

# Licensing Committee

**Grand Jury Room, Town Hall  
2 June 2010 at 6.00pm**

The Licensing Committee deals with licensing applications for public entertainments, hackney carriages and private hire vehicles, sex establishments, gaming and lotteries, door registration scheme and other appeals.

# Information for Members of the Public

## Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at [www.colchester.gov.uk](http://www.colchester.gov.uk) or from Democratic Services.

## Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at [www.colchester.gov.uk](http://www.colchester.gov.uk)

## Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

## Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

## Access

There is wheelchair access to the Town Hall from St Runwald Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call and we will try to provide a reading service, translation or other formats you may need.

## Facilities

Toilets with lift access, if required, are located on each floor of the Town Hall. A vending machine selling hot and cold drinks is located on the first floor and ground floor.

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Evacuate the building using the nearest available exit. Make your way to the assembly area in the car park in St Runwald Street behind the Town Hall. Do not re-enter the building until the Town Hall staff advise you that it is safe to do so.

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e-mail: [democratic.services@colchester.gov.uk](mailto:democratic.services@colchester.gov.uk)

[www.colchester.gov.uk](http://www.colchester.gov.uk)

**COLCHESTER BOROUGH COUNCIL  
LICENSING COMMITTEE  
2 June 2010 at 6:00pm**

**Members**

Chairman : Councillor Barrie Cook.  
Councillors Wyn Foster, Margaret Kimberley, Michael Lilley  
and Ann Quarrie.

**Agenda - Part A**

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief.

**Pages**

**1. Welcome and Announcements**

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched off or to silent;
- location of toilets;
- introduction of members of the meeting.

**2. Substitutions**

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

**3. Urgent Items**

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

**4. Have Your Say!**

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

## **5. Declarations of Interest**

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

## **6. Minutes**

**1 - 2**

To confirm as a correct record the minutes of the meeting held on 26 February 2010.

## **7. Variation of Sex Establishment Licence for The Private Shop 74-76 Butt Road Colchester**

**3 - 18**

See report by Head of Environmental and Protective Services.

## **8. Exclusion of the public**

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements)

(Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).



**LICENSING COMMITTEE**  
**26 FEBRUARY 2010**

*Present :-* Councillor Barrie Cook (Chairman)  
Councillors Helen Chuah, Nick Cope, Wyn Foster  
and Ann Quarrie

**19. Minutes**

The minutes of the meeting held on 25 November 2009 were confirmed as a correct record.

**The Committee/Panel resolved under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.**

**20. Hackney Carriage Licensing Appeal**

The Licensing Manager, Mr Harvey, submitted a letter received on 23 November 2009 from the driver concerned and informed the Committee of the substance of a telephone conversation that he had with the driver who confirmed he would not be attending the hearing. The Licensing Manager then left the meeting while the Committee determined whether to proceed with the hearing. The Committee gave the matter due consideration and was satisfied that sufficient notice had been given to the driver of the hearing date. The Committee was also satisfied that the letters notifying the driver of the Committee date had been received and that under these circumstances the hearing should proceed.

The Committee considered a report by the Head of Environmental and Protective Services seeking the determination of the Licensing Committee as to whether one of the Council's licensed drivers was a fit and proper person under the terms of the relevant legislation having regard to the information presented in the report concerning his driving record and giving details of the complaints that had been received by the Council.

RESOLVED that having regard to the motoring offenses that had been committed by the driver concerned and the complaints about the standard of driving in a licensed private hire vehicle that had been received by the Council, the Committee determined that the driver was not a 'fit and proper person', under the terms of Sections 51 and 59 of the Local Government

(Miscellaneous Provisions) Act 1976, (as augmented by Section 47 of the Road Traffic Act 1991 and amended by Section 52 of the Road Safety Act 1991, to hold a hackney carriage/private hire drivers' licence and determined to revoke the licence with immediate effect.





## Licensing Committee

Item

7

2 June 2010

Report of	Head of Environmental & Protective Services	Author	Simon Harvey ☎ 282701
Title	Variation of Sex Establishment Licence for The Private Shop 74-76 Butt Road Colchester		
Wards affected	New Town		

**This report concerns an application that has been submitted by Darker Enterprises Ltd who are the holders of a Sex Establishment Licence for premises at 74-76 Butt Road Colchester to vary condition 6 of their licence**

### 1. Decision Required

- 1.1 The Licensing Committee are asked to determine an application submitted by Darker Enterprises who are the holders of a sex establishment licence for shop premises at 74-76 Butt Road Colchester to vary their licence condition so as to change the graphics and decoration of the shop front.

### 2. Reasons for Decision

- 2.1 In accordance with Paragraphs 18(1), (2) and (3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 the holder of a sex establishment licence is entitled to apply to the appropriate authority for a variation to the terms, conditions or restrictions that the licence is subject to and the authority must give full consideration to that application.

### 3. Alternative Options

- 3.1 There is no alternative option.

### 4. Supporting Information

- 4.1 Sex Establishment Licences are administered by local authorities in accordance with the requirements of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
- 4.2 The Private Shop situated at 74–76 Butt Road Colchester has been licensed as a sex establishment (sex shop) for a considerable number of years.
- 4.3 In accordance with Paragraphs 13 (1), (2) and (3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, the local authority may prescribe standard conditions or restrictions to the grant, renewal or transfer of sex establishment licences and may also prescribe conditions which regulate:
- (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 passers by; and
  - (d) any change of a sex cinema to a sex shop or a sex shop to a sex cinema
- (See attached as appendix 1).

- 4.4 A copy of the current sex establishment licence granted for these premises is attached to this report and Members of the Licensing Committee will note from condition 6 on the licence that the size, design, colour and wording used in any advertisement displayed on the premises shall be agreed with the Council. (See attached as appendix 2).
- 4.5 The format and current design and decoration of the shop premises is attached to this report for the information of the Committee. (See attached as appendix 3).
- 4.5 The holder of a licence may at any time apply to vary the terms, conditions or restrictions that the licence is held under in accordance with Paragraph 18(1) of the Local Government (Miscellaneous Provisions) Act 1982. (See attached as appendix 4).
- 4.6 Darker Enterprises Limited has submitted an application to vary condition 6 in order to change the graphics and redecoration of the shop front. A copy of their letter of application is attached to this report. (See attached as appendix 5).
- 4.7 A copy of their preferred design and colour scheme for the graphics and redecoration is also attached to this report. (See attached as appendix 6).
- 4.8 For information only, informal enquiries have been made with the Planning Authority as to whether there are any planning restrictions on these premises in regards to the design or colour scheme allowed and the Planning Authority has confirmed that there are no such restrictions in place. (See attached as appendix 7).
- 4.9 The Licensing Committee is aware that regardless of this confirmation from the Planning Authority, this application should only be considered and determined in regards to the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and not in relation to the requirements of other legislation.

## **6. Strategic Plan References**

- 6.1 There are no direct links with or to Council's strategic plan.

## **7. Consultation**

- 7.1 There is no requirement under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to consult with any other parties over applications made to vary a sex establishment licence or any conditions that may be attached to that licence. The only consultations or method of advertising that are required to be undertaken by the applicant or the licensing authority are in relation to the grant, renewal and transfer of a sex establishment licence only. Neither could the licensing authority take into consideration objections to anything other than an application submitted for a grant, renewal and transfer of a sex establishment licence. (See attached as appendix 8).

## **8. Publicity Considerations**

- 8.1 There is no requirement under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to publicise the details to any other party of an application made to vary a sex establishment licence or any conditions that may be attached to that licence. The only publicity or advertising requirements that are required to be undertaken by the applicant or the licensing authority are in relation to the grant, renewal and transfer of a sex establishment licence. Neither could the licensing authority take into consideration objections to anything other than an application submitted for a grant, renewal and transfer of a sex establishment licence.

## **9. Financial Implications**

- 9.1 There is a right of appeal against the Licensing Committee's decision to the Magistrates Court and from there to the Crown Court. If such an appeal were successful in either Court, the costs of any such proceedings could be awarded against the Council. Any appeal made to the Court must be made in writing within 21 days from the date that the decision was made known to the applicant.

## **10. Human Rights Implications**

- 10.1 A licence is to be regarded as the property of the applicant. However their right to the use of that property must also be balanced against any other public interests in this matter.

## **11. Community Safety Implications**

- 11.1 In light of the fact that there is no requirement under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to consult with any other parties over applications made to vary a sex establishment licence or any conditions that may be attached to that licence, or to advertise or publicise such an application, or take into consideration any objections to anything other than a grant, renewal or transfer of a sex establishment licence, it is not possible to assess whether or not there are any community safety implications in respect of this application, i.e. as to whether or not the proposal is likely to lead to crime and disorder. However on the balance of probabilities, such a scenario or risk is very unlikely to occur.

## **12. Health and Safety Implications**

- 12.1 In light of the fact that there is no requirement under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to consult with any other parties over applications made to vary a sex establishment licence or any conditions that may be attached to that licence, or to advertise or publicise such an application, or take into consideration any objections to anything other than a grant, renewal or transfer of a sex establishment licence, it is not possible to assess whether or not there are any health and safety implications for the general public in respect of this application. However on the balance of probabilities, it is very unlikely that there is any such implication.

## **13. Risk Management Implications**

- 13.1 The risk management implications in relation to this application are detailed in item 9 of this report under financial implications.

## **14. Recommendations**

- 14.1 Because of the quasi-judicial nature of the hearing and the proceedings that will take place, a recommendation cannot be put before Members of the Licensing Committee as to what outcome should be decided in respect of this application.

14.2 However the Committee has a number of options that it can take in regard to this application which are prescribed under Paragraphs 18 (2) and (3) of the Local Government (Miscellaneous Provisions) Act 1982 and which are as follows:

(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.

*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.
- (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.

**COLCHESTER BOROUGH COUNCIL  
LICENCE FOR SEX ESTABLISHMENT**

**Local Government (Miscellaneous Provisions Act 1982)**

**THE COLCHESTER BOROUGH COUNCIL**

being the Licensing Authority under section 2 of the above ACT

**HEREBY GRANT RENEWAL OF LICENCE** to Darker Enterprises Limited, Unit C, 26 Thames Road, Barking, Essex IG11 0JA to use the premises situated at *74/76 Butt Road, Colchester, Essex* for the purposes of a sex establishment comprising of a sex shop as defined in schedule 3 to the above ACT.

**THIS LICENCE** is renewed and subject to the condition(s) set out in the Schedule below.

**THIS REVISED LICENCE** is in force until 31 December 2010 unless previously revoked.

Dated: 8 February 2010

**Licensing Manager**

**THE SCHEDULE**

1. A copy of this Licence and any Regulations prescribing standard conditions made by the authority must be kept exhibited at the premises.  
  
(Failure to do so without reasonable excuse is an offence punishable by a fine up to £200).
2. The only entrance to the shop premises shall be situated in that part of the building, which fronts on to Butt Road and the door giving access to the rear of the premises shall be fitted with bars to provide and emergency exit only.
3. The premises shall only be open to the public during the following times:  
  
*9.30 am to 6.00 pm on Monday to Thursday inclusive and on Saturday  
9.30 am to 8.00 pm on Friday*
4. It is permitted to play music or words either via national or local radio stations or any pre-recorded means, but no material what so ever of an adult theme or nature can be played or broadcast, whether by means of sound or moving picture.
5. The public shall only have access to the ground floor of the premises.
6. The size, design, colour and wording used in any advertisement displayed on the premises shall be agreed with the Council.







- (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.

*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.

# Darker Enterprises Limited

Licensing Administration  
Unit C, 26 Thames Road, Barking, Essex IG11 0JA  
Tel: 020 8591 8517 - Fax: 020 8507 8587  
E-mail: licensing@thamesroad.co.uk

Dierdre Barham  
Operational Support Manager  
Colchester Borough Council  
33 Sheepen Road,  
Colchester  
COP3 3WG

16<sup>th</sup> February 2010

Dear Ms Barham,

Re: The Private Shop, 74/76 Butt Road, Colchester

In accordance with Condition No: 6 on our Licence for the above premises, we are writing for your approval of a change of graphics and re-decoration of our shop front.

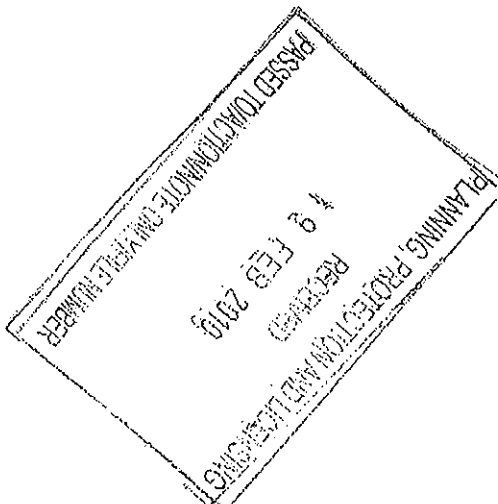
We enclose a mock up of our preferred design and would welcome your comments and/or suggestions.

Should you require any further information, please do not hesitate to contact us.

Yours sincerely



Christine King  
Licence Administrator



**Colchester Borough Council**  
PO Box 889, Town Hall  
Colchester CO1 1FL  
**Environmental and Protective Services**

Darker Enterprises Limited  
FAO Ms Christine King  
Licensing Administration  
Unit C 26 Thames Road  
Barking  
Essex IG11 0JA

Contact Sarah White  
Phone (01206) 506420  
E-mail [licensing.committee@colchester.gov.u](mailto:licensing.committee@colchester.gov.u)  
Your ref  
Our ref SNLW/  
Date 12 March 2010

Dear Ms King

**Re: The Private Shop, 74-76 Butt Road, Colchester**

I am writing to inform you that I have arranged a Licensing Committee Meeting for 19 April 2010 to consider your application in respect of the above premises. The meeting will be held in the Grand Jury Room, High Street, Colchester and will start at 6pm.

The paperwork for the meeting will be circulated in due course but if you require any assistance or further information please do not hesitate to contact me.

Yours sincerely

Sarah White  
**Committee Services Officer (Licensing)**  
**Environmental and Protective Services**

**Textphone users dial 18001 followed by the full number that you wish to call.**



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CTP/2

COLCHESTER BOROUGH COUNCIL  
TOWN AND COUNTRY PLANNING ACT 1971

TOWN AND COUNTRY PLANNING GENERAL DEVELOPMENT ORDER 1977

APPLICATION: COL/1140/79

APPLICATION DATE: 20.7.79

PROPOSAL: Change of use of ground floor from betting shop to general stores

LOCATION: 74/76 Butt Road, Colchester

APPLICANT: C. Barge, 24 Abbeygate Street, Colchester

In pursuance of the powers exercised by them as district planning authority this Council having considered your application to carry out the above development in accordance with the plan(s) accompanying the said application, do hereby give notice of their decision to GRANT PERMISSION for [the said development].

subject to compliance with the following conditions:

- 1. See Schedule overleaf.

Town Hall  
Colchester  
Essex

Dated 15 October 1979

Signed by *[Signature]*  
Town Clerk and Chief Executive

Note: This permission does not incorporate Listed Building Consent unless specifically stated. Details of the development not permitted will be inserted here, where this is not precisely the same as that described in the application.

IMPORTANT - ATTENTION IS DRAWN TO THE NOTES OVERLEAF

## NOTES

(1) If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment in accordance with section 36 of the Town and Country Planning Act 1971 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Department of the Environment, Tollgate House, Houlton Street, Bristol BS2 9DJ). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local planning authority, or could not have been so granted otherwise than subject to the Conditions imposed by them, having regard to the statutory requirements (a), to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

(2) If permission to develop land is refused or granted subject to conditions, whether by the local planning authority or by the Secretary of State for the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted he may serve on the Common Council, or on the Council of the London borough or district in which the land is situated, as the case may be, a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part IX of the Town and Country Planning Act 1971.

(3) In certain circumstances, a claim may be made against the local planning authority for compensation, where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 169 of the Town and Country Planning Act 1971.

## SCHEDULE:

The development hereby permitted shall be begun not later than the expiration of five years beginning with the date of this permission.

Reason:

To comply with the provisions of Sections 41 and 43 of the Town and Country Planning Act 1971.

THIS NOTICE DOES NOT INCLUDE ANY APPROVAL WHICH MAY BE NECESSARY IN ACCORDANCE WITH THE BUILDING REGULATIONS 1976

"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.
- (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.
  - (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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