
- 21) The duty manager and SIA door staff will actively monitor the licensed area to ensure conditions of the SE license are upheld and the Dancer and Customer codes of conduct are complied with.
- 22) Signs in the entry area will display the customer code of conduct on entering the premises and all patrons will be informed of the code.
- 23) Any customer found to be breaching the code of conduct may be safely ejected from the premises and recorded in an incident register.
- 24) As a part of the inspection process, all dancers shall be asked to sign a code of conduct which they will be held responsible to adhere to. Any breaches of the code will result in disciplinary procedures.
- 25) The dancer's code of conduct will be displayed in the entrance area and customers arriving will be directed to review it.
- 26) The license holder will on a monthly basis inspect the incident log to ensure the quality of the record, and that any action required has been carried out.
- 27) The incident log must be available at all times for Police or the local authority to inspect.
- 28) The Duty Manager will ensure that all performers/dancers complete the register of attendance for each shift. This register must be available for inspection by the police and the local authority.
- 29) Management, Staff , Dancers and Security will be trained and made aware of all conditions set out within the SEV licence.

Tantric Blue

M A I D S T O N E

Operational Statement

The venue will typically open around 8pm.

Dancers will arrive early to avoid contact with customers outside the venue.

A member of management will greet the dancers and mark them on the attendance sheet.

Dancers will get changed into their work clothes.

Door supervisors will greet and judge patrons to see if they are suitable to enter the premises.

It is anticipated that the venue will not have more than approximately 40-50 patrons Thursday - Saturday and 20-30 Sunday - Wednesday.

The target clientele will be gentlemen and ladies of 25+.

Patrons will be explained the general rules of the club.

Patrons entering the venue will pay an entrance fee between £10 - £20.

Patrons will meet a waitress on entrance and will be escorted to a table.

Patrons will be discouraged from ordering drinks at the bar.

Dancers will approach patrons, drink, converse and sell private dances starting at £20 for a 3 minute dance and can go up to £300/£400 for an hour.

Dances will take place in one of the private booths, VIP suites or public dance areas.

There will be a continuous stage show throughout the night.

Dancers will take it in turns to dance on the stage.

The venue will typically shut at 5am.

Door staff will usher patrons out of the venue and into cabs.

WELFARE POLICY

- 1) When first starting all dancers will receive an induction to the club which will include:
 - A full tour of the building.
 - Awareness of fire exits and procedure.
 - Dance policy, stage and podium requirements explained.
 - Code of conduct fully explained.
 - How and when they are paid.
 - When they can take breaks.
 - Who their point of contact is, should they have any personal or work related Problems.
- 2) Member of management will always be available each shift to listen to any personal or work related problems dancers may have.
- 3) Management will take immediate action should a dancer raise concern over inappropriate behaviour by a customer.
This could include a warning of the customer being removed from the premises.
- 4) Full dressing room facilities with lockers will be made available.
- 5) Dancers will be allowed soft drinks free of charge.
- 6) Door supervision and management ensure the customer code of conduct is adhered and the dancer's safety and welfare is paramount.
- 7) A First Aider will always be on site during trading hours.

Tantric Blue

M A I D S T O N E

Counselling

Should you have any work related problems you feel we can help you with, please contact a manager. However if you feel your problems are a bit more serious. Our recommended councillors's details are below. She specialises in over 30 different areas ranging from work related stress, low self esteem right the way through to drug and alcohol problems. She is fully insured and qualified to a high standard.

Lyn Van De Velde MBACP

10 Hillside Court
Wateringbury
Maidstone
Kent
ME18 5DF
01622 602 978

Nearest Hospital

Maidstone Hospital
Hermitage Lane
Maidstone Kent
ME16 9QQ
0845 155 1000

NHS Direct

0845 4647

A single telephone number for people in England gives access to round the-clock clinical information, confidential advice and reassurance. Our Healthcare professionals, including nurses, trained health advisors and dental advisors can deal with a wide range of health queries.

Nearest Police Station

Maidstone
ME15 6NF
01622 690 690

Financial Assistance

Tantric Blue's accountants will happily advise dancers and staff on any queries surrounding tax and pension schemes.

For day to day enquiries please see a member of Tantric Blue management.

Chicksand Gordon Avis Chartered Accountants Ltd
Tim Tosin

12 Northfields Prospect
Putney Bridge Road
London UK
SW18 1PE
020-8874-6131

Tim.Tosin@stanchicksand.co.uk

Licensing Enquires

Should you ever have a licensing enquiry, in the first instance please contact a member of Tantric Blue management. If you still have further enquiries, please contact the senior licensing officer at Maidstone borough council.

Lorraine Neale
Maidstone Borough Council.

Maidstone House
Maidstone
Kent
ME15 6JQ
01622 602 978

lorraineneale@maidstone.gov.uk

SECURITY

Alpha 1 Security Services (GB) will be providing the security
at Tantric Blue Maidstone.

The company has extensive experience throughout the South East,
supplying door supervisors within the licensed leisure Industry.

The company is fully insured to the sum of 10million pounds.

Currently Alpha 1 Security have an application out, to become a security
Industry authority approved supplier and hope to achieve this accreditation
alongside an ISO 9001 within the next 4 weeks.

Other accreditations and memberships held by Alpha 1 Security Services:
Westminster Licensees association, Project Griffin, NOEA AND BIIAB.

Alpha 1 always work closely with the local authorities and relevant authorities.

EJECTION POLICIES

Cooperative Patrons

Most Non Violent ejections are due to unsuitable behaviour or intoxication. In these circumstances door supervisors will ask the patrons politely to leave the venue.

They will escort the customers without using any force to the nearest fire exit. Door supervisors will immediately record any ejections in the incident log.

Non cooperative Patrons

If a customer refuses to leave the venue, a door supervisor may use reasonable and necessary force; this will be the last resort. 'Reasonable and necessary' equals the amount of force needed to overcome resistance according to a person's physical condition, build and perceived threat.

Approved Restraint holds may be used to eject the customer out of the nearest fire exit. The door supervisors will come back into the venue and immediately record the incident in the log book.

Drug and Violence Policy

Tantric Blue operates a zero tolerance policy on all drugs and violence related offences.

Those committing serious drug and violent offences will receive a life time ban from the club.

A full drugs policy will be written up in accordance to the inclusive and preventative policies Kent police have in place.

Search Policy

Random searches will be conducted on patrons entering the premises. All bags will be searched.

Random searches will be carried out on dancers and staff.

Tantric Blue

MAIDSTONE



GABRIELS HILL, MAIDSTONE, KENT. ME15 6HL

Tantric Blue

MAIDSTONE



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Tantric Blue

M A I D S T O N E

Menu

- Chicken Caesar Salad £8.50
Scottish Smoked Salmon with Baby Capers and a Dill Dressing £12.00
King Prawn and Shrimp Cocktail served with Avocado and a Baby Salad £13.50
Seared Medallion of Fillet Steak served with a baby salad and a mustard dressing £14.50
Half a Baby Lobster £17.50

Fish

- Deep Fried North Atlantic Cod (Fish & Chips) served with mushy peas and chips £15.50
Pan Fried Fillet of Wild Sea Bass served with lemon butter and baby capers £19.50
16oz Dover Sole served grilled or with mènuniere sauce £21.50

Poultry

- Half a Roast Corn-Fed Chicken served with crispy Pancetta bacon and a herb gravy £13.50

Meat

- Best Rack of English Lamb with red onion and mint chutney £17.50
12oz 28 Day Dry Aged Scotch rib eye Steak* £20.50
12oz 28 Day Dry Aged Aberdeen Angus Chargrilled Sirloin Steak* £21.50
10oz Pan Fried Scotch Fillet Steak* £25.00

*These Steaks are served with a grilled tomato and mushrooms, and a choice of a béarnaise, green-peppercorn or red wine and mushroom sauce.

Vegetables

- Mixed or Green Salad £5.00 Creamed Potatoes £5.00 French Fries £5.00 Sauté or Steamed New Potatoes £5.00 Vegetables of the Day £6.00

Desserts

- An Assortment of Ice Creams £6.00 Warm Chocolate Fudge Cake £6.00
Belgium Waffles with Ice Cream and Maple Syrup £6.00
Exotic Peeled Fruit £8
Selection of English and Continental Cheese and Biscuits £7.00

Chef's Dish of the Day

Please ask your Waitress for details of today's dish £d/p

Tantric Blue

M A I D S T O N E

Champagnes

Champagne Non Vintage

Moet et Chandon Brut £75

Vueve Cliquot Brut £85

Bollinger Special Cuvee £100

Vintage Champagne

Bollinger Brut Grande Annee 2002 £145

Dom Perignon 2003 £225

Louis Roederer Cristal 2004 £325

Champagne Rose

Laurent Perrier Rose £135

Moet et Chandon (Rose Imperial) 2003 £155

Champagne Magnums

Moet et Chandon Brut Imperial £140

Bollinger Special Cuvee £190

Moet et Chandon (Dry Imperial) 2002 £215

Wines

White

Polonari Pinot Grigio House

Glass £6 Bottle £21

Ventisqueru Chardonnay Glass

Glass £8 Bottle £28

Red

2007 Merlot Reserve St. Jacques

Glass £6.50 Bottle £25

2009 Cabernet Sauvignon, Ventisquero

Glass £8 Bottle £35

Rose

Foionari Pinot Grigio Rose

Glass £6.50 Bottle £25

VODKA

Ketel One £125.00

Grey Goose £140.00

Absolut Level £145.00

Ciroc £185.00

Elit by Stolichnaya £190.00

RUM

Appleton Estate VX £125.00

Havana Club 7yr £135.00

Pampero Especial £135.00

Bacardi 8yr £140.00

Havana Club Special £145.00

Ron Zacapa 23 Anos £275.00

WHISKY

Chivas Regal 12yr £125.00

Cragganmore 12yr £140.00

Talisker 10yr £145.00

Dalwhinnie 15yr £145.00

Auchentoshan Three wood £170.00

Lagavulin 16yr £175.00

Johnnie Walker Gold £225.00

Macallan 18yr £260.00

Dalmore 40yr £5025.00

BOURBON

Buffalo Trace £125.00

Makers Mark £135.00

Wild Turkey £135.00

Knobs Creek £150.00

Woodford Reserve £145.00

SCOTCH (Price per 50ml)

Costal East Highlands
Clynelish 14yr £11.00

Costal West Highlands
Oban "The Distillers Edition" £14.00
Oban 14yr £12.00

Highlands
Glenmorangie 10yr £8.50
Glenmorangie 15yr £9.50

Islay
Cao Ila 12yr £8.50
Cao Ila 18yr £16.50

Lowlands
Glenkinchie "The Distillers Ed" £11.00
Glenkinchie 12yr £9.00

Skye
Talisker 10 yr £11.00
Talisker 25yr £16.00

Speyside
Balvenie 12yr £10.00
Balvenie 21yr £24.00

Blends
Johnnie Walker Gold Label £8.50
Johnnie Walker Black Label £8.59

CIGARS

Bolivas
Bolivar Tubos £9.00
Bonitas £11.00
Divinos £11.50

Cohiba
Panetelas £13
Siglo 1 £16
Cohiba Club (pack of 10) £19.00

Cuaba
Divinos £11.50
Tradicionales £12.50
Generosas £16

MonteCristo
Joyitas £9.00
No.5 £12.00
No.4 £14.00

Tantric Blue

M A I D S T O N E
G E N T L E M A N ' S C L U B



GABRIELS HILL, MAIDSTONE, KENT. ME15 6HL

Tantric Blue

M A I D S T O N E

CORPORATE/PARTY RESERVATIONS

At *Tantric Blue* we can provide for all your business & corporate requirements.

We can arrange a chauffeur driven luxury car or limousine.

If you decide to drive, we can arrange for a concierge to meet you at the front of the club and park your car for you, so it creates the right impression.

Special VIP areas are available and tailor made packages can be provided.

Arrive in style to your reserved private table, with your pre ordered drinks chilled and ready for you and your guests. Welcomed by your very own silver service waitress.

If you are celebrating a special occasion let us take care of all the details for you, kick back and let the staff pamper and spoil you.

VIP tables can be pre-booked or just ask a waitress for availability during your visit. We can offer a premium selection of drinks, delivered directly to the table for both comfort and ease.

Full restaurant menu is also available and you will be waited on by silver service trained waitresses.

Relax and let *Tantric Blue* entice and comfort you.



Tantric Blue

M A I D S T O N E

At *Tantric Blue Maidstone* our aim is to provide you with that extra special **distinctive** VIP service, in a warm, safe and exclusive environment.

Tantalizing surroundings set the scene for **Kent's sole upscale Gentleman's club.**
Ensuring that no matter the occasion
Tantric Blue will exceed your needs.

Located in Maidstone, we offer an atmosphere that is both friendly and relaxed whilst catering for your every requirement.
If its a social visit or corporate night out then
Tantric Blue Maidstone is the perfect place to spend your time relaxing.

Offering **exclusive** VIP areas,
for groups or individuals to feel extra special.
A luxurious bar area to sit back and take in the surroundings,
combined with premium champagnes, spirits, fine wines
and cocktails.

Tantric Blue
always goes that little bit further in
service and in style.



Tantric Blue

MAIDSTONE



LUXURY PICK UP SERVICE

Tantric Blue have a selection of chauffeur driven luxury cars, ranging from Rolls Royce Phantoms, Mercedes Benz S-Class to Ferrari and Lamborghini limousines.

These can be pre booked to pick you and your guests up, directly from your hotel, business or residence.



GABRIELS HILL, MAIDSTONE, KENT. ME15 6HL

MAIDSTONE BOROUGH COUNCIL

SITE NOTICE & NEWSPAPER DVERTISEMENT

NOTICE

**OF APPLICATION FOR GRANT OF A
SEX ESTABLISHMENT LICENCE PURSUANT
TO SCHEDULE 3 LOCAL GOVERNMENT
(MISCELLANEOUS PROVISIONS) ACT 1982**

TAKE NOTICE that on 17th July 2012 Illuminati Ventures Limited applied to Maidstone Borough Council for the grant of a sex establishment licence.

NAME AND ADDRESS OF PREMISES:

Tantric Blue, 9 Gabriels Hill, Maidstone, Kent ME15 6HL.

DAYS AND HOURS OF OPERATION:

Sunday to Wednesday – 20:00 to 05:00 the day following

Thursday to Saturday – 20:00 to 06:00 the day following

ACTIVITY: Sexual Entertainment Venue

The application may be inspected at the offices of the Licensing Department, Maidstone Borough Council, Maidstone House, King Street, Maidstone, ME15 6JQ.

Any person wishing to make objections on the application shall do so in writing at the Council Offices to the Senior Licensing Officer, Maidstone Borough Council, Maidstone House, King Street, Maidstone, ME15 6JQ or by email at licensing@maidstone.gov.uk.

The grounds of the objection must be stated in general terms. The objection must be received by no later than 14th August 2012

Jeffrey Green Russell

Solicitors

Waverley House

7-12 Noel Street

London W1F 8 GQ

Signed.....*Jeffrey Green Russell*.....

Dated 17th July 2012

Public Notices

Goods Vehicle Operator's Licence

Clancy Docwra trading as Clancy Docwra Ltd of Clare House, Coppermill Lane, Harefield, Uxbridge UB9 6HZ is applying to change an existing licence as follows: To keep an extra 8 goods vehicles and 0 trailers at the operating centre at c/o South East Water, Pembury, Old Church Lane, Tunbridge Wells, Kent TN2 4AS. Owners or occupiers of land (including buildings) near the operating centre(s), who believe that their use or enjoyment of that land would be affected, should make written representations to the Traffic Commissioner at South Eastern and Metropolitan Traffic Area Office, Hillcrest House, 386 Harehills Lane, Leeds LS9 6NF stating their reasons, within 21 days of this notice. Representors must at the same time send a copy of their representations to the applicant at the address given at the top of this notice. A Guide to making representations is available from the Traffic Commissioner's Office.

Licensing Act 2003

Notice of Application for Grant/Variation of a Premises License

Notice is hereby given that RUBY MURRAYS (BRISTOL) LIMITED has applied to Maidstone Borough Council for the grant variation of a Premises License in respect of premises known as **The Weavers, 2 Nelsons Yard, St. Faith's Street, Maidstone, Kent**. The applicant seeks the license in respect of the following:

- The sale of alcohol
- The provision of late night refreshment

Details of the register of the record of the application can be viewed at the **Council Offices, Maidstone House, King Street, Maidstone, Kent ME15 6JQ** during normal office hours. Alternatively they can also be viewed online at <http://www.sevenoaks.gov.uk/business/licensing>. Any representations from the interested parties or responsible authorities must be made in writing to the Council by 14th August 2012.

It is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction is a fine not exceeding £5000.

TONBRIDGE & MALLING BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACTS - NOTICES OF APPLICATIONS

The following applications have been submitted to the Council and are being advertised for the reason(s) given in each case.
TM/12/01951/FL - The Butts Beechinwood Lane Platt Sevenoaks Kent TN15 8QN
Mr William Terry is applying for retention of detached w.c. block for use by staff and persons using the archery field (retrospective). Reason: CA

TM/12/01139/RM - Area 01 Beacon Avenue Kings Hill West Malling Kent
Rouse Kent (Residential) Ltd are applying for reserved matters of access, appearance, landscaping, layout and scale for 23 dwellings pursuant to outline planning permission TM/05/00163/FL. Reason: GPI MD

TM/12/02052/FL - Leathercoat House Fen Pond Road Ighitham Sevenoaks Kent TN15 9JD
Mr Colin Wilkinson is applying for single storey side extension with pitched roof and retaining wall to rear. Reason: CA HH

TM/12/01683/FL - Applegarth Farm High Cross Road Ivy Hatch Sevenoaks Kent TN15 0NN
Dermark Kennels are applying for four bedroom detached living accommodation and detached double garage for owners of Denmark Kennels. Reason: DEPART

Reasons for the case being publicised:

- CA Application is within/affects a Conservation Area
- MD Application is a Major Development
- DEPART Application does not accord with the Development Plan
- GPI Application is of general Public Interest
- HH Householder application - As this is a householder application, in the event of an appeal against a refusal of planning permission, which is to be dealt with on the basis of representations in writing, any representations made about this application will be sent to the Secretary of State, and there will be no further opportunity to comment at appeal stage.

These applications are displayed on our website www.tmbc.gov.uk - choose Environment and planning; Planning; Planning area search service. You can submit your comments by emailing to planning.applications@tmbc.gov.uk (please quote the application number by the date set out below). Please note that we will publish a copy of any representations received on the Council's website, including your name and address.

Copies of applications listed may be seen during office hours (8.30 am and 5.00 pm Monday to Friday). Any applications within Hadlow, Hildenborough and Tonbridge are available at Tonbridge Castle, Tonbridge. Other applications are available at the office of the Director of Planning, Transport & Leisure, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ. Any representations should be made in writing quoting the application number by 10 August 2012.

David Hughes
Chief Executive
20 July 2012



UPPER MEDWAY INTERNAL DRAINAGE BOARD

LOWER MEDWAY INTERNAL DRAINAGE BOARD

LAND DRAINAGE ACT 1991

LAND DRAINAGE (ELECTION OF DRAINAGE BOARDS) 1938

NOTICE is hereby given that the Registers of Electors of the above Boards may be inspected by Interested persons, at the address below, for a period of 14 days from the date of publication of the Notice. Equally, over that period any objections to the Registers of Electors can be lodged with the Clerk to the Boards. Such objections can include additions or deletions of the electors or variations to the number of votes.

MICHAEL WATSON
Clerk to the Boards

July 2012
17 Albion Place
Maidstone
Kent
ME14 5EQ

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TONBRIDGE AND MALLING BOROUGH COUNCIL

NOTICE UNDER LOCAL GOVERNMENT ACT 1972 SECTION 123 (2A)

LAND AT FREELANDS ROAD/ST BENEDICT ROAD SNODLAND

Notice is hereby given that Tonbridge and Malling Borough Council intends to dispose of an area of land forming part of an open space at Freeland Road, Snodland, and having an area of approximately 35 square metres. A plan showing the area of land to be disposed of is available for inspection at the Council's offices at Tonbridge Castle and Kings Hill.

Objections to the intended disposal of land must be made in writing and addressed to:

Stuart Edwards,
Property Services Officer
Tonbridge and Malling Borough Council
Gibson Building, Gibson Drive
Kings Hill, West Malling
Kent, ME19 4LZ

By no later than 30 July 2012

Dated the 13 day of July 2012
DAVID HUGHES
CHIEF EXECUTIVE

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LICENSING ACT 2003

APPLICATION TO VARY PREMISES LICENCE (Section 34)

Notice is hereby given that **Odeon Cinemas Limited** has applied to Sevenoaks District Council on 16 July 2012 to vary the Premises Licence in respect of **Odeon Cinema**, Lockmeadow Leisure Complex, Barker Road, Maidstone ME16 8RG to add the sale by retail of alcohol as a licensable activity from 11:00am to 01:00am Mondays to Sundays and to add conditions. The Licensing Register containing a record of the application may be viewed by contacting the Licensing Team on 01732 227325/7299/7033/7270. Any representation by a Responsible Authority or any other person must be made in writing to The Licensing Team, Sevenoaks District Council, PO Box 182, Argyle Road, Sevenoaks, Kent TN13 1GP (www.sevenoaks.gov.uk) by 13 August 2012. It is an offence knowingly or recklessly to make a false statement in connection with an application punishable on summary conviction by a maximum fine of £5,000.

JOELSON WILSON LLP

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CONTINUES ON PAGE 74

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Lorraine Neale
Senior Licensing Officer
Maidstone Borough Council
Maidstone House
King Street
MAIDSTONE
Kent
ME15 6JQ

7 August 2012

Dear Ms Neale

ADULT ENTERTAINMENT OUTLET
STRIP CLUB / LAP DANCING CLUB, GABRIEL'S HILL MAIDSTONE

The Directors of Maidstone Town Centre Management have asked me to, again, register our strong Objection to the latest proposal received to create an adult entertainment outlet in our Town Centre – this time around - in Gabriel's Hill, Maidstone through the latest proposal to create a "Strip Club / Lap Dancing Club" in the former Ethos premises.

When recording our Objection to the proposals to introduce an Adult Entertainment outlet in the former Loder & Payne premises in Bank Street we expressed the belief that such adult entertainment outlet proposal is wholly inappropriate to our Town Centre and we hold grave concerns as to the potential adverse behavioral and anti-social issues likely to be associated with this development. This view remains extant in relation to the further proposal for a like adult venue in Gabriel's Hill.

The Maidstone night-time economy has grown over the past few years into one of the largest such offerings in South East England. Our night-time economy is the envy of many – partly because of the solid mix of restaurant, theatre, club and pub available, but, also because of the secure environment available to many people- of all ages - enjoying what our night – time economy has to offer. The introduction of a strip club / lap dancing clubs adversely impacts this, and in our opinion, the latest proposal for Gabriel's Hill re-affirms our concern that a truly worrying precedent is now being faced for Maidstone.

One can argue about the principle involved, here, in relation to the rights and wrongs of permitting the creation of such an establishment in the Town. Should permission be granted, however, for either of either of the Bank Street or Gabriel's Hill Adult Entertainment outlet proposals lodged with the Borough Council, then, we believe it, effectively, opens the door to similar proposal for all vacant premises in our Town Centre. Our view is quite clear – we believe that an adult entertainment outlet of the

Gold Members



Sainsbury's



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Maidstone Town Centre Management Ltd, The Mall Chequers Management Suite, Pads Hill, Maidstone, Kent ME15 6AT
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nature proposed – whether in Bank Street or Gabriel’s Hill -detracts from the Town Centre and, as such, should not be permitted to be established within the Town Centre.

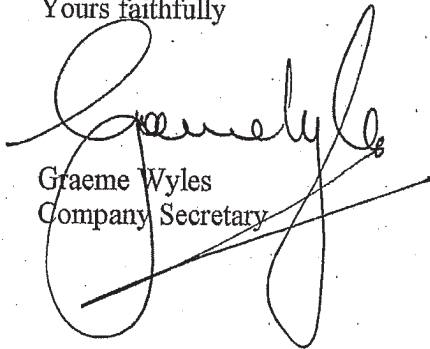
We understand that the Traders in Gabriel’s Hill hold the same view as is being expressed, here.

We believe that the establishment of the adult entertainment venues of the nature proposed detracts from the Town Centre and will drive adverse behavioral and anti - social issues. Moreover, our fear expressed in regard to the precedent being faced is now being proved accurate.

Declining both proposals currently before the Licensing Authority in relation to the establishment of Adult Entertainment outlets in our Town Centre sends a powerful message to all watching the outcome of these Applications.

We strongly urge you to decline permission to the latest proposals received for an Adult Entertainment outlet to be located in Gabriel’s Hill.

Yours faithfully



Graeme Wyles
Company Secretary

Stephen Noble

From: [REDACTED]
Sent: 07 August 2012 01:35
To: Licensing (MBC)
Subject: Objection

Dear Senior Licensing Officer

I would like to express my concerns over the number of licensing applications for Sex Establishments being made.

We have one of these already and one is enough! Maidstone is not the town for these establishments as we are very family orientated and a sought after area to live. I fear if any more are permitted in our town we risk our protection of public safety, the prevention of crime and disorder but mostly the protection of children from harm.

It is hard enough trying to explain why the windows of Players Gentlemen's Club are blacked out to a young child (We have to walk past it every time we go into town as I live on Tonbridge road). I do not think these places are appropriate in our area. If we must have these establishments they should at least be out of the way of our town center i.e out of town completely. I have had to deal with living with Players but any more I fear will just make me want to move to a different town where my child will be less exposed.

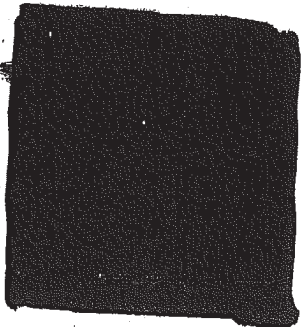
I also feel it will make our area sleazy and ruin Maidstone's reputation as a great town to live. I am a business women as well as a full time mum and I feel this will affect my client base and the running of my business.

Yours faithfully

[REDACTED]

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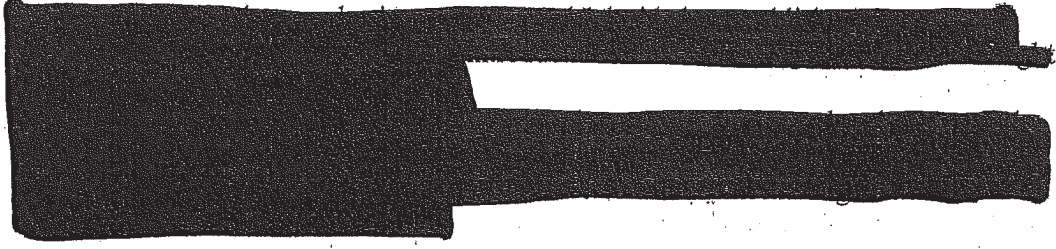
Licensing Department
Maidstone Borough Council
Maidstone House, King Street
Maidstone, Kent ME15 6JQ

Dear Sir,

Application for SEV – Premises formerly known as Ethos

I write to formally object to the grant of a new Sexual entertainment venue licence on the following grounds:

1. The character of the relevant locality,
2. The use of premises in the vicinity which is predominantly, shop/café/family orientated and businesses
3. The fact that there is no need for a further Sexual entertainment venue in the town centre,
4. The location of a Sexual Entertainment Venue at this site would conflict with the council's general policy to encourage the influx of families, creation of a housing/accommodation /residential market within the town centre.
5. The premises are not suitable for the grant of a sexual entertainment venue licence.
6. Such other matters as may come to light as we investigate this application



Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government (Miscellaneous Provisions) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 3

CONTROL OF SEX ESTABLISHMENTS

Annotations:

Modifications etc. (not altering text)

- C1** Sch. 3 applied (24.7.1996) by 1996 c. viii, s. 3(1) Sch. 3: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I.2000/2853, reg. 2(1), Sch.1
- C2** Sch. 3: power to apply certain amendments conferred by Greater London Council (General Powers) Act 1986 (c. iv), Pt. III s. 12(1) (The said power includes power to apply a para. 3A as set out in Greater London Council (General Powers) Act 1986 (c. iv) Pt. III, s. 12(4)(b) and by London Local Authorities Act 1990 (c. vii), s. 18 it is provided that in Sch. 3 of this 1982 Act, in para. 3A, proviso (ii) is repealed (with application as mentioned in s. 5 of the 1990 Act))

Saving for existing law

- 1 Nothing in this Schedule—
- (a) shall afford a defence to a charge in respect of any offence at common law or under an enactment other than this Schedule; or
 - (b) shall be taken into account in any way—
 - (i) at a trial for such an offence; or
 - (ii) in proceedings for forfeiture under section 3 of the ^{M1}Obscene Publications Act 1959 or section 5 of the ^{M2}Protection of Children Act 1978; or
 - (iii) in proceedings for condemnation under Schedule 3 to the ^{M3}Customs and Excise Management Act 1979 of goods which section 42 of the ^{M4}Customs Consolidation Act 1876 prohibits to be imported or brought into the United Kingdom as being indecent or obscene; or
 - (c) shall in any way limit the other powers exercisable under any of those Acts.

Annotations:

Marginal Citations

- M1** 1959 c. 66.
M2 1978 c. 37.
M3 1979 c. 2.
M4 1876 c. 36.

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Meaning of “sex establishment”

- 2 In this Schedule “sex establishment” means a sex cinema or a sex shop.

Meaning of “sex cinema”

- 3 (1) In this Schedule, “sex cinema” means 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 [^{F1}section 1 of the Cinemas Act 1985], of their use for a purpose for which a licence under [^{F1}that section] is required; or—
 - [^{F2}(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.]

Annotations:

Amendments (Textual)

F1 Words substituted by Cinemas Act 1985 (c. 13, SIF 45A), s. 24(1), **Sch. 2 para. 16(a)**

F2 Sch. 3 para. 3(2)(b) substituted by Cinemas Act 1985 (c. 13, SIF 45A), s. 24(1), **Sch. 2 para. 16(b)**

Meaning of “sex shop” and “sex article”

- 4 (1) In this Schedule “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 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.
- (3) In this Schedule “sex article” means—
- (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.

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- (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 of 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.

Miscellaneous definitions

- 5 (1) In this Schedule—
- “the appropriate authority” means, in relation to any area for which a resolution has been passed under section 2 above, the local authority who passed it;
 - “the chief officer of police”, in relation to any locality, means the chief officer of police for the police area in which the locality is situated; and
 - “vessel” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.
- (2) This Schedule applies to hovercraft as it applies to vessels.

Requirement for licences for sex establishments

- 6 (1) Subject to the provisions of this Schedule, no person shall in any area in which this Schedule is in force use any premises, vehicle, vessel or stall as a sex establishment except under and in accordance with the terms of a licence granted under this Schedule by the appropriate authority.
- (2) Sub-paragraph (1) above does not apply to the sale, supply or demonstration of articles which—
- (a) are manufactured for use primarily for the purposes of birth control; or
 - (b) primarily relate to birth control.
- 7 (1) Any person who—
- (a) uses any premises, vehicle, vessel or stall as a sex establishment; or
 - (b) proposes to do so,
- may apply to the appropriate authority for them to waive the requirement of a licence.
- (2) An application under this paragraph may be made either as part of an application for a licence under this Schedule or without any such application.
- (3) An application under this paragraph shall be made in writing and shall contain the particulars specified in paragraph 10(2) to (5) below and such particulars as the appropriate authority may reasonably require in addition.
- (4) The appropriate authority may waive the requirement of a licence in any case where they consider that to require a licence would be unreasonable or inappropriate.

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- (5) A waiver may be for such period as the appropriate authority think fit.
- (6) Where the appropriate authority grant an application for a waiver, they shall give the applicant for the waiver notice that they have granted his application.
- (7) The appropriate authority may at any time give a person who would require a licence but for a waiver notice that the waiver is to terminate on such date not less than 28 days from the date on which they give the notice as may be specified in the notice.

Grant, renewal and transfer of licences for sex establishments

- 8 Subject to paragraph 12(1) below, the appropriate authority may grant to any applicant, and from time to time renew, a licence under this Schedule for the use of any premises, vehicle, vessel or stall specified in it for a sex establishment on such terms and conditions and subject to such restrictions as may be so specified.
- 9 (1) Subject to paragraphs 11 and 27 below, any licence under this Schedule shall, unless previously cancelled under paragraph 16 or revoked under paragraph 17(1) below, remain in force for one year or for such shorter period specified in the licence as the appropriate authority may think fit.
- (2) Where a licence under this Schedule has been granted to any person, the appropriate authority may, if they think fit, transfer that licence to any other person on the application of that other person.
- 10 (1) An application for the grant, renewal or transfer of a licence under this Schedule shall be made in writing to the appropriate authority.
- (2) An application made otherwise than by or on behalf of a body corporate or an unincorporated body shall state—
 - (a) the full name of the applicant;
 - (b) his permanent address; and
 - (c) his age.
- (3) An application made by a body corporate or an unincorporated body shall state—
 - (a) the full name of the body;
 - (b) the address of its registered or principal office; and
 - (c) the full names and private addresses of the directors or other persons responsible for its management.
- (4) An application relating to premises shall state the full address of the premises.
- (5) An application relating to a vehicle, vessel or stall shall state where it is to be used as a sex establishment.
- (6) Every application shall contain such particulars as the appropriate authority may reasonably require in addition to any particulars required under sub-paragraphs (2) to (5) above.
- (7) An applicant for the grant, renewal or transfer of a licence under this Schedule shall give public notice of the application.
- (8) Notice shall in all cases be given by publishing an advertisement in a local newspaper circulating in the appropriate authority's area.
- (9) The publication shall not be later than 7 days after the date of the application.

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- (10) Where the application is in respect of premises, notice of it shall in addition be displayed for 21 days beginning with the date of the application on or near the premises and in a place where the notice can conveniently be read by the public.
 - (11) Every notice under this paragraph which relates to premises shall identify the premises.
 - (12) Every such notice which relates to a vehicle, vessel or stall shall specify where it is to be used as a sex establishment.
 - (13) Subject to sub-paragraphs (11) and (12) above, a notice under this paragraph shall be in such form as the appropriate authority may prescribe.
 - (14) An applicant for the grant, renewal or transfer of a licence under this Schedule shall, not later than 7 days after the date of the application, send a copy of the application to the chief officer of police.
 - (15) Any person objecting to an application for the grant, renewal or transfer of a licence under this Schedule shall give notice in writing of his objection to the appropriate authority, stating in general terms the grounds of the objection, not later than 28 days after the date of the application.
 - (16) Where the appropriate authority receive notice of any objection under sub-paragraph (15) above, the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant.
 - (17) The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant.
 - (18) In considering any application for the grant, renewal or transfer of a licence the appropriate authority shall have regard to any observations submitted to them by the chief officer of police and any objections of which notice has been sent to them under sub-paragraph (15) above.
 - (19) The appropriate authority shall give an opportunity of appearing before and of being heard by a committee or sub-committee of the authority—
 - (a) before refusing to grant a licence, to the applicant;
 - (b) before refusing to renew a licence, to the holder; and
 - (c) before refusing to transfer a licence, to the holder and the person to whom he desires that it shall be transferred.
 - (20) Where the appropriate authority refuse to grant, renew or transfer a licence, they shall, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.
- 11
- (1) Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force notwithstanding that the date has passed until the withdrawal of the application or its determination by the appropriate authority.
 - (2) Where, before the date of expiry of a licence, an application has been made for its transfer, it shall be deemed to remain in force with any necessary modifications until the withdrawal of the application or its determination, notwithstanding that the date has passed or that the person to whom the licence is to be transferred if the application is granted is carrying on the business of the sex establishment.

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Refusal of licences

- 12 (1) A licence under this Schedule shall not be granted—
- (a) to a person under the age of 18; or
 - (b) to a person who is for the time being disqualified under paragraph 17(3) below; or
 - (c) to a person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - (d) to a body corporate which is not incorporated in the United Kingdom; or
 - (e) to a person who 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.
- (2) Subject to paragraph 27 below, the appropriate authority may refuse—
- (a) an application for the grant or renewal of a licence on one or more of the grounds specified in sub-paragraph (3) below;
 - (b) an application for the transfer of a licence on either or both of the grounds specified in paragraphs (a) and (b) of that sub-paragraph.
- (3) The grounds mentioned in sub-paragraph (2) above are—
- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) 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;
 - (c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that 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
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- (4) Nil may be an appropriate number for the purposes of sub-paragraph (3)(c) above.
- (5) In this paragraph “the relevant locality” means—
- (a) in relation to premises, the locality where they are situated; and
 - (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

Power to prescribe standard conditions

- 13 (1) Subject to the provisions of this Schedule, the appropriate authority may make regulations prescribing standard conditions applicable to licences for sex establishments, that is to say, terms, conditions and restrictions on or subject to which licences under this Schedule are in general to be granted, renewed or transferred by them.

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- (2) Regulations under sub-paragraph (1) above may make different provision—
 - (a) for sex cinemas and sex shops; and
 - (b) for different kinds of sex cinemas and sex shops.
- (3) Without prejudice to the generality of sub-paragraphs (1) and (2) above, regulations under this paragraph may prescribe conditions regulating—
 - (a) the hours of opening and closing of sex establishments;
 - (b) displays or advertisements on or in such establishments;
 - (c) the visibility of the interior of sex establishments to passersby; and
 - (d) any change of a sex cinema to a sex shop or a sex shop to a sex cinema.
- (4) Where the appropriate authority have made regulations under sub-paragraph (1) above, every such licence granted, renewed or transferred by them shall be presumed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless they have been expressly excluded or varied.
- (5) Where the appropriate authority have made regulations under sub-paragraph (1) above, they shall, if so requested by any person, supply him with a copy of the regulations on payment of such reasonable fee as the authority may determine.
- (6) In any legal proceedings the production of a copy of any regulations made by the appropriate authority under sub-paragraph (1) above purporting to be certified as a true copy by an officer of the authority authorised to give a certificate for the purposes of this paragraph shall be prima facie evidence of such regulations, and no proof shall be required of the handwriting or official position or authority of any person giving such certificate.

Copies of licences and standard conditions

- 14 (1) The holder of a licence under this Schedule shall keep exhibited in a suitable place to be specified in the licence a copy of the licence and any regulations made under paragraph 13(1) above which prescribe standard conditions subject to which the licence is held.
- (2) The appropriate authority shall send a copy of any licence granted under this Schedule to the chief officer of police for the area where the sex establishment is situated.

Transmission and cancellation of licences

- 15 —In the event of the death of the holder of a licence granted under this Schedule, that licence shall be deemed to have been granted to his personal representatives and shall, unless previously revoked, remain in force until the end of the period of 3 months beginning with the death and shall then expire; but the appropriate authority may from time to time, on the application of those representatives, extend or further extend the period of three months if the authority are satisfied that the extension is necessary for the purpose of winding up the deceased's estate and that no other circumstances make it undesirable.
- 16 The appropriate authority may, at the written request of the holder of a licence, cancel the licence.

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Revocation of licences

- 17 (1) The appropriate authority may, after giving the holder of a licence under this Schedule an opportunity of appearing before and being heard by them, at any time revoke the licence—
- (a) on any ground specified in sub-paragraph (1) of paragraph 12 above; or
 - (b) on either of the grounds specified in sub-paragraph (3)(a) and (b) of that paragraph.
- (2) Where a licence is revoked, the appropriate authority shall, if required to do so by the person who held it, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.
- (3) Where a licence is revoked, its holder shall be disqualified from holding or obtaining a licence in the area of the appropriate authority for a period of 12 months beginning with the date of revocation.

Variation of licences

- 18 (1) The holder of a licence under this Schedule may at any time apply to the appropriate authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.
- (2) The appropriate authority—
- (a) may make the variation specified in the application; or
 - (b) may make such variations as they think fit; or
 - (c) may refuse the application.
- (3) The variations that an authority may make by virtue of sub-paragraph (2)(b) 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.

Fees

- 19 An applicant for the grant, renewal or transfer of a licence under this Schedule shall pay a reasonable fee determined by the appropriate authority.

Enforcement

- 20 (1) A person who—
- (a) knowingly uses, or knowingly causes or permits the use of, any premises, vehicle, vessel or stall contrary to paragraph 6 above; or
 - (b) being the holder of a licence for a sex establishment, employs in the business of the establishment any person known to him to be disqualified from holding such a licence; or
 - (c) being the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence; or
 - (d) being the servant or agent of the holder of a licence under this Schedule, without reasonable excuse knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in the licence,

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shall be guilty of an offence.

- 21 Any person who, in connection with an application for the grant, renewal or transfer of a licence under this Schedule, makes a false statement which he knows to be false in any material respect or which he does not believe to be true, shall be guilty of an offence.
- 22 (1) A person guilty of an offence under paragraph 20 or 21 above shall be liable on summary conviction to a fine not exceeding [^{F3}£20,000].
- (2) A person who, being the holder of a licence under this Schedule, fails without reasonable excuse to comply with paragraph 14(1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding [^{F4}level 3 on the standard scale].

Annotations:

Amendments (Textual)

F3 "£20,000" substituted by S.I. 1984/447, art. 2(1), Sch. 1

F4 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

Modifications etc. (not altering text)

C3 Sch. 3 para. 22(1): power to amend conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(2)(b) (as added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s.48(1)(b))

Offences relating to persons under 18

- 23 (1) A person who, being the holder of a licence for a sex establishment—
- (a) without reasonable excuse knowingly permits a person under 18 years of age to enter the establishment; or
- (b) employs a person known to him to be under 18 years of age in the business of the establishment,
- shall be guilty of an offence.
- (2) A person guilty of an offence under this paragraph shall be liable on summary conviction to a fine not exceeding [^{F5}£20,000].

Annotations:

Amendments (Textual)

F5 "£20,000" substituted by S.I. 1984/447, art. 2(1), Sch. 1

Modifications etc. (not altering text)

C4 Sch. 3 para. 23(2): power to amend conferred by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 143(2)(m) (as added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 48(1)(b))

Powers of constables and local authority officers

- 24 If a constable has reasonable cause to suspect that a person has committed an offence under paragraph 20 or 23 above, he may require him to give his name and address, and if that person refuses or fails to do so, or gives a name or address

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which the constable reasonably suspects to be false, the constable may arrest him without warrant.

- 25 (1) A constable may, at any reasonable time, enter and inspect any sex establishment in respect of which a licence under this Schedule is for the time being in force, with a view to seeing—
- (i) whether the terms, conditions or restrictions on or subject to which the licence is held are complied with;
 - (ii) whether any person employed in the business of the establishment is disqualified from holding a licence under this Schedule;
 - (iii) whether any person under 18 years of age is in the establishment; and
 - (iv) whether any person under that age is employed in the business of the establishment.
- (2) Subject to sub-paragraph (4) below, a constable may enter and inspect a sex establishment if he has reason to suspect that an offence under paragraph 20, 21 or 23 above has been, is being, or is about to be committed in relation to it.
- (3) An authorised officer of a local authority may exercise the powers conferred by sub-paragraphs (1) and (2) above in relation to a sex establishment in the local authority's area.
- (4) No power conferred by sub-paragraph (2) above may be exercised by a constable or an authorised officer of a local authority unless he has been authorised to exercise it by a warrant granted by a justice of the peace.
- (5) Where an authorised officer of a local authority exercises any such power, he shall produce his authority if required to do so by the occupier of the premises or the person in charge of the vehicle, vessel or stall in relation to which the power is exercised.
- (6) Any person who without reasonable excuse refuses to permit a constable or an authorised officer of a local authority to exercise any such power shall be guilty of an offence and shall for every such refusal be liable on summary conviction to a fine not exceeding [^{F6}level 5 on the standard scale].

Annotations:

Amendments (Textual)

F6 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

Offences by bodies corporate

- 26 (1) Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.
- (2) Where the affairs of a body corporate are managed by its members sub-paragraph (1) above shall apply to the acts and defaults of a member in connection with his function of management as if he were a director of the body corporate.

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Appeals

- 27 (1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say—
- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
 - (b) an applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
 - (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - (d) a holder of any such licence whose licence is revoked,
- may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the relevant area.
- (2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.
- (3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3)(c) or (d) above shall not have the right to appeal under this paragraph.
- (4) In this paragraph—
- “the relevant area” means—
- (a) in relation to premises, the petty sessions area in which they are situated; and
 - (b) in relation to a vehicle, vessel or stall, the petty sessions area in which it is used or, as the case may be, desired to be used as a sex establishment; and
- “the relevant date” means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.
- (5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.
- (6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final: and accordingly in section 28(2)(b) of the ^{M5}Supreme Court Act 1981 for the words “or the Gaming Act 1968” there shall be substituted the words “, the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982”.
- (7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.
- (8) Subject to sub-paragraphs (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.
- (9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and,

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if such an appeal is duly brought, until the determination or abandonment of the appeal.

- (10) Where a licence is revoked or an application for the renewal of a licence is refused, the licence shall be deemed to remain in force—
- (a) until the time for bringing an appeal under this paragraph has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
 - (b) where an appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.
- (11) Where—
- (a) the holder of a licence makes an application under paragraph 18 above; and
 - (b) the appropriate authority impose any term, condition or restriction other than one specified in the application,
- the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.
- (12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.

Annotations:

Marginal Citations

M5 1981 c

Provisions relating to existing premises

- 28 (1) Without prejudice to any other enactment it shall be lawful for any person who—
- (a) was using any premises, vehicle, vessel or stall as a sex establishment immediately before the date of the first publication under subsection (2) of section 2 above of a notice of the passing of a resolution under that section by the local authority for the area; and
 - (b) had before the appointed day duly applied to the appropriate authority for a licence for the establishment,
- to continue to use the premises, vehicle, vessel or stall as a sex establishment until the determination of his application.
- (2) In this paragraph and paragraph 29 below “the appointed day”, in relation to any area, means the day specified in the resolution passed under section 2 above as the date upon which this Schedule is to come into force in that area.
- 29 (1) This paragraph applies to an application for the grant of a licence under this Schedule made before the appointed day.
- (2) A local authority shall not consider any application to which this paragraph applies before the appointed day.
 - (3) A local authority shall not grant any application to which this paragraph applies until they have considered all such applications.

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- (4) In considering which of several applications to which this paragraph applies should be granted a local authority shall give preference over other applicants to any applicant who satisfies them—
- (a) that he is using the premises, vehicle, vessel or stall to which the application relates as a sex establishment; and
 - (b) that some person was using the premises, vehicle, vessel or stall as a sex establishment on 22nd December 1981; and
 - (c) that—
 - (i) he is that person; or
 - (ii) he is a successor of that person in the business or activity which was being carried on there on that date.

Commencement of Schedule

- 30 (1) So far as it relates to sex cinemas, this Schedule shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and accordingly, until the day so appointed, this Schedule shall have effect—
- (a) with the omission—
 - (i) of paragraph 3 above; and
 - (ii) of paragraph 13(3)(d) above;
 - (b) as if any reference to a sex establishment were a reference only to a sex shop; and
 - (c) as if for paragraphs (a) and (b) of paragraph 13(2) above there were substituted the words “for different kinds of sex shops”.
- (2) Subject to sub-paragraph (1) above, this Schedule shall come into force on the day on which this Act is passed.
- (3) Where, in relation to any area, the day appointed under sub-paragraph (1) above falls after the day specified in a resolution passed under section 2 above as the day upon which this Schedule is to come into force in that area, the day so appointed shall, for the purposes of paragraphs 28 and 29 above, be the appointed day in relation to sex cinemas in the area.

Annotations:

Modifications etc. (not altering text)

C5 13.10.1982 appointed under para. 30(1) by [S.I. 1982/1119](#)

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 3 applied (with modifications) by 2007 c. 2 s. 33
- Sch. 3 para. 3A(ii) excluded by 2003 c. 17 Sch. 8
- Sch. 3 para. 28 excluded by S.I. 2010/1395 art. 4
- Sch. 3 para. 29 excluded by S.I. 2010/1395 art. 4
- Sch. 3 para. 2A inserted by 2009 c. 26 s. 27(3)
- Sch. 3 para. 25A inserted by 2009 c. 26 s. 27(8)
- Sch. 3 para. 27(10A) inserted by 2009 c. 26 s. 27(9)
- Sch. 3 para. 27A inserted by 2009 c. 26 s. 27(10)
- Sch. 3 para. 8(2) inserted by S.I. 2005/1541 Sch. 2 para. 26(3)(iii)
- Sch. 3 para. 13(1A) inserted by S.I. 2005/1541 Sch. 2 para. 26(3)(b)
- Sch. 3 para. 18(4) inserted by S.I. 2005/1541 Sch. 2 para. 26(3)(d)
- Sch. 3 modification of earlier affecting provision 2007 c. ii s. 33 by S.I. 2010/723 art. 4(9)
- Sch. 3 para. 5 modified by 2009 c. 26 Sch. 3 para. 2(4)
- Sch. 3 para. 24 repealed by 2005 c. 15 Sch. 7 para. 22 Sch. 17
- Sch. 3 repealed in part by S.I. 2010/723 art. 2(1)(b)
- Sch. 3 para. 12(3)(c) savings for effects of 2009 c. 26 s. 27(5) by S.I. 2010/1395 art. 9(1)
- Sch. 3 para. 19 savings for effects of 2009 c. 26 s. 27(7) by S.I. 2010/1395 art. 9(2)
- Sch. 3 para. 25A savings for effects of 2009 c. 26 s. 27(8) by S.I. 2010/1395 art. 9(3)
- Sch. 3 para. 27(10A) savings for effects of 2009 c. 26 s. 27(9) by S.I. 2010/1395 art. 9(4)
- Sch. 3 para. 3(2)(a) substituted by 2003 c. 17 Sch. 6 para. 85(2)(a)
- Sch. 3 para. 3A(Proviso)(i)(ii) substituted by 2003 c. 17 Sch. 6 para. 85(3)
- Sch. 3 para. 12(3)(c) substituted by 2009 c. 26 s. 27(5)
- Sch. 3 para. 13(3)(d) substituted by 2009 c. 26 s. 27(6)(c)
- Sch. 3 para. 10(14)(14A) substituted for Sch. 3 para. 10(14) by S.I. 2009/2999 reg. 47(2)
- Sch. 3 para. 2 text amended by 2009 c. 26 s. 27(2)
- Sch. 3 para. 9(1) text amended by 2009 c. 26 s. 27(4)
- Sch. 3 para. 13(2)(a) text amended by 2009 c. 26 s. 27(6)(a)
- Sch. 3 para. 13(2)(b) text amended by 2009 c. 26 s. 27(6)(b)
- Sch. 3 para. 19 text amended by 2009 c. 26 s. 27(7)
- Sch. 3 para. 8 text amended by S.I. 2005/1541 Sch. 2 para. 26(3)(i)(ii)
- Sch. 3 para. 18(2) text amended by S.I. 2005/1541 Sch. 2 para. 26(3)(c)
- Sch. 3 para. 10(20) text amended by S.I. 2009/2999 reg. 47(3)
- Sch. 3 para. 12(1)(c)(d) text amended by S.I. 2009/2999 reg. 47(4)
- Sch. 3 para. 27(4) words omitted by S.I. 2005/886 Sch. para. 41(b)
- Sch. 3 para. 3(2)(b) words substituted by 2003 c. 17 Sch. 6 para. 85(2)(b)
- Sch. 3 para. 1(b)(ii) words substituted by 2006 c. 48 Sch. 14 para. 7
- Sch. 3 para. 27(1) words substituted by S.I. 2005/886 Sch. para. 41(a)

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Blanket Amendment words substituted by 2005 c. 4 Sch. 11 para. 1(2)

Commencement Orders yet to be applied to the Local Government (Miscellaneous Provisions) Act 1982:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/124 art. 4 5 commences (2002 c. 32)
- S.I. 2003/1115 art. 3 commences (2002 c. 32)
- S.I. 2003/1667 art. 3 4 5 commences (2002 c. 32)
- S.I. 2003/1718 art. 4-6 Sch. commences (2002 c. 32)
- S.I. 2003/2938 art. 7(a) commences (2003 c. 26)
- S.I. 2003/2961 art. 5 6 7 Sch. Pt. 2 3 4 commences (2002 c. 32)
- S.I. 2003/3034 art. 2 commences (2003 c. 26)
- S.I. 2004/1728 art. 5 Sch. Pt. 2 commences (2002 c. 32)
- S.I. 2004/2304 art. 2 commences (2004 c. 21)
- S.I. 2004/2917 art. 2 commences (2004 c. 21)
- S.I. 2005/3056 art. 2(2) commences (2003 c. 17)
- S.I. 2005/3495 art. 2 commences (2005 c. 15)
- S.I. 2006/172 Sch. commences (2002 c. 32)
- S.I. 2008/917 art. 2-5 commences (2007 c. 28)
- S.I. 2008/3068 art. 2-5 commences (2008 c. 17)
- S.I. 2009/1604 art. 2 commences (2005 c. 4)
- S.I. 2009/3318 art. 2-4 commences (2009 c. 20)
- S.I. 2010/722 art. 3 commences (2009 c. 26)
- S.I. 2010/862 art. 2 commences (2008 c. 17)
- S.I. 2010/1375 art. 2 3 commences (2009 c. 26)
- S.I. 2011/3019 art. 3 Sch. 1 commences (2011 c. 13)
- S.I. 2012/628 art. 2-8 commences (2011 c. 20)

purpose of preventing or detecting an offence under any of the provisions listed in subsection (7).

- (7) Those provisions are –
- (a) section 1 of the Protection of Children Act 1978 (showing or taking etc an indecent photograph of a child: England and Wales);
 - (b) Article 3 of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (corresponding offence for Northern Ireland);
 - (c) section 52 or 52A of the Civic Government (Scotland) Act 1982 (showing or taking etc or possessing an indecent photograph of a child: Scotland);
 - (d) section 160 of the Criminal Justice Act 1988 (possessing an indecent photograph of a child: England and Wales);
 - (e) Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (corresponding offence for Northern Ireland)."
- (4) The amendments made by this section apply in relation to cases in which the section 49 notice was given after the commencement of this section.

Sex establishments

27 Regulation of lap dancing and other sexual entertainment venues etc

- (1) Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (c. 30) (control of sex establishments) is amended as follows.
- (2) In paragraph 2 (meaning of "sex establishment") after "means a" insert "sexual entertainment venue,".
- (3) After paragraph 2 insert –

"Meaning of "sexual entertainment venue"

- 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 so 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 for 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) The relevant national authority may by order amend or repeal sub-paragraph (3)(b).
- (5) But no order under sub-paragraph (4) may –
- (a) increase the number or length of occasions in any period on which sub-paragraph (3)(b) as originally enacted would permit relevant entertainment to be provided; or
 - (b) provide for shorter intervals between such occasions.
- (6) The relevant national authority may by order provide for descriptions of performances, or of displays of nudity, which are not to be treated as relevant entertainment for the purposes of this Schedule.
- (7) Any power of the relevant national authority to make an order under this paragraph –
- (a) is exercisable by statutory instrument;
 - (b) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (8) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Secretary of State is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under sub-paragraph (4) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made under sub-paragraph (3)(c) or (6) by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

- (12) For the purposes of this paragraph relevant entertainment is provided if, and only if, it is provided, or permitted to be provided, by or on behalf of the organiser.
- (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 organiser.
- (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 organisation 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;
 - “relevant national authority” means—
 - (a) in relation to England, the Secretary of State; and
 - (b) in relation to Wales, the Welsh Ministers;
- 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.”
- (4) In paragraph 9(1) (duration of licence) after “paragraph 16” insert “or 27A below”.
- (5) In paragraph 12(3) (refusal of licences) for paragraph (c) substitute—
- “(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;”.
- (6) In paragraph 13 (power to prescribe standard conditions)—
- (a) in sub-paragraph (2)(a) after “for” insert “sexual entertainment venues,”,
 - (b) in sub-paragraph (2)(b) after “of” insert “sexual entertainment venues,” and
 - (c) in sub-paragraph (3) for paragraph (d) (as originally enacted) substitute—
 - “(d) any change from one kind of sex establishment mentioned in sub-paragraph (2)(a) above to another kind of sex establishment so mentioned.”
- (7) In paragraph 19 (fees in relation to applications) after “grant,” insert “variation,”.

- (8) After paragraph 25 (powers of constables and local authority officers) insert—
- “25A(1) A person acting under the authority of a warrant under paragraph 25(4) may seize and remove anything found on the premises concerned that the person reasonably believes could be forfeited under sub-paragraph (4).
- (2) The person who, immediately before the seizure, had custody or control of anything seized under sub-paragraph (1) may request any authorised officer of a local authority who seized it to provide a record of what was seized.
- (3) The authorised officer must provide the record within a reasonable time of the request being made.
- (4) The court by or before which a person is convicted of an offence under paragraph 20 or 23 of this Schedule may order anything—
- (a) produced to the court; and
- (b) shown to the satisfaction of the court to relate to the offence; to be forfeited and dealt with in such manner as the court may order.
- (5) But the court may not order the forfeiture of anything under sub-paragraph (4) if it (whether alone or taken together with other things being forfeited which appear to the court to have been in the custody or control of the same person) is worth more than the amount of the maximum fine specified in paragraph 22(1).
- (6) Sub-paragraph (7) applies if a person claiming to be the owner of, or otherwise interested in, anything that may be forfeited applies to be heard by the court.
- (7) The court may not order the forfeiture unless the person has had an opportunity to show why the order should not be made.”
- (9) After paragraph 27(10) (appeals) insert—
- “(10A) Sub-paragraph (10) does not apply if the grounds for refusing an application for the renewal of a licence are those set out in paragraph 12(3)(c) or (d) of this Schedule.”
- (10) After paragraph 27 (appeals) insert—
- “Premises which are deemed sexual entertainment venues*
- 27A (1) This paragraph applies if—
- (a) premises are subject to a licence for a sexual entertainment venue; and
- (b) their use would be use as such a venue but for the operation of paragraph 2A(3)(b).
- (2) This Schedule applies as if—
- (a) the premises were a sexual entertainment venue; and
- (b) the use or business of the premises was use as, or the business of, such a venue.
- (3) But the appropriate authority must cancel the licence if the holder of the licence asks them in writing to do so.

- (4) In this paragraph “premises” has the same meaning as in paragraph 2A.”
- (11) Schedule 3 (provisions which are transitional on this section) has effect.

PART 3

ALCOHOL MISUSE

28 Selling alcohol to children

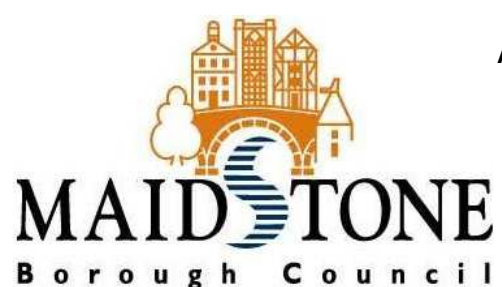
In section 147A(1)(a) of the Licensing Act 2003 (c. 17) (offence of selling alcohol to children on different occasions) for “3 or more different occasions” substitute “2 or more different occasions”.

29 Confiscating alcohol from young persons

- (1) Section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (confiscation of alcohol from young persons in a public place etc) is amended as follows.
- (2) In subsection (1) omit “and to state his name and address”.
- (3) After subsection (1) insert –
- “(1AA) A constable who imposes a requirement on a person under subsection (1) shall also require the person to state the person’s name and address.
- (1AB) A constable who imposes a requirement on a person under subsection (1) may, if the constable reasonably suspects that the person is under the age of 16, remove the person to the person’s place of residence or a place of safety.”
- (4) Subsection (1A) is omitted.
- (5) In subsection (3) after “subsection (1)” insert “or (1AA)”.
- (6) In subsection (4) after “that subsection” insert “or (1AA)”.
- (7) In subsection (6) omit “and (1A)”.

30 Offence of persistently possessing alcohol in a public place

- (1) A person under the age of 18 is guilty of an offence if, without reasonable excuse, the person is in possession of alcohol in any relevant place on 3 or more occasions within a period of 12 consecutive months.
- (2) “Relevant place”, in relation to a person, means –
- any public place, other than excluded premises, or
 - any place, other than a public place, to which the person has unlawfully gained access.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) For the purposes of subsection (2) a place is a public place if at the material time the public or any section of the public has access to it, on payment or otherwise, as of right or by virtue of express or implied permission.



**Policy
in respect
of the
Licensing
Of
Sex Shops,
Sex Cinemas
and
Sexual Entertainment Venues**

March 2011

1. Overview

- 1.1 The Local Government (Miscellaneous Provisions) Act 1982 (as amended by Section 27, Policing and Crime Act 2009) provides that a local authority may, by resolution, adopt schedule 3 to that Act.
- 1.2 The Maidstone Borough Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and the amendment under Section 27 of the Policing and Crime Act 2009.
- 1.3 The adoption of schedule 3 as amended will enable the licensing authority, within its area, to discharge its function in relation to the following:
 - sexual entertainment venues (providing relevant entertainment)
 - sex shops
 - sex cinemas
- 1.4 Schedule 7 to the Policing and Crime Act 2009 amends the Licensing Act 2003 to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982) do not also require a premises licence, club premises certificate or temporary event notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the Licensing Act 2003. However, if the premises also carries on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment) then this is not a provision of relevant entertainment and they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the Licensing Act 2003 for those other activities, subject to any exceptions contained in that Act.
- 1.5 In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 1.6 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from the definition of regulated entertainment in the Licensing Act 2003. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance nor will providing entertainment facilities for the purposes of the provisions of relevant entertainment be regulated entertainment under the Licensing Act 2003.
- 1.7 If a local authority has not made a resolution to adopt the provisions introduced by section 27, Policing and Crime Act 2009 within one year of the Act coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution. The purpose of this duty is to ensure that local authorities consider the views of local people whether, for whatever reason, they have not adopted the provisions. This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.

- 1.8 The Licensing Authority have also taken into consideration the provisions of Section 17 Crime and Disorder Act 1998 that requires responsible authorities to consider crime and disorder (including antisocial behaviour and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances in the exercise of all their duties, activities and decision-making. This means that in all policies, strategies and service delivery there is a need to consider the likely impact on crime and disorder.
- 1.9 The Licensing Authority is also aware that, at the time of formulating this policy, there is no evidence of any crime or disorder directly attributable to the operation of such establishments in the Maidstone area.
- 1.10 This policy helps to promote efficient and effective approaches to regulatory inspection and enforcement which is in compliance with:
- a) The Regulator's Compliance Code (set out under the Legislative and Regulatory Reform Act 2006) not to impede progress by the regulations we set out and, particularly, to consider the impact of regulations on small businesses; and
 - b) The Provisions of Services Regulations 2009 to ensure requirements are:
 - i) Non-discriminatory
 - ii) justified by an overriding reason relating to the public interest
 - iii) proportionate to that public interest objective
 - iv) clear and unambiguous
 - v) objective
 - vi) made public in advance
 - vii) transparent and accessible
- 1.11 In certain instances we may conclude that a provision in the policy is either not relevant or is outweighed by other provisions. We will ensure that any decision to depart from the policy will be properly reasoned, based on material evidence and documented; giving clear and compelling reasons for doing so.
- 1.12 The Council sees the licensing process as an integral part of its approach to achieving its strategic and corporate objectives which encompasses the visionary goals of:
1. A place to achieve, prosper and thrive
 2. A place that is clean and green
 3. A place that has strong healthy and safe communities
 4. A place to live and enjoy
 5. A place with efficient and effective public services

2. Policy

2.1 The purpose of this policy is to:

- Set out the expectations of the local authority in meeting the requirements of the legislation
- Provide guidance on the process for making an application and the process the Council will follow in considering and determining an application.
- Assist any persons making representations in respect of an application to make properly directed and evidenced representations.

2.2 Notwithstanding this policy, each application will be assessed on its individual merit and granted or refused purely on that merit. Whilst this policy will set out the broad scope of expectations, it should not be seen as restricting or predetermining the outcome of any application or representation in respect of the licensing of any premises.

3. Functions

3.1 Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.

3.2 This authority delegates its functions to those who sit on its Licensing Committee, or a sub-committee appointed for the purpose, with the exception of a renewal of a licence to which no objections are received, which will be delegated to officers as set out in the Council's constitution.

4. Consultations

4.1 The Policing and Crime Act 2009 is not prescriptive about how local authorities should consult with local people in order to comply with this duty. The Council has extensive experience of engaging with local people and will utilise that knowledge to ensure that any consultation exercise carried out under this duty will be fair and meaningful. The Council will seek to make any relevant information available to local people in order to inform them of the legislation, criteria and outcomes of the consultation.

4.2 For the purpose of this duty 'local people' are defined as anyone who lives or works in the local authority area.

4.3 The council will seek to consult with all those consulted on the Licensing Act 2003 and current sex establishment licence holders. A full list of those consulted is attached at Appendix C.

5. Definitions

5.1 For the purposes of this policy the following definitions will apply:

5.2 Sex Shop

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.

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

5.3 Sex Article

Anything made for use in connection with, or for the purpose of stimulating or encouraging—

- a) sexual activity; or
- b) acts of force or restraint which are associated with sexual activity; and anything to which sub-paragraph below applies.

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 of 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.

5.4. Sex Cinema

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.

No premises shall be treated as a sex cinema by reason only

- a) if they may be used for an exhibition of film (within the meaning of paragraph 15 of Schedule 1 to the Licensing Act 2003) by virtue of an authorisation (within the meaning of Section 136 of that Act), of their use in accordance with that authorisation.
- b) of their use for an exhibition to which section 6 of that Act (certain noncommercial exhibitions) applies given by an exempted organisation within the meaning of section 6(6) of the Cinemas Act 1985.

5.5. Sexual Entertainment Venue:

Any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Exemptions from being a Sexual Entertainment Venue

The following are not sexual entertainment venues for the purposes of this policy:

- a) sex cinemas and sex shops;
- b) premises at which the provision of relevant entertainment is such that, at the time in question and including any relevant entertainment which is being so 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 for 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 subparagraph (i));
- c) premises specified or described in an order made by the relevant national authority.

5.6. Relevant entertainment:

Any live performance or 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).

Home Office Guidance states relevant entertainment would therefore apply to the following forms of entertainment, as they are commonly understood:

- Lap dancing
- Pole dancing
- Table dancing
- Strip shows
- Peep shows
- Live sex shows

However this list is not exhaustive and local authorities will judge each case on its merits. Decisions will be based on the content of the entertainment provided and not the name given to it.

5.7 Nudity

Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

5.8 Spontaneous Entertainment

Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser might be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

5.9 The 'Organiser'

Any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer to someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.

The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

6. Planning

6.1 The Licensing Authority will not normally undertake action where another, more appropriate, regime exists to resolve matters. Failure to obtain planning permission is not a ground for refusal of the grant of an application under the Local Government (Miscellaneous Provisions) Act 1982 and such a failure to obtain planning permission will normally be dealt with as part of the normal planning process.

6.2 Operators and persons making representations should be aware that in many cases there would be a need to obtain planning permission before a premise may be used for the purposes relevant to this policy. The Licensing Authority will not normally consider planning matters such as 'need' in determining a licence application as this is more appropriately dealt with by Planning legislation.

6.3 Applicants are advised to seek independent advice in relation to both planning and licensing prior to making any application under Schedule 3 Local Government (Miscellaneous Provisions) Act 1982

7 European Convention on Human Rights

- 7.1 The Local Authority fully supports the European Convention on Human Rights. When determining applications for licences under this policy the Licensing Authority will give consideration to any rights an existing operator may have under Article 1, Protocol 1 of the European Convention on Human Rights (ECHR) which entitles every person to the peaceful enjoyment of their possessions and Article 10 (freedom of expression).
- 7.2 The Secretary of State has certified that the Policing and Crime Act 2009 is covered by Section 19, Human Rights Act 1998 as being in compliance with the ECHR.
- 7.3 Whilst the rights under Article 1 and 10 may be activated the weight to be accorded to these rights in this context is low level. The right of freedom of expression to participate in the activities of sex shops, sex cinemas and sexual entertainment venues is not prohibited but may be controlled by licensing. Similarly the right to possession of an existing licence is proportionally protected subject to a fair balance of the rights of the holder and the public interest.

8. The Application Process

- 8.1 Applications for licences for sex shops, sex cinemas and sex entertainment venues must be made on the prescribed form and accompanied by the requisite fee.
- 8.2 A site plan of radius of $\frac{1}{4}$ of a mile (scale 1:500) clearly outlining the locality in which the proposed sexual entertainment venue will be situated. The plan should clearly identify the proposed sexual entertainment venue marking the site/premises boundary with a red line and define other types of businesses and residential properties around the site as listed at 12.11.
- 8.3 A plan of the premises (scale 1:100) showing the part(s) of the premises that it is proposed to licence as a sexual entertainment venue. All areas requiring to be licensed should be outlined in red on the plan. If a part of the premises is within a licensed premises under the Licensing Act 2003 which will have a dual purpose then the plan should show the site where facilities for the public are shared such as toilets and bar.
- 8.4 The plan of the premises must show the position of all CCTV cameras and shall be with the approval of Kent Police and in accordance with the CCTV code of practice.
- 8.5 Plans may be considered in other scales with prior agreement with the licensing authority.
- 8.6 The council will not usually determine an application for the grant of a licence, unless, the applicant allows an authorised officer a reasonable opportunity to enter the proposed sex establishment to make such examination and enquiries as may be necessary to determine the suitability of the premises.

9. Notices

- 9.1 Applicants for a sexual establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than seven days after the date the application is made.
- 9.2 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The

notice should be displayed for a period of 21 days beginning with the date the application was made.

- 9.3 All notices should be in the form prescribed by the appropriate authority as detailed in Appendix B and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 9.4 The applicant is required to submit a copy of any application to the Chief Officer of Police for the area within seven days of submitting the original application to the local authority. The requirement does not apply in the case of electronic applications as it is the duty of the local authority to send a copy to the police.

10. **Objections**

- 10.1 Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12, of Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 for refusing a licence. Objections should not be based on moral grounds/values and local authorities cannot consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 10.2 When considering an application for the grant, renewal or transfer of a licence the Licensing Authority will have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else, (including statutory agencies such as Kent Fire and Rescue Service, UK Border Agency, The Local Safeguarding Childrens Board) within 28 days of the application.
- 10.3 Where the Licensing Authority receives notice of any objection the authority will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority will not without the consent of the person making the objection reveal their name or address to the applicant.

11. **Hearings**

- 11.1 Under paragraph 10(19) of Schedule 3, before refusing an application, renewal or application to transfer a licence all applicants will be given the opportunity to appear before and be heard by the Licensing Committee or Sub-Committee that is responsible for determining the application.
- 11.2 Whilst Schedule 3 does not make explicit provision for objectors to be heard, this Council believes it right to offer an oral hearing to objectors. This does however remain within their discretionary powers. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.
- 11.3 Persons making written objections will also be informed of the date and time of the licensing sub-committee hearing where they will be invited to address the committee and ask questions relating to the application.

- 11.4 All objectors and applicants are reminded that they can if they wish be legally represented at their own expense at the hearing. Alternatively they may if they wish ask a Councillor to represent them.
- 11.5 In determining an application the Licensing Committee (or Sub-Committee) will consider the applicant's presentation, the Council's authorised officer report, police observations and objections.
- 11.6 All parties may use witnesses and supporting documentation however, copies of documents and details of witnesses must be submitted to the Licensing Committee (or Sub-Committee) for consideration prior to the hearing and in special circumstances with approval of all parties at the hearing.
- 11.7 The Licensing Committee (or Sub-Committee) will consider all the evidence presented to it during the hearing and members may ask questions of officers, applicant and objectors. After the evidence has been presented all parties will be asked to leave to allow for Licensing Committee (or Sub-Committee) to come to a decision on the application.
- 11.8 When a decision is reached the Licensing Committee (or Sub-Committee) will inform the applicant and relevant parties of their decision and the reasons for coming to that particular decision.
- 11.9 The decision of the Licensing Committee (or Sub-Committee) will be confirmed, in writing, to the applicant within seven working days of the meeting at which the application was considered giving reasons for the decision.

12. **Refusal of a Licence**

- 12.1 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence **must not** be granted:
 - a) to a person under the age of 18;
 - b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
 - c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - d) to a body corporate which is not incorporated in an EEA State; or
 - e) to a person who 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.
- 12.2 A licence may be refused where:
 - a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

- b) 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;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that 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
 - iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

12.3 A decision to refuse a licence must be relevant to one or more of the above grounds.

12.4 In making any determination to refuse an application, renewal or transfer the local authority will give consideration to:

a. Suitability of the applicant

In determining the suitability or otherwise of an applicant the local authority will consider any previous convictions and in particular those that have been imposed in respect of offences involving violence, dishonesty, drugs, offences of a sexual nature or a breach of the requirements of the legislation covering the type of establishment in respect of which the application is made.

Any other reasonable cause, arising from:

- previous knowledge and experience of the applicant
- any evidence of the operation of any existing/previous licence held by the applicant, including any licence held in any other local authority area
- any report about the applicant and management of the premises received from objectors

b. Business carried out on behalf of a person who would be refused

The local authority takes a serious view of any application that seeks to subvert the underlying principles of the Act. Where it is considered that the applicant is effectively operating the business on behalf of a person who would, for whatever reason, be refused or disqualified from the grant of a licence due to the mandatory or discretionary grounds for refusal there will be a presumption towards refusal unless overwhelming reasons are accepted for the contrary decision to be made.

c. The application exceeds the limit set on the number of the specific type of sex establishments generally or of a specific type in an area

d. Appropriateness having regard to character of locality, use of premises in the vicinity or layout, character or condition of premises

The local authority may refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of sex establishments or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality the use to which any premises in the vicinity are put or the layout, character or condition of the premises.

12.5 Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 does not define 'relevant locality' further than to say that:

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

12.6 Once the Council has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality. The Council may consider a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

12.7 Case law has indicated however that in defining the relevant locality the local authority should not seek to specify wide areas.

12.8 Although a ward area could be considered as a relevant locality it is determined that certain wards are substantial in size and would cover a wide area. It could also raise a problem with borders of other wards where there could be a cluster of sex establishments.

12.9 The Licensing Authority has determined not to set specific relevant localities in respect of each type of sex establishment, instead judging each application it receives on its own individual merits and the character of the locality at the time of the decision.

In determining the relevant locality each case will be decided on its merit having consideration to the individual circumstances of the application.

12.10 In licensing of sex entertainment venues the Licensing Authority will consider the impact of such premises and their operation on the character of an area. This would include but not be limited to:

- The type of location (residential, commercial, industrial)
- The likely effects of any increased footfall or vehicular traffic
- Any advertising or displays of an erotic or pseudo-erotic nature
- Localities where the cumulative impact of the venue, taken with other licensed premises or commercial interests, is likely to have an adverse effect on crime and disorder and public nuisance
- Any evidence of complaints about noise and/or disturbance caused by the premises
- The levels of crime and disorder in the area.

- 12.11 The Local Authority would consider use of other premises in the vicinity which would include but not be limited to:
- Establishments whose patrons are likely to be adversely affected by the operation of the premises
 - The proximity of residential premises, including any sheltered housing and accommodation for vulnerable people
 - The proximity of educational establishments to the premises
 - The proximity of places of worship to the premises
 - Access routes to and from schools, play areas, nurseries, children's centres or similar premises in proximity to the premises
 - The proximity to shopping centres
 - The proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs (this list is not exhaustive)
 - The proximity to conservation areas, historic buildings and tourist attractions
 - The proximity of other sex establishments
- 12.12 When considering an application for the grant, renewal, variation or transfer of a licence the Council will also take into account the layout, character or condition of the premises including but not limited to the following
- The type of activity to which the application relates
 - The duration of the proposed licence
 - The days and hours of operation of the activity.
 - Suitability of management systems to take into account the safety of its performers, customers and staff.
- 12.13 Visibility to passers by on retail thoroughfares or pedestrian routes. In more sensitive locations applicants should consider whether it would be appropriate to locate such premises at basement level or locate entrances away from retail thoroughfares or busy pedestrian routes.

13. Waivers

- 13.1 The amendments to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 allow for the Licensing Authority to waive the need for a sex entertainment venue licence under certain circumstances.
- 13.2 An applicant can apply for a waiver either as part of the application for a licence or separately. The Local Authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.
- 13.3 The Licensing Authority will consider applications for such waiving of the need for licences on an individual basis. However, it is felt that unless clear and unambiguous evidence can be produced to support such a waiving of licence, the default position will be that a licence will be required.

14. Conditions

- 14.1 The Local Government (Miscellaneous Provisions) Act 1982 allows the Licensing Authority to attach both standard and specific conditions to a licence. The Licensing Authority has set out standard conditions (APPENDIX A) in respect of each type of licensed premises for which conditions may be taken and provided a pool of conditions. However, this list is not exhaustive and is merely to give an indication of what may be considered necessary for any individual licence.
- 14.2 The standard conditions will be placed on the particular type of establishment and others may be applied only where a perceived necessity exists and in a manner that is both proportionate and reasonable to promote a safe and well managed premises. Each case will be dealt with on its individual merit.
- 14.3 Whilst conditions may be prescribed on any matter it is likely that the following considerations will attract the attachment of conditions:
- Hours of opening and closing
 - Visibility of the interior of the premises
 - Displays of advertisements
 - Any change to the type of premises
 - Minimum distance between audience and performers
 - The control of access to changing room facilities
 - The control of private viewings
- 14.4 The authority may specify other conditions specific to individual premises dependant on the type of activity undertaken. Such condition may not be listed in the pool of conditions.

15. Duration of Licences

- 15.1 Licences for sex establishments will be granted for up to one year.

16. Appeals

- 16.1 The Local Government (Miscellaneous Provisions) Act 1982, paragraph 27 permits appeals against the decision of the Council in relation to sexual entertainment venues. Appeals will be heard in the first instance by the Magistrates Court. An appeal must be made within 21 days of the decision of the Licensing Sub-Committee to the Magistrates Court.
- 16.2 An appeal can be made in the following circumstances:-
- Refusal of an application for grant, renewal or transfer of a licence
 - Refusal of an application to vary terms, conditions or restrictions on or subject to which any licence is held
 - A grievance relating to any term, condition or restriction on or subject to which a licence is held
 - Revocation of a licence
- 16.3 There is no right of appeal for objectors.

- 16.4 There is no right of appeal against refusal on the ground that there are sufficient sex establishments in the locality or that to grant would be inappropriate having regard to the character of the locality, use of premises in the vicinity and the layout, character, condition and location of the premises.
- 16.5 A person wishing to appeal against the council decision is strongly advised to seek assistance from a solicitor.



Sexual Entertainment Venues

Guidance for England and Wales

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MINISTERIAL FOREWORD



In September 2008, the previous Home Secretary announced the Government's intention to give local people greater say over the number and location of lap dancing clubs in their area. This followed a consultation with local authorities which highlighted concerns that existing legislation did not give communities sufficient powers to control where lap dancing clubs were established.

In order to address these concerns, section 27 of the Policing and Crime Act 2009 reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

These new measures, which take effect on 6th April 2010 in England and on 8th May in Wales, will, if adopted by local authorities, give local people a greater say over where and how many lap dancing clubs open and operate in their neighbourhoods.

These are important reforms to further empower local communities and the purpose of this guidance is to provide advice to local authorities, operators, local people and other interested parties on the new measures introduced by section 27 and the associated secondary legislation.

Alan Campbell

A handwritten signature in cursive script that reads "Alan Campbell".

Parliamentary Under-Secretary of State for Crime Reduction

March 2010

INTRODUCTION

Definitions

1.1 In this guidance –

The “2009 Act” means the Policing and Crime Act 2009

The “1982 Act” means the Local Government (Miscellaneous Provisions) Act 1982

The “2003 Act” means the Licensing Act 2003

“Section 27” means section 27 of the Policing and Crime Act 2009

“Schedule 3” means Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982

Policing and Crime Act 2009

1.2 Section 27 introduces a new category of sex establishment called ‘sexual entertainment venue’, which will allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3.

1.3 Section 27 gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

The Guidance

1.4 The guidance is provided for local authorities carrying out their functions under Schedule 3, as amended by section 27. It will also be of use to operators, the police and the general public.

- 1.5 Interpretation of the relevant primary and secondary legislation is ultimately a matter for the courts. However, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.
- 1.6 The guidance is composed of 3 sections. Section 2 focuses on the 2009 Act and the definition of 'sexual entertainment venue'. Section 3 provides an explanation of the meaning and effect of Schedule 3 to the 1982 Act and section 4 provides guidance on the transitional provisions as set out in the transitional orders: *The Policing and Crime Act 2009 (Commencement No.1 and Transitional and Saving Provisions)(England) Order 2010* and the *Policing and Crime Act 2009 (Consequential Provisions)(England) Order 2010* and any equivalent orders made by Welsh Ministers in respect to Wales.
- 1.7 Apart from extending the scope of the 1982 Act to cover the licensing of sexual entertainment venues and removing the sex encounter establishment category in those local authority areas that adopt the new provisions, the 2009 Act and the associated secondary legislation makes only minor changes to the operation of Schedule 3.
- 1.8 Section 27 of, and Schedule 3 to, the 2009 Act come into force in England on 6th April as does the *Policing and Crime Act 2009 (Consequential Provisions) (England) Order 2010*. In Wales, the equivalent provisions come into force on 8th May 2010.

POLICING AND CRIME ACT 2009

Meaning of Sexual Entertainment Venue

- 2.1 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as *“any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.”*
- 2.2 The meaning of 'relevant entertainment' is *“any live performance or 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 an audience (whether by verbal or other means).”* An audience can consist of just one person (e.g. where the entertainment takes place in private booths).
- 2.3 While local authorities should judge each case on its merits, we would expect that the definition of relevant entertainment would apply to the following forms of entertainment as they are commonly understood:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows
- 2.4 The above list is not exhaustive and, as the understanding of the exact nature of these descriptions may vary, should only be treated as indicative. Ultimately, decisions to licence premises as sexual entertainment venues shall depend on the content of the entertainment provided and not the name it is given.

- 2.5 For the purposes of these provisions a premises includes any vessel, vehicle or stall but does not include a private dwelling to which the public are not admitted.

Nudity

- 2.6 It is important to note that although the definition of relevant entertainment makes reference to a 'live display of nudity', the mere fact that there is a display of nudity does not mean that a sex establishment licence will necessarily be required. For example, if the display forms part of a drama or dance performance in a theatre, in most cases it cannot reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.
- 2.7 Paragraph 2A(14) of Schedule 3 sets out the definition of a 'display of nudity'. In the case of a woman, it means exposure of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

The Organiser

- 2.8 The relevant entertainment must be provided for the financial gain of the 'organiser' or 'entertainer'. The 'organiser' means any person who is responsible for the organisation or management of the relevant entertainment or the premises at which the relevant entertainment is provided. In most circumstances, this will refer to the manager of the premises, but could also refer someone who is responsible for organising the relevant entertainment on behalf of the persons responsible for the management of the premises.
- 2.9 The 'organiser' must be someone who is in a position of responsibility over the provision of the relevant entertainment and should not be interpreted to mean a member of staff who is merely employed to work during the provision of relevant entertainment. It is only necessary for

one person to hold a sexual entertainment venue licence for premises, even if there is more than one person who is responsible for the organisation or management of the relevant entertainment or the premises.

Spontaneous Entertainment

2.10 Where activities that would otherwise be considered to involve the provision of relevant entertainment take place, but are not provided for the financial gain of the organiser or entertainer, such as a spontaneous display of nudity or a lap dance by a customer or guest, the premises will not be considered a sexual entertainment venue by virtue of those circumstances alone. This is because the relevant entertainment must be provided for the financial gain of the organiser or entertainer. However, it should be noted that an organiser may be considered to have provided the entertainment where he has permitted the activity to take place, whether expressly or impliedly.

Premises that are not sexual entertainment venues

2.11 Paragraph 2A(3) of Schedule 3 sets out those premises that are not sexual entertainment venues. These are:

- sex shops and sex cinemas (which are separately defined in Schedule 3 to the 1982 Act);
- premises which provide relevant entertainment on an infrequent basis. These are defined as premises where-
 - a) no relevant entertainment has been provided on more than 11 occasions within a 12 month period;
 - b) no such occasion has begun within a period of one month beginning with the end of the previous occasions; and
 - c) no such occasion has lasted longer than 24 hours.
- other premises or types of performances or displays exempted by an order of the Secretary of State.

2.12 Premises which provide relevant entertainment on an infrequent basis will continue to be regulated under the 2003 Act, insofar as they are

providing regulated entertainment under that Act, either by virtue of a premises licence or club premises certificate issued under Part 3 or Part 4 or a temporary events notice issued under Part 5 of that Act. Any premises that provide relevant entertainment on more occasions, more frequently or for a longer period of time than is permitted under the exemption will be operating as a sexual entertainment venue and will have committed an offence under Schedule 3 unless they hold a sexual entertainment venue licence or the local authority has waived the requirement for such a licence.

Amendments to the Licensing Act 2003

- 2.13 Schedule 7 to the 2009 Act amends the 2003 Act to ensure that premises for which a sexual entertainment venue licence is required or held (or for which the requirement has been waived under paragraph 7 of Schedule 3 to the 1982 Act) do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant entertainment. This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act. However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment), they will nevertheless continue to require a premises licence, club premises certificate or temporary events notice under the 2003 Act for those other activities, subject to any exceptions contained in that Act.
- 2.14 In practice, this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a premises licence or club premises certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.
- 2.15 Live music or the playing of recorded music which is integral to the provision of relevant entertainment, such as lap dancing, for which a sexual entertainment licence is required, is specifically excluded from

the definition of regulated entertainment in the 2003 Act. Therefore, a sexual entertainment venue will not require a premises licence or club premises certificate just because it plays recorded music for a performer to dance to. (Nor will providing entertainment facilities for the purposes of the provision of relevant entertainment be regulated entertainment under the 2003 Act).

- 2.16 Premises which fall under the exemption created for infrequent entertainment do not require a sexual entertainment venue licence but will instead need an appropriate authorisation under the 2003 Act, for example, to cover the performance of dance. The exemption from requirements of the 2003 Act for live music or the playing of recorded music which is integral to relevant entertainment does not apply to such venues.

Consultation with Local People

- 2.17 If a local authority has not made a resolution to adopt the provisions introduced by section 27 within one year of it coming into force it must, as soon as is reasonably practicable, consult local people about whether they should make such a resolution.
- 2.18 The purpose of this duty is to ensure that local authorities consider the views of local people where, for whatever reason, they have not adopted the provisions.
- 2.19 This duty should be seen to be an extension to existing general duties on local authorities to consult and involve local people when exercising their functions.
- 2.20 The 2009 Act is not prescriptive about how local authorities should consult with local people in order to comply with this duty. Local authorities have extensive experience of engaging with local people and will know what works best in their individual areas. Clearly, the Secretary of State expects that any consultation exercise carried out under this duty will be fair and meaningful. Local authorities should

seek to make any relevant information available to local people in order to inform their understanding and publish the outcomes of the consultation on the internet.

- 2.21 In practice, local authorities may decide to consult local people on this matter when they consult and involve local people on broader local priorities and crime and disorder or anti-social behaviour priorities as part of their work to develop Local Area Agreements/Local Delivery Agreements and crime and disorder strategies, as required under various existing duties, including, section 138 of the Local Government and Public Involvement in Health Act 2007 and regulation 12 of the Crime and Disorder (Formulation and Implementation of Strategy) Regulations 2007. This will ensure that consultations are not onerous and form part of the ongoing engagement with local communities undertaken by all local authorities.
- 2.22 For the purposes of this duty 'local people' are defined as anyone who lives or works in the local authority area.

SCHEDULE 3 TO THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The Appropriate Authority

- 3.1 The appropriate authority is responsible for determining applications for sex establishment licences. For the purposes of the 1982 Act 'appropriate authority' means the local authority which passed a resolution under section 2 of that Act to adopt Schedule 3 in their area. 'Local authority' means—
- (a) the council of a district (including a unitary County Council) or, in Wales, the principal council¹;
 - (b) the council of a London borough; and
 - (c) the Common Council of the City of London.

Committee or Sub-Committee

- 3.2 Functions under Schedule 3 are the responsibility of the full council of the appropriate authority, as defined above. Under section 101 of the Local Government Act 1972, local authorities may arrange for the discharge of these responsibilities by a committee or sub-committee of the appropriate authority.
- 3.3 An authority may delegate its functions to those who sit on its licensing committee set up to discharge licensing functions under the 2003 Act. However, when dealing with an application for a sex establishment licence, the members of the committee would not be acting as the licensing committee under the 2003 Act and would instead be exercising their functions under Schedule 3.

¹ See section 2 of the 1982 Act. Section 17 of the Local Government (Wales) Act 1994 provides that legislative references to district councils are to be interpreted as references to principal councils in Wales. Unitary County Councils have all the functions and powers of district councils.

Adopting the Provisions

- 3.4 Section 27 comes into force on 6th April 2010 in England and 8th May in Wales². On or following this date local authorities may resolve to adopt Schedule 3 to the 1982 Act as amended by the 2009 Act so that it has effect in their area.
- 3.5 Although many local authorities will have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops and sex cinemas, a further resolution is necessary before the provisions introduced by Section 27 will have effect in the local authority area. However, where a local authority has not resolved to adopt Schedule 3 to the 1982 Act before the coming into force of Section 27, the amendments made to Schedule 3 by section 27 will apply automatically if a resolution to adopt Schedule 3 is made subsequently (see Schedule 3 to the 2009 Act).
- 3.6 The procedure for local authorities to adopt Schedule 3 as amended by section 27 is set out in section 2 of the 1982 Act. Firstly, the local authority must pass a resolution specifying that Schedule 3 or, in the case of an authority where Schedule 3 is already in force, the amendments made by section 27 to that Schedule, shall apply to their area and the day on which it or they shall come into force in the area. The specified day must be more than one month after the day on which the resolution was passed.
- 3.7 The local authority shall publish notice that they have passed a resolution under section 2 of the 1982 Act or (in cases where Schedule 3 is already in force but the local authority is adopting the amendments made by section 27) paragraph 2(2) of Schedule 3 to the 2009 Act for two consecutive weeks in a local newspaper that is circulated in their area. The first publication shall not be later than 28 days before the day specified in the resolution for the provisions to come into force in the

² Section 27 (11) was brought into force on 2nd March 2010 but only for the purpose of making the transitional orders.

local authority's area. The notice should state the general effect of Schedule 3.

- 3.8 While there is no statutory duty to do so, prior to deciding whether to pass a resolution, local authorities may, as a matter of good practice, wish to seek the views of local people and businesses. The Secretary of State also encourages local authorities to engage with known sexual entertainment venues at the earliest possible opportunity once a decision to adopt the provisions has been made, to ensure affected businesses are aware of what action they will need to take in order to comply with the new regime.

Requirement for a Sex Establishment Licence

- 3.9 Any person wishing to operate a sex establishment as defined by Schedule 3 requires a sex establishment licence, unless the requirement for a licence has been waived by the appropriate authority.
- 3.10 An applicant can apply for a waiver either as part of the application for a licence or separately. The local authority can grant a waiver if they consider that to require a licence would be unreasonable or inappropriate. Where a waiver is granted the appropriate authority should inform the applicant that a waiver has been granted. The waiver may last for such a period that the appropriate authority think fit, but can be terminated by the appropriate authority at any time with 28 days notice.

Premises that are deemed to be Sexual Entertainment Venues

- 3.11 Paragraph 27A of Schedule 3 deems premises with licences to operate as sexual entertainment venues to be sexual entertainment venues whilst their licence remains in force, irrespective of how frequently they are or have been providing relevant entertainment. This remains the case even if premises operate within the exemption for infrequent events.

- 3.12 If an operator with a sexual entertainment venue licence is operating within the exemption for infrequent events and no longer wants their premises to be treated as a sexual entertainment venue (e.g. because they are no longer operating as a lap dancing club) they may write to the relevant local authority to request that their licence be cancelled. Upon receiving such a request from a licence-holder a local authority must cancel the licence in question.

Notices

- 3.13 Applicants for a sex establishment licence must give public notice of the application by publishing an advertisement in a local newspaper that is circulated in the local authority area no later than 7 days after the date the application is made.
- 3.14 Where the application relates to premises, a notice should also be displayed on or near the premises in a place where it can be conveniently read by members of the public. The notice should be displayed for a period of 21 day beginning with the date the applications was made.
- 3.15 All notices should be in the form prescribed by the appropriate authority and identify the premises or, if the application relates to a vehicle, vessel or stall, specify where it will be used as a sex establishment.
- 3.16 There are similar notification requirements for applications made under the 2003 Act. Where an applicant is making an application under both Schedule 3 and the 2003 Act at the same time they may wish to combine these requirements where permitted.

Application Forms

- 3.17 Unlike the 2003 Act there is no prescribed application form for an application made under Schedule 3 to the 1982 Act. However, the application must be in writing and contain the details set out in paragraph 10 of Schedule 3 along with such other details as the

appropriate authority may reasonably require. Local authorities must provide for applications to be made electronically and may produce and publish recommended application forms for sex establishment licences setting out all the details required.

Single Point of Contact

- 3.18 Following amendments to sub-paragraph 10(14) made by the Provision of Services Regulations 2009, where an application for the grant, renewal or transfer of a licence is made by means of a relevant electronic facility it will be the responsibility of the appropriate authority to send a copy of an application to the chief officer of police, not later than 7 days after the date the application is received.
- 3.19 Where an application is made by any other means the responsibility to send a copy of the application to the chief officer of police within 7 days of the application being made will remain the responsibility of the applicant.
- 3.20 For the purpose of Schedule 3 a relevant electronic facility means the electronic assistance facility referred to in regulation 38 of the Provision of Services Regulations 2009 or any facility established and maintained by the appropriate authority for the purpose of receiving applications under this Schedule electronically.

Fees

- 3.21 Schedule 3 to the 1982 Act states that an application for the grant, renewal, variations or transfer of a sex establishment licence shall pay a reasonable fee determined by the appropriate authorities, but does not expand on what would be considered to be reasonable.
- 3.22 However, local authorities should have regard to the following documents when determining their fee: *The European Services*

Directive: Guidance for Local Authorities³ and LACORS Guidance on the impact of the Services Directive on councils setting and administering local licence fees within the service sector.⁴

Objections

- 3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values⁵ and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

- 3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.
- 3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no

³ <http://www.berr.gov.uk/files/file50026.pdf>

⁴ www.lacors.gov.uk

⁵ R v Newcastle upon Tyne City Council ex parte The Christian Institute [2001] B.L.G.R. 165

obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.⁶

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- (a) to a person under the age of 18;
- (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- (c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA State; or
- (e) to a person who 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.

3.28 A licence may be refused where:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) 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;

⁶ R v Plymouth City Council v Quietlynn [1998] Q.B. 114.

- (c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that 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
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.⁷

3.31 The Provision of Services Regulations 2009⁸ amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having

⁷ *Belfast City Council v Miss Behavin’ Ltd (Northern Ireland) (2007) [2007] UKHL 19*

⁸ Regulation 47

regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

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

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.⁹

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding that two sex establishments 200 miles away from one another were in the same

⁹ See R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249 for further guidance.

locality. Case law also indicates that a relevant locality cannot be an entire local authority area or an entire town or city.¹⁰

- 3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.
- 3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

- 3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.
- 3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:
- The hours of opening and closing
 - Displays and advertisements on or in sex establishments
 - The visibility of the interior of a sex establishment to passers-by
 - Any change of use from one kind of sex establishment to another

¹⁰ R v Peterborough City Council ex parte Quietlynn 85 L.G.R. 249

- 3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.
- 3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on the each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licences or clubs premises certificate and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

Duration of Licences

- 3.43 Licences for sex establishments can be granted for up to one year.

Appeals

- 3.44 In the event that the appropriate authority refuses an application for the grant, renewal or transfer of a sex establishment licence the applicant may appeal the decision in a magistrates' court, unless the application was refused under 12(3)(c) or (d), in which case the applicant can only challenge the refusal by way of judicial review.

Licensing Policies

- 3.45 While local authorities are not required to publish a licensing policy relating to sex establishments they can do so if they wish as long as it

does not prevent any individual application from being considered on its merits at the time the application is made.¹¹

- 3.46 A licensing policy for sex establishments might include statements about where local authorities are likely to consider to be appropriate or inappropriate locations for such venues. This could be set out in general terms by reference to a particular type of premises, such as a school or place of worship, or more specifically, by reference to a defined locality.
- 3.47 Local authorities could also use a licensing policy to indicate how many sex establishments, or sex establishments of a particular kind, they consider to be appropriate for a particular locality.
- 3.48 Local authorities can also produce different policies or a separate set of criteria for different types of sex establishments. This might be appropriate to reflect distinctions between the operating requirements of different sex establishments or the fact that the location that a local authority considers appropriate for a sex shop may be different to that of a sexual entertainment venue.

Offences

- 3.49 The offences under Schedule 3 are set out in paragraphs 20 to 23 of that Schedule and include:
- knowingly causing or permitting the use of any premises as a sex establishment without a licence;
 - being the holder of a licence, knowingly employing a person in a sex establishment who is disqualified from holding a licence;
 - being the holder of a licence, knowingly contravenes, or without reasonable excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;
 - being the servant or agent of the holder of a licence, without reasonable excuse knowingly contravenes, or without reasonable

¹¹ R v Peterborough City Council ex parte Quietlynn Ltd (1986) 85 LGR 249

excuse knowingly permits the contravention of, a term, condition or restriction specified in a licence;

- being the holder of a licence, without reasonable excuse knowingly permits a person under the age of 18 to enter the establishment
- being the holder of a licence, employs a person known to them to be under 18 years of age in the business of the establishment.

3.50 A person guilty of any of the above offences is liable on summary conviction to a fine not exceeding £20,000.

3.51 It is also an offence for the holder of a licence, without reasonable excuse to fail to exhibit a copy of the licence and any standard conditions applicable to the licence in a suitable place as specified in the licence. A person guilty to this offence shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Provisions Relating to Existing Premises

3.52 Where a local authority resolves that Schedule 3 apply in their area having not previously made such a resolution, paragraphs 28 and 29 will have effect for the purpose of sex shop, sex cinemas and hostess bars, but will not have effect for the purpose of sexual entertainment venues. The transitional provisions relating to sexual entertainment venues are explained in part 4 of this guidance.

The Services Directive

3.53 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC (“the Directive”) which was implemented in the UK by the Provision of Services Regulations 2009 (“2009 Regulations”), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3.

3.54 The Department of Business, Innovation and Skills (BIS) has produced guidance for both businesses and local authorities to assist in

understanding the impact of the Directive and 2009 Regulations and what service providers and relevant authorities must do in order to comply. Both guidance documents can be found on the BIS website: <http://www.berr.gov.uk/whatwedo/europeandtrade/europe/services-directive/page9583.html>

- 3.55 In particular, the 2009 Regulations may affect the way in which local authorities set application fees, process applications and grant licences.

TRANSITIONAL PROVISIONS

- 4.1 This section provides guidance on the transitional provisions as set out in the *Policing and Crime Act 2009 (Commencement No.1, and Transitional and Saving Provisions)(England) Order 2010* (“the *Transitional Order*”) and the *Policing and Crime Act 2009 (Consequential Provisions)(England) Order 2010* (“the *Consequential Order*”) and the equivalent orders made by Welsh Ministers for Wales.

Transitional Period

- 4.2 The ‘transitional period’ will last for 12-months beginning with the date that the local authority resolves that Schedule 3 as amended by the 2009 Act will come into force in their area (‘the 1st appointed day’). Six months following the 1st appointed day will be known as the ‘2nd appointed day’ and the day on which the transitional period ends will be known as the ‘3rd appointed day’.
- 4.3 The appointed days will vary across local authority areas depending on when individual local authorities resolve that the provisions will come into force in their area.

Existing Operators

- 4.4 To allow time to comply with the new regime, existing operators, who, immediately before the 1st appointed day, have a 2003 Act licence and lawfully use premises as a sexual entertainment venue under that licence or are undertaking preparatory work to use the venue in that way will be allowed to continue to provide relevant entertainment until the 3rd appointed day or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later.

- 4.5 “Preparatory work” refers to work carried out by an operator, such as a refurbishment or refit, in order that they can use the premises as a sexual entertainment venue in the future. The operator will have been granted a 2003 Act licence before the 1st appointed day but will not have used the premises as a sexual entertainment venue by that date. It is likely that such operators will be known to a local authority. However, where a dispute arises between a local authority and an licence-holder over whether the licence-holder qualifies as an existing operator by virtue of this provision the local authority will need to seek evidence from the licence-holder to demonstrate that they clearly intended to operate a sexual entertainment venue in the future and work had been done to achieve this end.
- 4.6 For the purposes of the Transitional Order a “2003 Act Licence” means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment.

New Applicants

- 4.7 New applicants are people who wish to use premises as a sexual entertainment venue after the 1st appointed day but do not already have a premises licence or club premises certificate to operate as such under the 2003 Act or do have such a licence but have not taken any steps towards operating as such. After the 1st appointed day new applicants will not be able to operate as a sexual entertainment venue until they have been granted a sexual entertainment venue licence.

Determining Applications Received On or Before the 2nd Appointed Day

- 4.8 Applicants will be able to submit their application for a sexual entertainment venue from the 1st appointed day onwards.

- 4.9 As the appropriate authority is able to refuse applications having regard to the number of sex establishment they consider appropriate for a particular locality, all applications made on or after the 1st appointed day but on or before the 2nd appointed day shall be considered together. This will ensure that applicants are given sufficient time to submit their application and all applications received on or before the 2nd appointed day are considered on their individual merit and not on a first come first serve basis.
- 4.10 No applications shall be determined before the 2nd appointed day. After the 2nd appointed day the appropriate authority shall decide what if any licences should be granted. If a new applicant is granted a licence it will take effect immediately. If an existing operator is granted a licence, it will not take effect until the 3rd appointed day, up to which point they will be allowed to continue to operate under their existing premises licence or club premises certificate.

Determining Applications Received After the 2nd Appointed Day

- 4.11 Applications made after the 2nd appointed day shall be considered when they are made but only once all applications made on or before that date have been determined. However, reference to determination here does not include references to the determination of any appeal against the refusal of a licence.
- 4.12 As with applications received on or before the 2nd appointed day, licences granted to new applicants shall take effect immediately and licences granted to existing operators shall take effect from the 3rd appointed day or, if later, the date the application is determined.

Outstanding Applications

- 4.13 Local authorities should attempt where possible to determine outstanding applications made under the 2003 Act, which include an application for the provision of relevant entertainment, before the date

that Schedule 3 as amended by the 2009 Act comes into force in their area.

- 4.14 Where it has not been possible to determine application before the 1st appointed day, local authorities should advise applicants that they will need to submit an application for a sex establishment licence as set out in Schedule 3 if they wish to provide relevant entertainment. From the 1st appointed day onwards outstanding applicants shall be dealt with as though they are new applicants.

Existing Licence Conditions

- 4.15 In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards.
- 4.16 In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in the licence granted under the 1982 Act they shall likewise be read as though they have been deleted.
- 4.17 Where a local authority decides to grant a sex establishment licence to an existing operator, who is subject to conditions on their existing premises licence or club premises certificate that relate expressly to the provision of relevant entertainment, they may wish to replicate the existing conditions on the new sex establishment licence if they believe that the existing conditions are sufficient. However, they could equally decide to impose new conditions consistent with Schedule 3 if they believe that new or additional conditions are necessary.

4.18 Although the Transitional Order does not require redundant conditions to be physically removed from a premises licence or club premises certificate, operators and local authorities may agree that this is desirable in order to clarify the operator's legal obligations. Such changes can be made via the minor variations procedure under section 41A of the 2003 Act.

ECHR Considerations

4.19 The Transitional Order allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3. When making such decisions, local authorities must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

4.20 In light of the leading case of *Belfast City Council v Miss Behavin' Ltd* (Northern Ireland)¹² it would be prudent for local authorities to assume that freedom of expression includes the right to use particular premises as sexual entertainment venues and that a person who is denied the right to use his premises as a sexual entertainment venue where he already has a licence to do so under the 2003 Act (or in future under the 1982 Act) has been deprived of possessions. (Some Lords did not decide this point or disagreed that such rights were engaged and therefore it would still be open to local authorities to argue that such rights were not engaged in a particular case). However, in any event, the House of Lords were agreed that such rights would only be engaged at a low level. This led Lord Hoffman to say that if the local authority exercises its powers rationally and in accordance with the purposes of the statutory provisions, it would require very unusual facts for it to amount to a disproportionate restriction on Convention rights.

¹² [2007] UKHL 19

4.21 Nevertheless, local authorities would be well advised to consider whether any interference with the applicant's rights under Article 10 or Article 1, Protocol 1 of the European Convention on Human Rights is necessary and proportionate for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, Protocol 1, can be justified in the general interest.

Changes to Licensing Policies

4.22 Many local authorities who have already adopted Schedule 3 will have published a licensing policy for sex establishments. Such policies may provide a useful guide to potential applicants about whether a particular application is likely to be successful or not.

4.23 Upon resolving to adopt the sexual entertainment venue provisions introduced by the 2009 Act, local authorities should ensure that their licensing policies for sex establishments are up to date and reflect the changes introduced by Section 27. This could mean updating existing policies or producing a policy specific to regulation of sexual entertainment venues.

London

Sex Encounter Establishments

4.24 London local authorities which have adopted Schedule 3 to the 1982 Act as amended by the Greater London Council (General Powers) Act 1986 are able to regulate sex encounter establishments. However, under sub-paragraph 3A(i) premises that hold a premises licence or club premises certificate for the provision of regulated entertainment or late night refreshment are not regarded as sex encounter establishments. This means that, in practice, there are very few, if any, premises that are licensed as sex encounter establishments.

- 4.25 Therefore, the transitional provisions set out that where a local authority, which has previously adopted provisions to regulate sex encounter establishments, passes a resolution to adopt Schedule 3, as amended by section 27, the existing sex encounter establishment category will be replaced by the new sexual entertainment venue category.
- 4.26 In these circumstances, an existing sex encounter establishment licence will be treated as though it had been granted under the new sexual entertainment venue regime with any terms, conditions and restrictions carried over.

Hostess Bars

- 4.27 The hostess bar category of sex establishment, as introduced by section 33 of the London Local Authorities Act 2007, is largely unaffected by the 2009 Act provisions.
- 4.28 In cases where a London local authority has already resolved that the hostess bar category has effect in their area, they will be able to retain this category after the amendments made by the 2009 Act have been adopted and the sex encounter establishment category has been repealed, subject to the amendments made to Schedule 3 by the 2009 Act. Where London local authorities have not adopted the sexual entertainment venue provisions, it will still be open for them to resolve to adopt the hostess bar category after the 2009 Act provisions have been adopted without having to adopt the sex encounter establishment category.

Soliciting for Custom

- 4.29 Under Section 22 of the London Local Authorities Act 2004, as amended by Section 72 of the London Local Authorities Act 2007, it is an offence in London to solicit for custom for a sex establishment. However, paragraph 2A provides a defence if the premises concerned are licensed under Part 3 of the 2003 Act.

4.30 When a London local authority resolves to adopt the provisions introduced by Section 27, it will be a defence if the premises are licensed as a sexual entertainment venue under Schedule 3 of the 1982 Act or are operating lawfully under a 2003 Act licence during the transitional period at the time of the alleged offence.

ANNEX A: GUIDE TO TRANSITIONAL PERIOD AND EXISTING OPERATORS

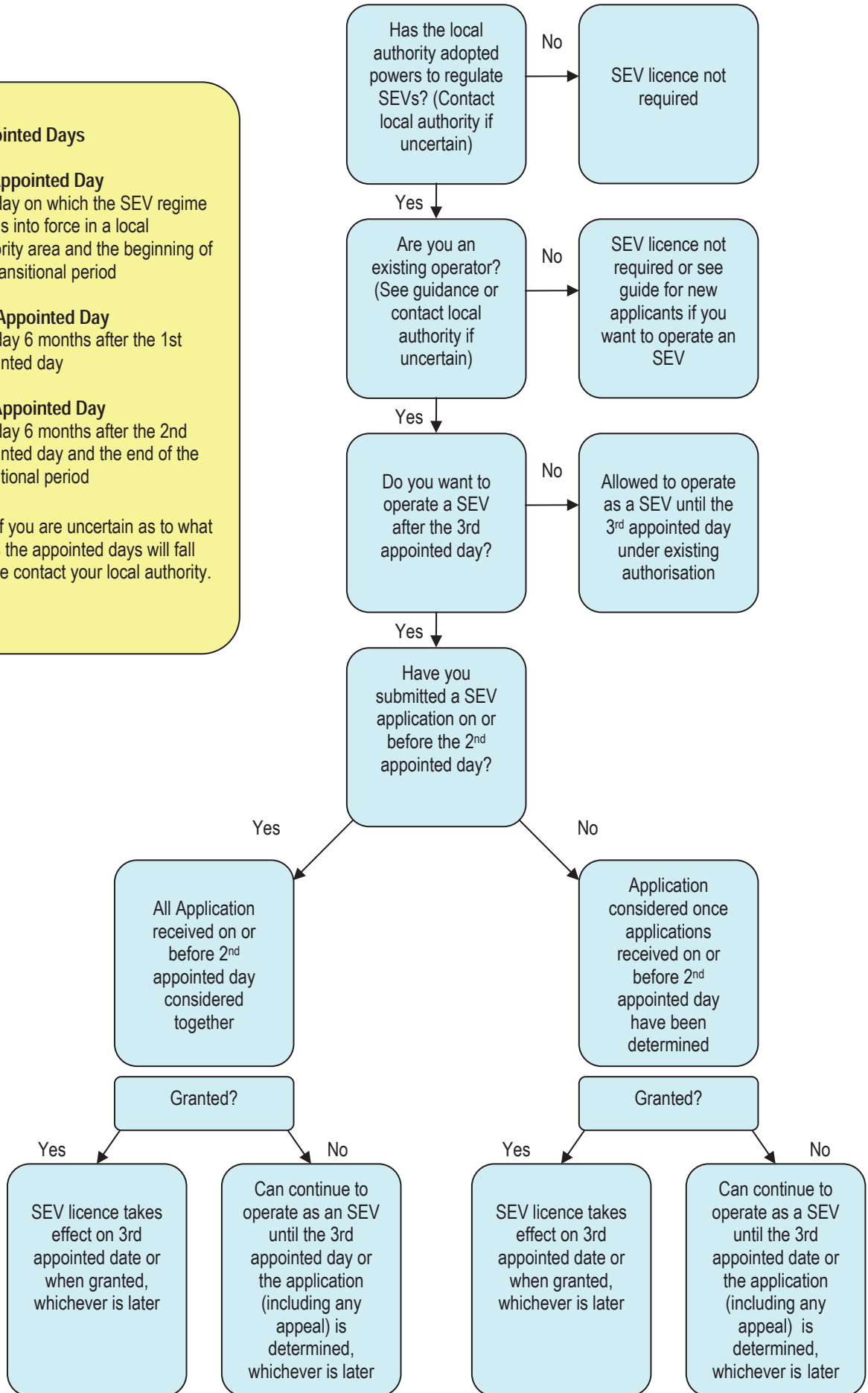
Appointed Days

1st Appointed Day
The day on which the SEV regime comes into force in a local authority area and the beginning of the transitional period

2nd Appointed Day
The day 6 months after the 1st appointed day

3rd Appointed Day
The day 6 months after the 2nd appointed day and the end of the transitional period

NB: If you are uncertain as to what dates the appointed days will fall please contact your local authority.



ANNEX B: GUIDE TO TRANSITIONAL PERIOD AND NEW APPLICANTS

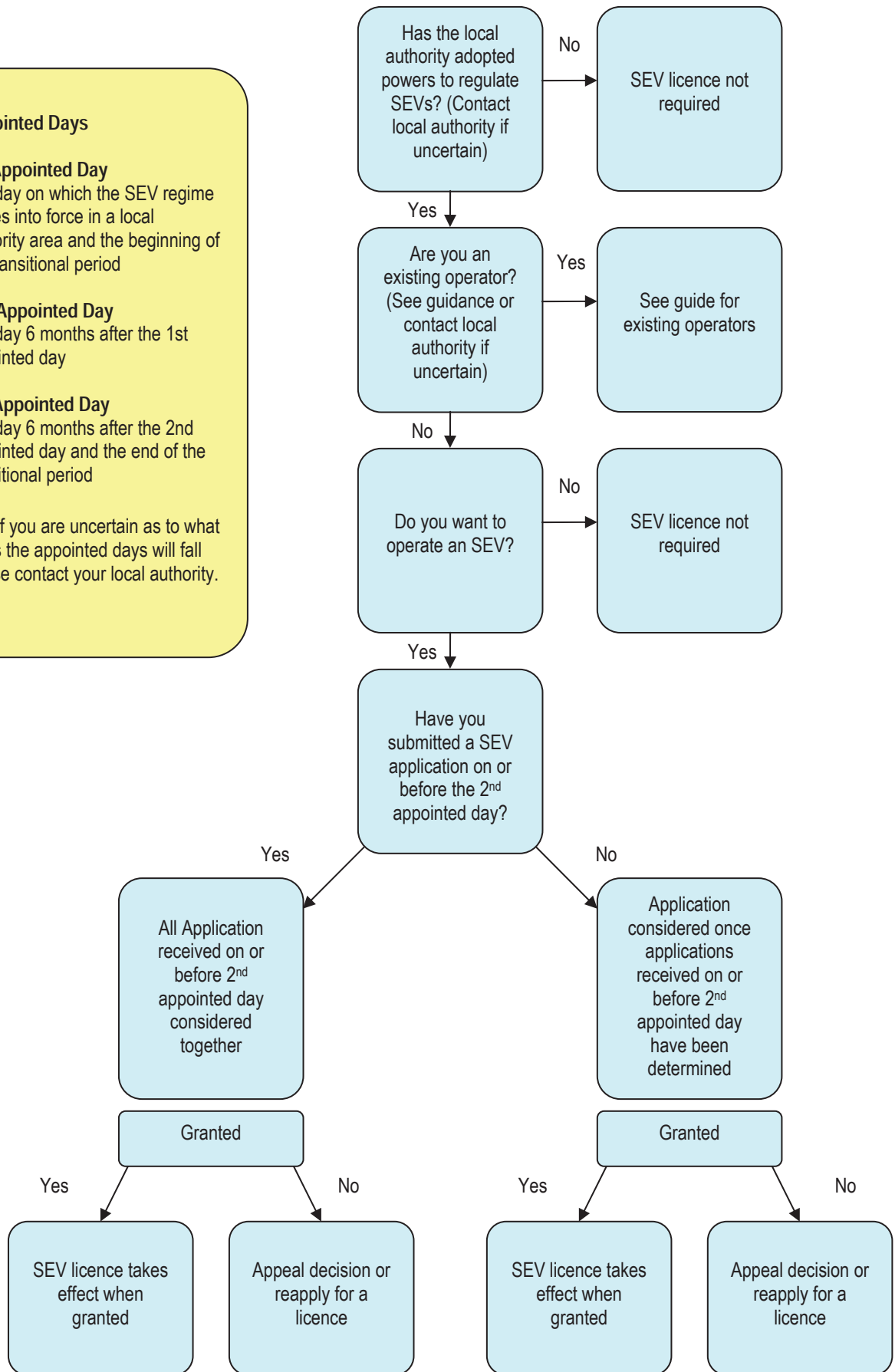
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The day 6 months after the 1st appointed day

3rd Appointed Day
The day 6 months after the 2nd appointed day and the end of the transitional period

NB: If you are uncertain as to what dates the appointed days will fall please contact your local authority.





Premises Licence

Maidstone Borough Council
Licensing Section
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Amended on 21.01.2009

Premises Licence Number MAID0185/LPRM/1077

Part 1 – Premises details

Postal address of premises or if none, Ordnance Survey map reference or description

Ethos
9 Gabriel's Hill
Maidstone
Kent

Post Town **Maidstone**

Post Code **ME15 6HL**

Telephone Number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence:-

Plays – indoors

Films – indoors

Indoor sporting events

Live music – indoors and outdoors

Recorded music – indoors and outdoors

Performance of dance – indoors and outdoors

Anything of a similar description – indoors and outdoors

Provision of facilities for making music – indoors and outdoors

Provision of facilities for dancing – indoors and outdoors

Supply of alcohol – indoors and outdoors

The provision of late night refreshment – indoors and outdoors

The times the licence authorises the carrying out of licensable activities:-

- **Plays:**
00:00 – 24:00 Monday to Sunday
- **Films:**
00:00 – 24:00 Monday to Sunday

(1) Insert licensing authority details

- **Indoor Sporting events:**
00:00 – 24:00 Monday to Sunday
- **Live Music:**
09:00 – 03:00 Monday to Sunday indoors
09.00 – 23.00 Monday – Sunday outdoors (only in courtyard area)
09.00 New Years Eve – 06.00 New years Day
- **Recorded Music:**
09:00 – 03:00 Monday to Sunday indoors
09.00 – 23.00 Monday – Sunday outdoors (in courtyard only, save for incidental background music)
New Years Eve – New years Day (as for live music)
- **Performances of dance:**
00:00 – 24:00 Monday to Sunday indoors and outdoors
00.00 – 23.00 Monday – Sunday in the courtyard area
- **Anything of a similar description to live music, recorded music and performances of dance:**
09:00 – 03:00 Monday to Sunday indoors
09.00 – 23.00 Monday – Sunday in the courtyard area
New Years Eve – New years Day (as for live music)
- **Provision of facilities for making music:**
09:00 – 03:00 Monday to Sunday indoors
09.00 – 23.00 Monday – Sunday outdoors (no live or recorded music in courtyard save for background incidental recorded music)
- **Provision of facilities for dancing:**
00:00 – 24:00 Monday to Sunday indoors and outdoors
00.00 – 23.00 Monday – Sunday in the courtyard area
- **Provision of late night refreshment**
23:00 – 05:00 Monday to Sunday
- **Supply of alcohol**
00:00 – 24:00 Monday to Sunday

The opening hours of the premises

00.00 – 24.00

Where the licence authorises supplies of alcohol whether these are on and/or off supplies
On and Off Supplies

Part 2

Name, (registered) address, telephone number and E-mail (where relevant) of holder of premises licence

Dale Davey Ltd
36 Hedley Street
Maidstone
Kent

Registered number of holder, for example company number, charity number (where applicable)

05369010

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Stanford Sengy
39 Hillcroft Road
Cliffe
Rochester
Kent ME3 7QN**

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

MED 08TL1707 – Medway City Council

Annex 1 – Mandatory conditions

1 – No supply of alcohol may be made under the premises licence –

- (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2 – Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3. Admission of children to any film must be restricted in accordance with the classification of the British Board of Film Censors

Or

Where notified by the Licensing Authority in relation to a specific film in accordance with the recommendation of the Licensing Authority.

For the purposes of this condition:-

“children” means person aged under 18; and

“film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

4. At any time when condition 7 applies, any individuals at the premises carrying out a security activity individuals must be at the premises carrying out a security activity, must be licensed by the Security Industry Authority.

General:-

5. The general hours of operation shall be **08.00hrs – 04.00hrs daily**, although the Coffee Shop will open at **06.00 daily**. If the applicant wishes to trade outside these hours, 7 days notice must be given to the local Police.

6. Food and shall be made available throughout the trading period.

Prevention of Crime and Disorder:-

7. On Friday, Saturday and Bank Holiday Sunday nights, **4** door staff will be engaged from **22.00hrs** to **30** minutes after the last customer has left the premises.

8. CCTV shall be installed and kept in good working order at all times. The CCTV shall be continually recording and all images retained by way of video or a digital system for a minimum of thirty one days. The Licensing Authority and local Police Authority shall have access to these images at all reasonable time.

9. The licence holder, DPS, manager or other responsible person in charge of the premises shall co-operate with the Local Police to allow the use of IONTRAK machines or other drug/illicit substance detection device or method, at all times.

10. The premises shall be closed between 17.00 and 19.00 hrs on the Saturday of the Maidstone River festival each year.

Public Safety:-

11. The licence holder, DPS or manager will work with the EHO over the period of 3 months from the date the licence becomes effective to monitor the provision of regulated entertainment in the courtyard area with a view to agreeing any further measures that may be required.

Public Nuisance:-

12. No live bands will provide music in the courtyard after **23.00hrs**. As a general rule, background music will be played in the courtyard area. Door staff will monitor dispersal of persons leaving the premises

Protection of Children from Harm

No Additional Conditions

N/A

See attached

Children

No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (1) He is the child of the holder of the premises licence.
- (2) He resides in the premises, but is not employed there.
- (3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (4) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

Private Entertainment

Dancing, music or other entertainment of the like kind which is not a public entertainment but which is promoted for private gain is permitted without any hour's limitation.

Protection of Children

If more than one hundred persons under 14 ("juniors") are attending an entertainment for juniors or an entertainment at which the majority of those attending are juniors, there shall be sufficient adult attendants, properly instructed as to their duties:

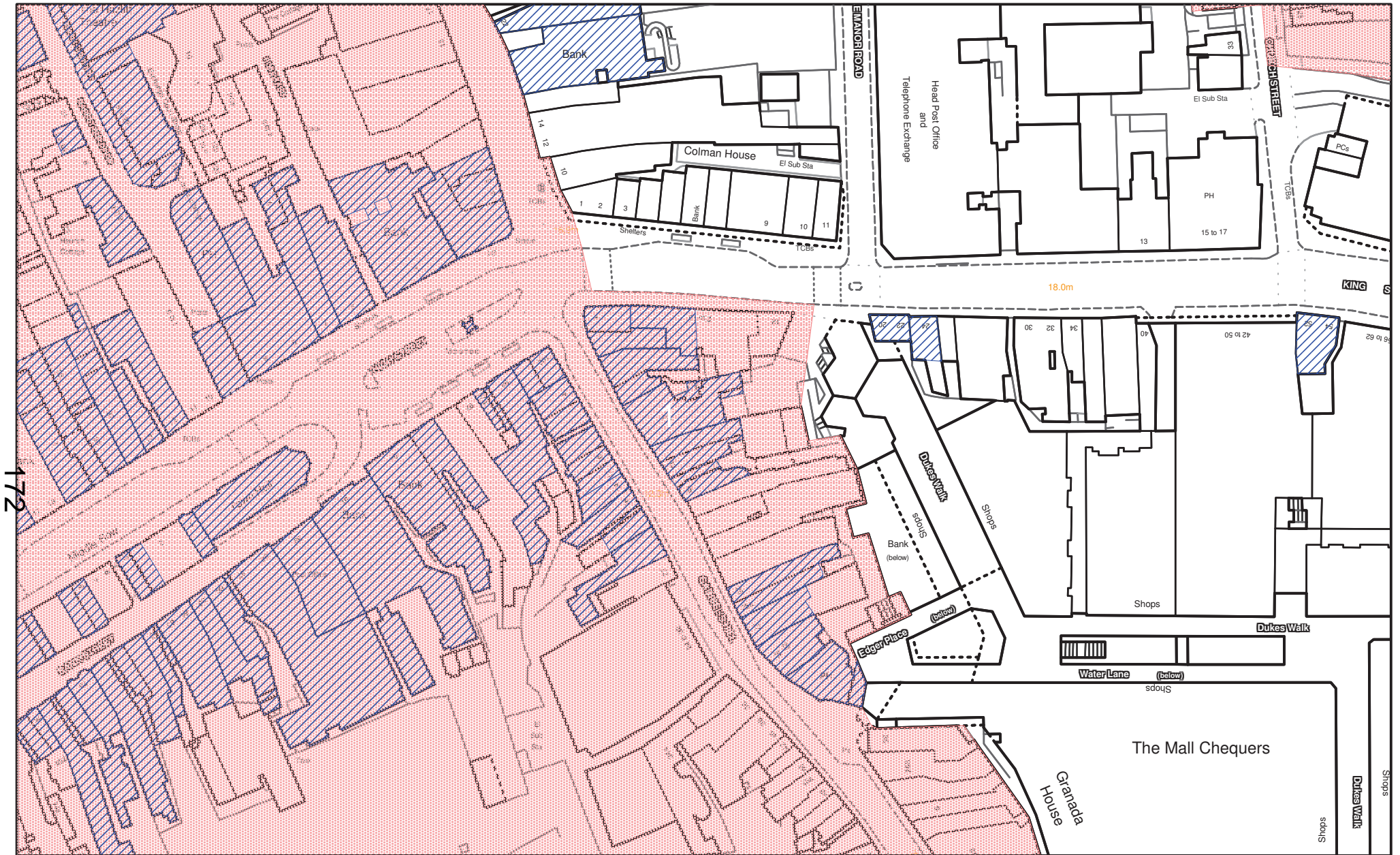
- (a) to prevent more juniors or other persons being admitted to the building or part thereof than the building or part can properly accommodate; and
- (b) to control the movement of juniors and other persons admitted while entering and leaving the building or part; and

to take all reasonable precautions for the safety of the children.

No person under the age of 17 years shall take part in any performance in which his life or limbs are endangered.

Pink: Conservation Area
Blue: Listed Buildings
1: 9 Gabriels Hill

APPENDIX I



172

**9 GABRIEL'S HILL,
MAIDSTONE, ME15 6HL.**



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STANDARD TERMS, CONDITIONS & RESTRICTIONS RELATING TO SEX ESTABLISHMENTS

These regulations apply to the licences for sex establishments granted, renewed or transferred by the Council under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Definitions

In these regulations, save where the context otherwise requires, the following expressions shall have the following meanings:-

- i) "Sex Establishments", "Sex Cinema", "Sex Shop", "Sex Article", "Sexual Entertainment Venues" and "relevant entertainment and nudity" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) 1982 as amended.
- ii) "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 building, which is subject of a licence for a sex establishment granted under the Third Schedule.
- iii) "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing.
- iv) "Approved" means approved by the Council in writing.
- v) "The Council" means the Maidstone Borough Council.
- vi) "Film" shall have the meaning ascribed to it in the Films Act 1985

General

The following terms, conditions and restrictions are applicable to sex establishment licences. In the event of a conflict between these and any special conditions contained in a licence relating to a sex establishment the special condition shall apply.

The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any other enactment by law or regulation other than the Third Schedule to the Local Government (Miscellaneous Provisions) Act 1982 as amended.

Sex Shops

Times of Opening

Condition 1

Except with the previous consent of the Council the premises shall not open to the public before 9.00am and shall not be kept open after 6.00pm

Except with the previous consent of the Council, the sex establishment shall not open on Sundays or any other Bank Holidays or any Public Holidays.

A notice displaying the times when the premises are open or closed shall be displayed on the entrance to the premises in a form and manner approved by the Council.

Conduct and Management of Premises

Condition 2

Where the Licensee is a body corporate or an unincorporated body, any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager, are to be furnished within 14 days of a request in writing from the Council.

Condition 3

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 4

The holder of the licence shall keep exhibited in a suitable place within the shop premises, so that it can be easily seen by premises users, a copy of the licence and any conditions and regulations made and they shall be readily available for inspection by any of the following officers:-

- a) Duly authorised officer of the Maidstone Borough Council
- b) Police Officer, and
- c) Officer of the Fire Authority

Condition 5

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 6

The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.

Condition 7

The Licensee shall maintain good order in the premises at all times and shall ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and persons passing by.

Condition 8

No person under the age of 18 shall be permitted entry to the premises or be employed in the business of sex establishments.

Condition 9

The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.

Condition 10

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 11

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 12

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating his name and that he is an employee.

Condition 13

No refreshment of any kind shall be provided nor any consumed on the licensed premises other than for any bona fide staff in a part of the premises not open to the public.

Use of the Premises

Condition 14

The sex shop shall be conducted primarily for the purpose of the sale of goods for retail and change of use of any portion of the premises from that licensed by the Council, shall not be made until the consent of the Council has been obtained thereto.

Condition 15

No change from a sex cinema or sexual entertainment venue to a sex shop or from a sex shop to a sex cinema or sexual entertainment venue shall be effected without the consent of the Council and neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be sold, hired, exchanged, loaned or demonstrated in a sex cinema or sexual entertainment venue.

Goods available in sex establishments

Condition 16

All sex articles and other things displayed for sale, hire, exchange or loan within the sex shop, shall be clearly marked to be shown to the persons who are inside the sex shop the respective charge being charged.

Condition 17

All printed matter for sale, hire, exchange or loan shall be available for inspection prior to purchase, and a notice to this effect is to be prominently displayed within the sex establishment.

Condition 18

No film shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film so certified.

- a) The screen of any equipment used should be no more than 12 inches and placed in such a position so as not to be visible to the public outside the premises.
- b) The screen shall be placed in such a position approved by the Council.
- c) Only clips for advertising purposes shall be shown and no individual clip shall be shown for longer than three minutes.
- d) No film will be shown in its entirety.
- e) Films will not be shown at the customer's request.
- f) All trailers shown are to be approved by the British Board of Film Classification
- g) A warning notice will be placed on the screen stating "For staff use only" or "No customers allowed to operate".

External Appearances

Condition 19

No advertisement, words, letter, model, sign, placard, board, notice, device, representation, drawing, writing or any other matter or thing (whether illuminated or not) shall be exhibited so as to be visible from the outside of the premises except:- (i) Any notice of a size and in the form approved by the Council which is required to be displayed so as to be visible from outside the premises by law, or by any condition of a licence by a Council.

Such display, advertisement, word, letter, model, sign, placard, notice, device, representation, drawing, writing or any matter or thing as shall have been approved by the Council.

Condition 20

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

Suggested notice 'PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES'

Condition 21

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Condition 22

- (a) The windows of the licensed premises fronting the pavement shall not be as obscured other than with the consent of the Council, but shall have suspended behind them, in a position and attitude approved by the Council, such opaque blinds or screen or such other arrangements as approved by the Council.
- (b) This condition shall not be construed as lessening any obligation of the Licensee under Licence Condition 21.
- (c) Any such special precautions as may be necessary shall be taken to maintain the screening of the shop window during any cleaning process.

State, Condition and Layout of the Premises

Condition 23

The premises shall be maintained in good repair and condition throughout, including the front fascia of the shop and entrance to the satisfaction of the Council.

Condition 24

Lighting in all parts of the premises shall be to a level approved by the Council and shall be in operation continuously during the hours when the sex establishment is open to the public.

Condition 25

The number, size and position of all doors or openings provided for the purpose of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

- (i) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit" or "Fire Exit".
- (ii) Doors and openings that lead to parts of the premises to which the public are not permitted to have access, shall have notices placed over them marked "Private – no access to the public".
- (iii) Save in the case of emergency no access shall be permitted through the premises adjoining or adjacent.

Condition 26

The external door/doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such device shall be maintained in good working order.

Condition 27

No alterations or additions either internal or external, whether permanent or temporary to the structure, lighting or layout of the premises, shall be made except with the prior approval of the Council.

Condition 28

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Safety

Condition 29

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Condition 31

The Maidstone Borough Council reserves the right after grant, renewal or transfer of this licence at any time to dispense with or modify or relax any of these terms, conditions and restrictions and to make such additional terms, conditions and restrictions as they may deem requisite to meet the circumstances of any particular case.

Condition 32

The licence may be revoked by the Maidstone Borough Council if at any time the holder is convicted of any offence of using the licensed premises, or other premises for which a similar licence has been granted other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in Paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

Sex Cinemas

Film Categories

Condition 1

The categories U, PG, 12, 15, 18 and restricted 18 have the following effect:

- U—Universal - suitable for all
- PG — Parental Guidance — some scenes may be unsuitable for young children
- 12 — Passed only for persons of 12 years and over
- 15 — Passed only for persons of 15 years and over
- 18 — Passed only for persons of 18 years and over
- Restricted 18 - Passed only for persons of 18 or over who are members (or their guests) of a properly constituted club.

Unclassified Films

Condition 2

The licences must notify the Council in writing no later than twenty-eight days prior to exhibiting any other film that has not been classified as specified in the film categories. Such a film may only be exhibited if the Council's gives written consent prior to the event and must comply in accordance with the terms of any such consent given.

Restricted Films

Condition 3

Films restricted 18 (R18) may be shown at the premises only with the Council's prior written consent and in accordance with the terms of any such consent.

Persons Under 18

Condition 4

No person appearing to be under the age of 18 shall be admitted to any part of the programme and the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME

Condition 5

No persons under 18 years of age shall be employed in any capacity at the premises in an area operating as sex cinema club.

Advertising

Condition 6

No advertisement displayed at the premises where a film is to be exhibited shall depict any scene or incident from a film that has been classified by the British Board of Film Classification, Board of Film Censors or approved for exhibition by the Licensing Authority.

Condition 7

The licensee shall display in a conspicuous position, to the satisfaction of the Council at each entrance to the premises, during the whole time the public are admitted to the premises and so as to be easily seen and read by the public, a timetable of the films on exhibition.

Condition 8

When the programme includes a film restricted 18, the licensee shall display in a conspicuous position at each entrance to the premises a notice in clear letters in the following terms:

CINEMA CLUB — MEMBERS AND GUESTS ONLY. PERSONS UNDER 18 CANNOT BE ADMITTED TO THIS CINEMA FOR ANY PART OF THE PROGRAMME.

Condition 9

The entrance doors to the premises shall be obscured, screened or arranged so as to effectively prevent the interior of the premises being seen by passers by.

The obscuration, screening or other arrangements shall be to the satisfaction of and approved by the Council.

Restricted 18

Condition 10

A register of all members and all visitors books of their guests shall be available for immediate inspection by authorised officer of the Council during any performance or at any other reasonable time.

Condition 11

Tickets shall in no circumstances be sold to persons other than to members.

Membership

Condition 12

The club rules must be submitted to the Council 14 days before the club commences operation and notice of all rule changes shall be given to the Council within 14 days of the change.

Condition 13

Membership shall be open to persons of both sexes of not less than 18 years of age

Condition 14

Applications for membership, including both name and address, shall be in writing, signed by the applicant and if deemed necessary such applicant shall provide satisfactory references and proof of age.

Condition 15

No persons shall be admitted to membership until the expiration of at least 24 hours after such written application has been approved by the management of the club.

Condition 16

New members shall be supplied with a personal copy of the club rules before being admitted to membership and be given a copy of any rule changes within 14 days of the change.

Condition 17

An annual subscription shall be fixed for the club and shall run for 12 months from the date of registration. Membership may be renewed annually at the subscription for the time being in force, but the management may refuse to renew any membership without assigning reason for such refusal.

Condition 18

Members shall be entitled on any day to bring no more than one guest to accompany the member, and the name of the guest shall be entered in the visitors book and counter signed by the member.

Condition 19

Tickets shall be sold only to members on the production of a membership card, and members shall if required sign and acknowledgement for the ticket or tickets issued.

Condition 20

Membership cards shall be personal to the member and carry a photograph of the holder.

Condition 21

Neither membership tickets nor guest tickets shall be transferable.

Condition 22

Guest may be asked for proof of identity, or of age, or of any particulars of any guest shall be produced by any member of guest if demanded by the management.

Condition 23

Members shall undertake to behave in a proper and orderly manner. Any member or guest acting in a manner which is offensive, or a nuisance or annoyance to others may be refused admission or expelled from the premises. A member may also be deprived of membership.

Sale of Sex Articles

Condition 24

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint

which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.

Display of Tariff and Charges

Condition 25

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Conduct and Management of Premises

Condition 26

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 27

A notice showing the name of the person responsible for the management of the sex cinema on that day to be prominently displayed within the sex cinema throughout the period during which he is responsible for its conduct.

Condition 28

The Licensee shall ensure that no part of the premises shall be used by prostitutes (Male or Female) for soliciting or for any immoral purpose.

Condition 29

Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of the personal solicitation outside or in the vicinity of the premises.

Condition 30

The Licensee shall ensure that during the hours the sex establishment is open for business, every employee wears an identifying badge, of a type approved by the Council, indicating his name and that he is an employee.

Condition 31

The Licensee or some responsible person nominated by him in writing for the purpose of managing a sex establishment in his absence and whom details (including photographs) have been supplied to and approved in writing by the Council, shall be in charge of and upon the premises during the whole time they are open to the public.

Condition 32

All parts of the premises shall be kept in a clean and wholesome condition to the complete satisfaction of the Council.

Internal access to cinema

Condition 33

Windows and openings within the premises where films are shown should have blinds of a type and size that covers windows and openings which render the interior of the cinema where films are being shown invisible to passers by and/or other areas within the building that are open to the public for other activities.

Condition 34

The licensee shall ensure that no noise shall emanate from the cinema that can be heard from within another area of the building or from outside.

Security

Condition 35

A member of staff to remain in the vicinity of the entrance to the cinema to prevent under 18's or non-members from illegal entry.

Use of Premises

Condition 36

No change from a sex shop or sexual entertainment venue to a sex cinema or from a sex cinema to a sex shop or sexual entertainment venue shall be effected without the consent of the Council.

Safety

Condition 37

The Licensee shall take all reasonable precautions for the safety of the public and employees.

Sexual Entertainment Venue

Times of Opening

Condition 1

The premises shall not open unless otherwise permitted:

[TIMES WILL BE SPECIFIED FOR EACH LICENCE]

Conduct and Management of Premises

Condition 2

The name of the person responsible for the management of the sex establishment being either the Licensee or a manager approved by the Council, shall be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 3

The licensee or the responsible person shall maintain a daily register to be kept on the premises and produced to an authorised officer on request. The register to be completed each day within 30 minutes of the Sex Entertainment Venue opening for business and will record the name and contact details of any person who is to be responsible for managing the Sex Entertainment Venue in the absence of the licensee and details of all staff employed at the premises including performers.

Condition 4

A notice showing the name of the person responsible for the management of the sex entertainment venue on that day to be prominently displayed within the sex establishment throughout the period during which he is responsible for its conduct.

Condition 5

Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change.

Condition 6

The licensee shall ensure that no part of the building or its boundary is used by prostitutes (male or female) for the purposes of soliciting or any other immoral

purposes. Neither the licensee nor any employee or other person shall seek to obtain custom by means of personal solicitation outside or in the vicinity of the premises.

Condition 7

The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those that have been approved by the Council.

Condition 8

Licensee shall maintain good order on the premises and in particular shall ensure that no

- lewd conduct
- indecent behaviour
- unlawful possession and/or supply of controlled drugs
- conduct likely to cause a breach of the peace on the premises
- offers of any sexual or indecent service for reward
- any acts of violence against person or property and/or the attempt or threat of such acts

takes place on the premises or in its immediate vicinity

Condition 9

A management operation manual detailing all aspects of procedure when the premises is operating relevant entertainment shall be produced and approved by the Licensing Authority. This document shall be on going and under constant review.

Condition 10

All members of staff (except performers) shall be easily identifiable. If required by the Council or Kent Police in writing the licensee shall ensure that during the hours the premises are open for relevant entertainment staff will wear a badge of a type/format approved by the Council indicating their name and that they are an employee or person working in the premises.

Age Restriction

Condition 11

No person under the age of 18 shall be admitted to the premises or employed in the business of the sex establishment.

Condition 12

A prominent clear notice shall be displayed at each entrance to the premises advising customers that no person under 18 will be admitted and they may be asked to produce evidence of their age.

PERSONS UNDER 18 CANNOT BE ADMITTED TO THESE PREMISES

Advertising

Condition 13

No display, advertisement, word, letter, model, sign, light, placard, board, notice, device, representation, drawing, writing or any matter or thing (where illuminated or not) shall be exhibited so as to be visible from outside the premises without approval by the Council.

Condition 14

The licence holder shall not display outside the premises, or on any advertising material, photographs or other images that indicate and suggest striptease or similar dancing takes place on the premises and which may be offensive.

Condition 15

The premises should not advertise by means of cruising vehicles or use of any other form of solicitation to invite people into the premises.

External and Internal access to an area holding relevant entertainment

Condition 16

The entrances to the premises shall be of a material or covered with a material that will render the interior of the premises invisible to passers by.

Condition 17

Windows and openings within the premises other than entrances will have curtains / blinds of a type and size that covers windows and openings which render the interior of the premises where relevant entertainment is taking place invisible to passers by and/or other areas within the building that are open to the public for other activities.

Condition 18

Windows will remain closed whilst the premises or part of that premises is being used for relevant entertainment.

Layout of the premises

Condition 19

No fastening of any description shall be fitted upon any booth or cubicle within the premises.

Condition 20

All dance booths or cubicles are to be equipped with a panic alarm for safety.

Condition 21

Any changes to layout of the premises must be informed to the licensing authority in writing submitting plans. Alteration must not take place without prior written consent by the Licensing Authority

Condition 22

The licensee shall ensure that noise from the premises or vibration be transmitted through the structure of the premises does not give rise to a nuisance to the occupiers of premises in the vicinity of the venue.

Condition 23

The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

Condition 24

Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked 'private' and remain closed other than for the purposes of the ingress and egress of management, staff and performers.

Entertainers/Performers

Condition 25

An appropriate room shall be set aside to provide a changing and rest area for entertainers. Arrangements shall be made to ensure that there is restricted public access to this room which shall be maintained at all times whilst the licensable

activities are taking place and until such time as all performers using the dressing room have finished.

Condition 26

At all times during the performance, performers shall have direct access to a dressing room without passing through or in close proximity to the audience.

Condition 27

On leaving the premises performers, who wish to be, shall be escorted by a staff member to their vehicle or other safe location

Condition 28

Performers shall be aged not less than 18 years old.

Condition 29

Only the performers shall provide the entertainment, no audience participation shall be permitted.

Condition 30

No performance shall include a sex act with any other performer, persons in the audience or with the use of any object or animal.

Condition 31

In the event of the relevant entertainment being performed for private viewing, the patron shall be informed of the duration and price of the relevant entertainment and the details shall be specified in a clearly visible notice in each area designed for private relevant entertainment.

Condition 32

Any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily clad individuals shall not exhibit in the entranceway or in an area of the premises open to the public that is not designated area for relevant entertainment.

Condition 33

All performers shall be aware of the management operation that will include a written policy on the conduct of performers.

Condition 34

Photography or videoing of performances should not be allowed.

Condition 35

There shall be routine checking of employment records and evidence that all prospective staff and performers have the right to work in the UK.

Condition 36

Performers should not be permitted to arrange contacts or liaisons, exchange telephone numbers or other means of making contact while on the premises
Staffing

Condition 37

During any lap dancing performance, or private dance, performers may not:

- Touch customers in any way
- Performer must not be within 30cms (12") from any part of a patron
- Climb onto furniture provided for patrons
- Simulate sex acts
- Use sex articles

Sale of Goods

Condition 38

Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a Sex Entertainment Venue.

Display of Tariff and Charges

Condition 39

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices which shall be illuminated and placed in such a position that it can easily and conveniently be read by persons before entering the premises. No employee shall stand in such a position as to obscure the notice.

Condition 40

Where a charge is to be made for the company of a hostess or other companion this shall be identified on the tariff of charges to the satisfaction of the Council.

Condition 41

No order shall be accepted unless the customer has been provided with a copy of the said tariff and has been given sufficient time and opportunity to read it.

Condition 42

No charge shall be made to the customer for any drink provided for the hostess or companion unless that customer has specifically ordered it having first been made aware of the cost.

Use of Premises

Condition 43

No change from a sex shop or sex cinema to a sexual entertainment venue cinema or from a sex entertainment venue to a sex shop or sex cinema shall be effected without the consent of the Council.

Pool of Possible Additional Conditions

Age Restriction

Condition a

All members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 years and who is seeking access to the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or proof of age card carrying a 'PASS' logo.

Security

Condition b

Door supervisors, registered in accordance with the Security Industry Authority (SIA) shall be on duty at all times when relevant entertainment is taking place.

Condition c

An adequate number of door supervisors shall be on duty on the premises whilst relevant entertainment takes place. There shall be at least one door supervisor on each entrance, in each separate part of the premises and on the door to the dressing room.

Condition d

CCTV to be installed to a standard agreed by police to cover all public areas, including all access and egress points in accordance with CCTV Code of Practice. Maintained and serviced on a regular basis and records to be kept. The system to have an incorporated recording facility and recordings to be stored for one calendar month. The CCTV system to be fully operational throughout the hours that the premises are open for licensable activity. Access of the recordings to be made available at any reasonable time to Police and Local Authority officers upon request. Staff will be fully trained in the CCTV system and there will be at least one member of staff on duty during trading hours who is able to provide a recording of any incident in a format that can be taken away to be viewed.

Entertainers/Performers

Condition e

Whilst dancers are performing there shall be a minimum distance of one metre between the dancer and the seated customers and prominent, clear notices shall be displayed at each table stating this requirement

Condition f

There shall be no physical contact between customers and the dancers at any time except for the placing of money or tokens in a garter or into the hands of the dancer at the beginning or conclusion of a performance.

Staffing

Condition g

All staff employed to work at any premises licensed as a sex establishment shall be required to provide an enhanced criminal records bureau disclosure to the Licensing Authority in which the premises is located.

MAIDSTONE BOROUGH COUNCIL LICENSING COMMITTEE

Hearing Procedure for Determining Applications for Sex Establishment Licences Following Representations

Introduction and Procedure

- i)** The Chairman will request those persons participating in the hearing to identify themselves, starting with the:
- ✘ Members of the Committee.
 - ✘ Head of Democratic Services.
 - ✘ Legal Advisor.
 - ✘ Committee Clerk.
 - ✘ The applicant.
 - ✘ Those making representations, who wish to speak. If they do not consent to their name and address being revealed to the applicant then by indication of the page number/s of their representation and those of any others who have made representations they act as spokesperson for.
- ii)** The Chairman will:
- ✘ Confirm that all parties are aware of the Committee hearing procedure and have a copy.
 - ✘ Confirm that all Committee Members have read all the report and any other documents regarding this application.
 - ✘ Ask whether there are any amendments to the application and/or whether any conditions put forward by objectors are considered acceptable to the applicant.

The Hearing

- ✘ The Chairman will ask the Legal Advisor or Head of Democratic Services to briefly outline the application and his report and the representations regarding the application.

The Applicant

- ✘ Opening remarks by the applicant (or representative).
- ✘ Evidence from the applicant and any witnesses.

- ✘ Any questions of each person giving evidence by persons making representations (at the discretion of the Committee) through the Chairman.

- ✘ Any questions of each person giving evidence by Members.

- ✘ If necessary the applicant (or representative) may clarify any matter that arose during questioning.

Those making representations:-

The Chairman will ask, where appropriate, whether a spokesperson has been appointed. At the discretion of the Committee those making representations may each or through the spokesperson, in the order determined by the Committee:

- ✘ Make opening remarks.

- ✘ Present any evidence and/or witnesses.

- ✘ Any questions of each person giving evidence by the applicant, (at the discretion of the Committee) through the Chairman.

- ✘ Where appropriate, at the discretion of the Committee, a question may be asked between parties making representations.

- ✘ Any questions of each person giving evidence by Members.

- ✘ If necessary those making representations may clarify any matter that arose during questioning.

The Legal Advisor will indicate if any further matters should be raised by the Committee.

Closing Speeches

- ✘ Those making representations will be given the opportunity to sum up their case.

- ✘ The applicant will be given the opportunity to sum up their case.

End of Hearing

The Chairman will confirm with the Members of the Committee and then the Legal Advisor that there are no further matters to be raised or resolved before the hearing is closed.

The Chairman will bring the hearing to a close and declare that the Committee will consider the application, all relevant representations, evidence, legislation, any guidance and policy in private session if it so wishes.

The Chairman may ask the Legal Advisor to remain to advise, if necessary, during deliberations.

The Chairman shall ask all other persons to withdraw.

The Decision

- ⌘ The decision will be confirmed to the applicant and those making representations in writing within 7 days.
- ⌘ The applicant can appeal a refusal or against conditions [in relation to mandatory grounds of refusal, only where it is said the ground does not apply to the applicant and NOT in relation to discretionary grounds sch3 para 12(3) (c) and (d), (character of locality, number of premises in locality, use of premises in the vicinity or layout character or condition of premises) within 21 days of notification of decision to the Magistrates' Court. Those making representations have no statutory right of appeal but can apply to the Court to permit them to take part in any appeal made.

N.B. The Committee may amend the above procedure should it consider it necessary on the grounds of fairness or to meet the need to establish facts.

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1,3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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