

DUDLEY METROPOLITAN BOROUGH

LICENSING & SAFETY COMMITTEE

REPORT OF THE DIRECTOR OF LAW AND PROPERTY

APPLICATION FOR LICENCE FOR A SEX SHOP

GOOD VIBRATIONS

19TH DECEMBER 2005

PURPOSE

1. To consider the application on behalf of Mr Jeffrey Toye for the grant of a Sex Establishment Licence on behalf of Good Vibrations, Unit 1, Little Cottage Street, Brierley Hill, West Midlands.

BACKGROUND

2. On the 3rd February 2004, Mr Jeffrey Toye made application for the grant of a Sex Establishment Licence in respect of Good Vibrations, 8 Mill Street, Brierley Hill for the following days and times:-

Monday - Saturday
9.00 am - 5.00 pm

3. This application was circulated to the West Midlands Fire Service, West Midlands Police and the Directorate of the Urban Environment, none of the agencies raised objections.
4. Proof of publication of the requisite public notice was received.
5. The Committee was informed that should they resolve to grant that application the following standard conditions of licence would apply:-

Opening Hours

6. (1) The licensed premises shall not be open nor used for the purposes for which the licence is granted except between the hours of 9 am and 6.30 pm on any weekday (including Saturday).
- (2) The licensed premises shall not be so open or used at all on Sundays, Good Friday, Christmas Day or any other general or public holiday.

Window, Fascia Board Advertisement and Displays

- (1) The interior of the premises shall not be visible to passers by and to that intent the licence holder shall obscure all windows and doors in a manner satisfactory to the Council
 - (2) The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:-
 - (a) The address of the premises
 - (b) The licensed name of the premises
 - (c) The form of warning notice required to be displayed by virtue of the provisions of Section 1(6) of the Indecent Displays (Control) Act 1981
 - (d) A notice stating the opening hours of the establishment
7. This matter was considered by the Committee on the 28th April 2004. The Committee resolved that the licence be granted for a period of six months and that all conditions should apply together with the following additional condition.
- No-one under the age of 18 shall be admitted to the premises.
- The Committee further resolved that any application for renewal of that licence be determined by them.
8. On the 13th October 2004 Mr Toye made application for the renewal of the licence.
 9. That application was circulated as in paragraph 3 above. None of the agencies raised objections.
 10. Proof of publication of the requisite public notice was received.
 11. On the 19th October 2004 a letter of objection to the application was received and was brought to the attention of the Committee.
 12. This matter was considered by the Committee on the 13th December 2004. The Committee resolved that a licence be issued on the same conditions as previously granted. That licence bore the expiry date of the 26th October 2005.
 13. On the 28th September 2005, Mr Toye made application for the grant of a sex establishment licence for a new site at Unit 1, Little Cottage Street, Brierley Hill.
 14. That application was circulated as in paragraph 3 above. None of the agencies raised objections.

15. Proof of publication of the requisite public notice has been received.
16. This application falls within the Council's responsibility for licensing as a direct link to the Council's key corporate priority that safety matters.

PROPOSAL

17. That the Committee consider the application for the grant of a Sex Establishment Licence in respect of Good Vibrations, Unit 1, Little Cottage Street, Brierley Hill, West Midlands.

FINANCE

18. There are no financial implications.

LAW

19. Formalities of Applications under Part II of the Act:

An applicant for the grant, renewal or transfer of a licence must give public notice of the application in a local newspaper which is published not later than seven days after the application. Additionally public notice of the application must be displayed for 21 days on or near the premises. The public notice must be in a form prescribed by the Council. The applicant must also within seven days of the application send a copy thereof to the Police. Objectors must give written notice of grounds of objection within 28 days of the date of the application. The Council when considering an application must have regard to the observations of the Police and any objectors.

20. Refusal of Licences:

An application must be refused if the applicant:-

- (a) is under 18;
- (b) has had a licence revoked and is disqualified. Where a licence is revoked its holder is disqualified from holding a licence for a period of twelve months;
- (c) is non-resident in the United Kingdom;
- (d) is a foreign company; and
- (e) has been refused a licence during the preceding twelve months.

An application may be refused in the following circumstances:-

- (a) if the applicant is unsuitable by reason of criminal conviction or any other reason;
- (b) if the applicant is acting on behalf of somebody who would be refused if he were to apply;
- (c) if the number of sex establishments in the locality at the time is equal to or exceeds the number which the authority consider is appropriate for that locality. That number can be nil; and
- (d) if a licence would be inappropriate having regard to:-

the character of the locality or the use to which any premises in the vicinity are put or the layout, character or condition of the premises, vehicle or stall in respect of which the application is made.

Appeals:

- 21. There is a right of appeal to the Magistrates' Court against a decision of the Council to refuse to grant, renew or transfer a licence, or to revoke a licence, and against a condition attached to a licence. However, there is no right of appeal in respect of a refusal to grant or renew a licence on the grounds that the number of sex establishments in the locality exceeds the number which the Council consider is appropriate for that locality or that the grant of a licence would be inappropriate to the area.

EQUAL OPPORTUNITIES

- 22. This report takes into account the Council's policy on equal opportunities.

RECOMMENDATION

- 23. That the Committee consider this application.

BACKGROUND PAPERS

- 24. Application form.

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DIRECTOR OF LAW AND PROPERTY
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