

Community Protection Committee

DATE	18/11/2020
REPORT OF	Clive Tritton - Interim Director for Economy and Growth
SUBJECT	Determination of Application to renew Sex Shop Licence –The Private Shop 189 Grimsby Road, Cleethorpes
STATUS	Open

CONTRIBUTION TO OUR AIM

Stronger Community:

- Protecting the community through compliance with requirements of the licensing regime and the conditions of the licence.

Stronger Economy:

- Supporting business through licensing of a legally compliant sex shop.

EXECUTIVE SUMMARY

- This report provides the process to be followed and details required to determine the renewal application for a Sex Shop Licence at the above premises.

RECOMMENDATIONS

- To grant the renewal application.

REASONS FOR DECISION

- An application to renew the licence has been properly made and must be determined.

1. BACKGROUND AND ISSUES

1.1 Introduction

Section 3 of the Local Government (Miscellaneous Provisions) Act 1982 enables a local authority to adopt the provisions in Schedule 3 of the Act, which require that a sex cinema or sex shop has a licence issued by the local authority. This allows the authority to prescribe certain conditions regulating the premises.

By resolution dated 24th November 1982 Cleethorpes Borough Council resolved that Schedule 3 of the Act should come into force in its area from the 1st February 1983. This resolution has been transferred to North East Lincolnshire Council.

North East Lincolnshire Council has adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Police and Crime Act 2009 in order to Licence Sex Shops, Sex Cinemas and Sexual

Entertainment venues within the district.

1.2 Application

Darker Enterprises Limited have applied for the renewal of a sex shop licence at The Private Shop, 189 Grimsby Road, Cleethorpes. (Copy of application in Appendix A)

1.3 Licence

Licences for sex shops are granted for a period of no more than 12 months and applications for renewal can be made at any time prior to the expiry of the licence. Conditions can be further reviewed at the time of the annual renewal. (Copy of current licence in Appendix B)

1.4 Consultation

Consultation to all the statutory consultees has been undertaken. The applicant placed a notice in the Grimsby Evening Telegraph and at the premises for the required 28 day period.

1.5 Compliance

The premises have been visited following the application and found to be operating in compliance with the licence conditions

1.6 Determination.

There have been no objections to the application and none of the mandatory or other grounds for refusal apply.

2. RISKS AND OPPORTUNITIES

Human Rights / Equality and Diversity – The Council would be at risk if it failed to be mindful of Article 1 of the First Protocol of the European Convention on Human Rights is engaged which means no one shall be deprived of his personal possessions except in the public interest. People's possessions have included licences. The Human rights of the applicant are also affected if they do not receive a fair hearing so the Council would be at risk of legal challenge should they not provide one.

Value for Money – As there have been no objections and none of the mandatory or other grounds for refusal apply the Council is at risk from legal action and possible costs being award against it if the licence is not granted.

The Impact on the Social, Economic and Environmental well-being of the Borough – There could be a social and economic impact on staff and customers should this application be refused. In the absence of any objections to this application there would be no significant impacts if the application was granted.

Economic Risk – No significant economic risk in the grant/refusal of this licence

Economic Opportunity – No significant economic opportunities in the grant/refusal of this licence.

3. OTHER OPTIONS CONSIDERED

To amend the licence conditions – no evidence to justify or support this option.

Refuse the application - no evidence to justify or support this option.

4. REPUTATION AND COMMUNICATIONS CONSIDERATIONS

There are potential positive reputational implications in relation to effective implementation of this legislation as outlined in the report. An action plan has been agreed with the Council's communications service covering information requirements and communication channels to be utilised.

5. FINANCIAL CONSIDERATIONS

The proposal outlined within the report supported the Council's key financial objectives to shift our financial resource to support delivery of the Council's vision and reduce reliance on central government funding. The fee for processes is set on a cost recovery basis.

6. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

No direct implications

7. FINANCIAL IMPLICATIONS

The licence renewal will allow income to continue to be received on a cost recovery basis.

8. LEGAL IMPLICATIONS

Paragraph 12(3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 sets out the grounds on which an application can be refused.

An application to renew a licence may only be refused on one or more of the following grounds:

- a) That the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- b) That if the licence were to be granted, 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 of a licence if he or she made the application themselves;
- c) That the number of sex establishments 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 of the licence would be inappropriate having regard to:
 - i. The character of the relevant locality; or
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises in respect of which the application is made.

In the absence of any objections or evidence of crime and disorder the renewal of the licence should be granted.

Section 8(1) of the Local Government (Miscellaneous Provisions) Act 1982 provides that the authority may grant the renewal on such terms and conditions and subject to such restrictions as may be so specified. If the Committee wishes to impose any additional restrictions or conditions, which are not already in place, there must be a good reason for doing so

9. HUMAN RESOURCES IMPLICATIONS

There are no HR implications arising from the contents of this report.

10. WARD IMPLICATIONS

Sidney Sussex Ward

11. BACKGROUND PAPERS

Appendix 1: Application to renew Sex Establishment Licence

Appendix 2: Current Sex Establishment Licence for The Private Shop

12. CONTACT OFFICER(S)

19.1 Adrian Moody & Iain Peck 324772

**CLIVE TRITTON
INTERIM DIRECTOR FOR ECONOMY AND GROWTH**

APPLICATION FOR GRANT/RENEWAL/TRANSFER/VARIATION
OF LICENCE FOR A
SEX ESTABLISHMENT

If the application is made on behalf of an individual please state:

Full Name _____ N/A _____

1. Permanent address _____ N/A _____

Age N/A Date of Birth N/A Place of Birth N/A

If application is made on behalf of a corporate or unincorporated body please state:

Full name of body Darker Enterprises Limited _____

Address of registered or principal office Unit 3, Chancerygate Business Centre, 33 Tallon Road, Hutton, Brentwood, Essex, CM13 1TE _____

2. Give full name and private addresses of all directors or the other persons responsible for management of the establishments:

Name David Michael Brown _____

Age 65 Date of Birth 09.02.1955 Place of Birth Edmonton _____

Name Steven Leinster _____

Age 49 Date of Birth 02.03.1971 Place of Birth Belfast _____

Name Phillip Youle _____

Age 55 Date of Birth 15.07.1964 Place of Birth Chesterfield _____

Please see Attachment 1

Attachment 1

Martin Tattersall – Area Admin Supervisor
Barry Maltby – Area Admin Supervisor
Phillip Allan Robertson - Full-time sales assistant
Kirsty Barnard – Part time sales assistant

For private address please see enclosed envelope marked "Private & Confidential"

3. Have you any convictions recorded against you? Or if a body corporate or unincorporated body that body or any of its directors or other persons responsible for its management? If so please state:
 (In the case of a renewal since you last applied for a licence)

Date of Conviction	Court	Offence(s)	Sentence including suspended sentence or Order of Court
There are no Named in this	Convictions to Renewal	Declare for any application	Persons or body
I LIST ABOVE ALL OFFENCES FOR WHICH I HAVE BEEN CONVICTED WHICH NEED TO BE DECLARED.			
USUAL SIGNATURE:			

- (a) All convictions must be displayed.
 (b) Spent convictions, as defined below, should not be included.

SENTENCE	BECOMES SPENT AFTER
Imprisonment of between 6 months and 2 ½ years:	10 years.
Imprisonment of up to 6 months:	7 years
Borstal training :	7 years
A fine or other sentence not otherwise covered in this table:	5 years
Absolute discharge:	6 months
Probation order, conditional discharge or bind over:	1 year (or until order expires, whichever is the longer).
Detention Centre order	3 years

Remand Home, Attendance Centre or Approved	
School order:	This period of the order and a further year after the order expires.
Hospital order under the Mental Health Act:	The period of the order and a further 2 years after it expires.
Cashiering, discharge with ignominy or dismissal With disgrace from the Armed forces:	10 years.
Dismissal from the Armed Forces:	7 years
Detention:	5 years

NOTE: (i) A sentence of more than 2 ½ years imprisonment can never become spent.
(ii) If you were under 17 years of age on the date of conviction, please halve the period shown in the right hand column.

4. Have you been resident in the United Kingdom throughout a period of six months immediately preceding the date of this application? **N/A**

5. If the application is made on behalf of a body corporate is that body incorporated in the United Kingdom? **YES**

6. Full address of premises desired to be used as a sex establishment:

Private Shop
189 Grimsby Road
Cleethorpes
Grimsby
DN35 7HB

If this application relates to a vehicle/vessel/stall give description and state where it is to be used as a sex establishment:

7. During which hours do you wish to trade?

9.30am – 6.00pm, Fridays 8.00pm

8. On which days do you wish to trade? Monday to Saturday
9. Are the premises to be used as a sex shop? YES
- Are the premises to be used as a sex cinema? NO
- Are the premises to be used as a sex encounter establishment? NO
10. Are you (or, if a corporate or unincorporated body, that body) disqualified from holding a licence for a sex establishment?
- Have you ever been refused a licence for a sex establishment? YES
If YES please give details Please see Attachment 2

11. I declare that I have checked the information given on this application form and to the best of my knowledge and belief it is correct.

Date 14th July 2020 Signed  David Michael Brown

This copy together with the relevant fee should be returned to:

Licensing Section
Doughty Road Depot
Doughty Road
Grimsby
DN32 0LL

Email: Licensing@nelincs.gov.uk

Attachment 2

DARKER ENTERPRISES LIMITED - PREVIOUS APPLICATIONS REFUSED

Renewal / Grant	Date of Refusal	Authority	Grounds for Refusal	Subsequent outcome
R	13.7.89	Dacorum Borough Council	Para: 12(3)(d) (i)-(ii)	Original decision quashed by High Court. Council ordered to review decision. Licence subsequently renewed.
G	20.7.89	Bradford Metropolitan Council	12(3)(d) (i), (ii)	Fresh application granted on 2 April, 2002
R	30.11.89	Shrewsbury & Atcham Borough Council	12(3)(d) (i)-(ii)	Fresh application granted on 28.3.2001
R	03.05.90	Chesterfield Borough Council	12(3)(d) (i)	Original decision quashed by High Court. Council ordered to review decision. Licence subsequently renewed.
G	25.7.90	Cambridge City Council	12(3)(d) (ii)	Fresh application made 26.1.01 and Subsequently granted
R	26.2.91	Croydon Borough Council	12(3)(d) (i)-(ii)	
R	25.2.92	Croydon Shop Norbury Shop	12(3)(d) (i)-(ii)	
R	26.4.93	City of Newcastle Upon Tyne	12(3)(a)	Appeal against decision made to Magistrates Court. Original decision quashed on appeal. Licence subsequently renewed.

G	5.7.94	Nottingham City Council	Para. 12(3) (c)	Fresh application made 30.4.02 and subsequently granted.
G	2.2.95	Peterborough City Council	12(3) (c)	Fresh application made 29.5.01 and subsequently granted.
G	7.10.96	Leeds City Council	12(3)(c)(d)	Fresh application made 15.5.01 and subsequently granted.
R	18.12.96	Wandsworth Borough Council	12(3) (d) (i)	Judicial Review of decision sought and granted. Council reheard application 7.8.97 and refused. Second Judicial Review sought and refused. Matter came before Court of Appeal. Appeal refused.
G	28.4.98	Stoke on Trent Borough Council	12 (3)(c)(d)	Fresh application made 20.11.01 and subsequently granted.
G	16.11.98	Preston Borough Council	12(3)(c) (d)	Fresh application made 31.12.01 and subsequently granted
G	16.12.01	Westminster City Council	12(3) (c)(d)	
G	5.3.02	Newham Borough Council	12 (3) (d)	
G	30.4.02	Croydon Borough Council	12(3) (c)(d)	
G	8.7.02	Sunderland City Council	12(3)(d)(Dii)	
G	23.10.2002	Milton Keynes Borough Council	12(3) (c)(d)	Leave for Judicial Review sought on 17th December, 2002. Leave refused.
G	10.2.2003	Aylesbury Vale District Council	12(3)(c)(d)	

G	10.4.03	Ashford Borough Council	12(3)(c) (d)	Subject of appeal to Ashford on 28.7.03 Appeal Upheld by Council Licence subsequently granted
G	10.7.03	Pembrokeshire County Council	12(3) (c)(d)	
G	22.9.03	Glasgow City Council	Civic Gov. Scotland Act	
G	25.9.03	Ipswich Borough Council	12(3)(c) (d)	
G	8.10.03	London Borough of Barnet	12(3)(c) (d)	
G	13.1.04	Gloucester City Council	12(3)(c) (d)	
R	11.3.04	Preston City Council	12(3) (c) (d)	Application for Judicial Review will be made. Subsequently granted licence for different premises. Judicial review withdrawn
G	17.3.04	Birmingham City Council	12(3) (c) (d)	
G	13.7.04	East Staffs. Borough Council	12(3) (c) (d)	
	24.11.04	Milton Keynes Council	12(3) (c)(d)	

G	16.02.05	Birmingham City Council	12(3) (c)(d)
G	10.3.05	London Borough of Camden	12(3)(c) (d)
G	24.3.05	London Borough of Barnet	12(3) (c)(d)
G	12.9.05	Aylesbury Vale District Council	12(3) (c) (d)
R	16.1.06	Watford Borough Council	Para 3(c) Sch. 3
R	9.5.06	South Somerset District Council	Para 12(3)(d)
R	13.11.06	Halton Borough Council	Para 12(3)(d) Sch 3
G	15.03.07	Merthyr Tydfil County Borough Council	Sch 3 Para 12 Sec.3(d)(i)
G	9.10.07	Bournemouth Borough Council	Sec 12(3)(c)
G	30.01.13	Blackpool Council	12 (3) (d) (i) We will remain at our existing premises in Blackpool
G	16.01.15	Waveney District Council	D ¹ 12 (3) (d) (i) We will continue to run the shop as a Mirage E- Cig shop.

Updated: 23.02.2015

Darker Enterprises Limited

Licensing Administration
Unit 3, Chancerygate Business Centre,
33 Tallon Road, Hutton,
Brentwood, Essex, CM13 1TE
Tel: 0208 114 1007
Email: licensing@darkerltd.co.uk

By Email

Licensing Section
North East Lincolnshire Council
Doughty Road Depot
Doughty Road
Grimsby
DN32 0LL

14th July 2020
(Date of application)

Dear Sir/Madam,

**Re: Local Government (Miscellaneous Provisions) Act 1982
Renewal of Licence: Private Shop, 189 Grimsby Road, Cleethorpes, DN35 7HB**

Please find enclosed our application for the renewal of the licence under Schedule 3 of the above Act, in respect of the above premises. Payment will be made by BACS.

We understand that certain Councils distribute copies of the application to the public and we have, therefore, enclosed the private addresses in a separate envelope marked "Private & Confidential" in order to protect family homes. We would be grateful if you would observe the confidentiality of this information and not release same to members of the public.

We confirm that a copy of the application has been sent to the Chief Officer, Humberside Police. We also confirm that the public notice will be published in a local paper and a copy of the notice will be displayed at the premises.

Will you please note that any Licence issued should be in the name of Darker Enterprises Limited, the applicant, and all communication relating to the above premises should be directed to this office.

If you have any queries or require additional information, please do not hesitate to contact us.

Yours faithfully
For and on behalf of
Darker Enterprises Limited

[Redacted]
D M Brown
Director

PRIVATE AND CONFIDENTIAL

189 Grimsby Road, Cleethorpes, Grimsby



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

LICENCE FOR SEX ESTABLISHMENT

THE NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL

being the Licensing Authority under section 2 of the above Act

HEREBY GRANT RENEWAL OF LICENCE to

Darker Enterprises Limited

of

**Unit 3, Chancerygate Business Centre, 33 Tallon Road, Hutton,
Brentwood, Essex, CM13 1TE**

to use the premises situated at:

The Private Shop, 189 Grimsby Road, Cleethorpes, DN35 7HB

for the purposes of a sex establishment comprising a sex shop as defined in Schedule 3 to the above Act.

THIS LICENCE is renewed subject to the standard terms conditions and restrictions contained in regulations made by the authority relating to such licences and to the additional condition(s) set out in the Schedule below.

A fee of £1124.00 has been paid for this Licence.

THIS LICENCE shall continue in force from the 1st August 2019 until 31st July 2020 unless previously revoked.

GRANTED on 11th day of September 2019

Licensing Manager

SCHEDULE

1. No persons under the age of 18 years shall be admitted to any sex establishment the premises at any time. A clear notice shall be displayed at each entrance to the premises stating 'NO PERSONS UNDER THE AGE OF 18 SHALL BE ADMITTED'
2. Customers who appear to be under the age of 25 must be asked to provide photographic proof of their age.
2. A Refusal Book of persons under the age of 18 shall be maintained and kept at the premises at all times and shall be made available upon request by a Police Officer or authorised Officer of the Council.
3. An incident book to be maintained at the premises and to be made available to a Police Officer or authorised Officer of the Council upon request.
4. A list of persons banned from the premises, the reason for the ban and timescale of the ban to be logged and kept at the premises and to be made available upon request to a Police Officer or authorised Officer of the Council.
5. A copy of this Licence must be kept on the premises.
6. The interior of the premises shall not be visible to passers-by and there shall be no display of material or literature in any window which is visible from the highway.
7. No display of notices, fascias, illuminated signs, or advertisements of any description either on or in the premises shall be permitted without the consent in writing of the Council.
8. No alterations to be made the premises without the consent of the Council. All applications must be made in writing.
9. A partition shall be erected inside the premises in such a position so that the interior of the premises and the contents cannot be seen when the front door of the premises is opened.
10. The Licensee shall ensure that there is no nuisance or annoyance to neighbouring residents or commercial occupiers arising from noise emanating from the premises.
11. The Licensee will be able to nominate, in writing, managers and staff who will work at the licensed premises during the whole time they are open to the public. All members will be required to have a Disclosure Scotland, CRB or PNC check which must be made available at the time of writing to the Council, dated within one month, when making nominations.
 - 11.1. Such written nomination shall be continuously available for inspection by the Council's officers or the Police. (The person in charge shall not be engaged on any duties which will prevent him/her from exercising general supervision).
12. The Licensee shall retain control over all parts of the premises and shall operate the premises exclusively as a sex establishment as defined within the Licence. (e.g Sex Shop, Sex Cinema or Sex Entertainment Venue).
13. Officers of the Council who are furnished with authorities which they will produce on request shall be admitted immediately to all parts of the premises at all reasonable times.
14. Rules for customers shall be prominently displayed within the premises.
15. DVD's shall not be sold or supplied unless the DVD;
 - (a) has been passed by the British Board of Film Classification;
 - (b) is a reproduction authorised by the owner of the copyright and
 - (c) bears certificates to those effects.
16. Customer notices must be displayed requesting quiet departure.

17. All fees and charges to be prominently displayed within the premises.
18. Except with the consent of the Council the permitted days and hours of opening, for the purposes of the Licence, shall be:-

Monday to Thursday	9.30 a.m. to 6.00 p.m.
Friday	9.30 a.m. to 8.00 p.m.
Saturday	9.30 a.m. to 6.00 p.m.
19. Premises shall remain closed every Sunday, Good Friday and Christmas Day (Sex Shops Only)