

Request for sunday trading at Simply Pleasure 132 London Road Derby DE1 2SR

SUMMARY

- 1.1 A request for Sunday trading at Simply Pleasure 132 London Road Derby DE1 2SR has been received by Derby City Council's Licensing Team.
- 1.2 The request relates to a sex establishment covered by the Local Government (Miscellaneous Provisions) Act 1982.
- 1.3 The hearing today is to determine the request with a view to promoting the standard sex establishment regulations.
- 1.4 The General Licensing Sub-Committee considered an application to vary trading hours at another sex establishment shop in Derby in August 2007. On that occasion it was resolved to delegate authorisation to the Assistant Director of Environmental Health and Trading Standards to approve any future requests to allow Sunday trading during the month of December for the premises, however this is not the case in relation to these premises.
- 1.5 Simply Pleasure made a request for Sunday Trading during December in November 2013, the General Licensing Sub Committee resolved to grant the request with conditions. The decision notice is attached at **Appendix 4**.

RECOMMENDATION

- 2.1 To consider the request.
- 2.2 To decide whether to:
 - grant the request;
 - reject the request.

REASONS FOR RECOMMENDATION

- 3.1 The recommendation is based on Council policy, regulating the determination of applications of this nature by the General Licensing Committee (**Appendix 2**).

SUPPORTING INFORMATION

- 4.1 A request for Sunday trading at Simply Pleasure 132 London Road Derby DE1 2SR was received by Derby City Council's Licensing Team on 27 November 2014. A copy of the request is attached at **Appendix 1**.
- 4.2 Standard conditions regarding the trading hours of sex establishment premises have been adopted by Derby City Council, A copy is attached at **Appendix 2**.
- 4.3 Condition 6 of the attached standard conditions state:
Except with the previous consent of the Council the premises shall not be open on Sundays, Christmas Day or Good Friday.
- 4.4 A location map is attached at **Appendix 3**.
- 4.5 The premises have held a sex shop licence for in excess of 9 years and was last renewed 14 December 2013.
- 4.6 The Committee is obliged to determine this application with a view to promoting the standard sex establishment regulations:
- 4.7 In making its decision, the Committee is also obliged to have regard to the Local Government (Miscellaneous Provisions) Act 1982.
- 4.8 The Council recognises the importance of securing proper integration with and attaching relevant conditions that reflect local strategies.
- 4.9 The Council has a duty to act in a manner which is compatible with the Human Rights Act 1998.
- 4.10 A Licence is regarded as property for the purposes of the Human Rights Act 1998. Article 1 of the First Protocol states that:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

4.11 The Committee must also take into account the effect on local residents. Article 8 states:

- Everyone has the right to respect for his private and family life, his home and his correspondence.
- There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, 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.

4.12 Three stage test to be applied:

- Is the interference in accordance with the law?
- Is the interference necessary in a democratic society in pursuit of a legitimate aim
- Is the decision proportionate ie. Does it strike a fair balance between the demands of the general interests of the community and the requirement to protect the applicant's rights?

OTHER OPTIONS CONSIDERED

5.1 There are no other options available to the Committee other than those detailed in point 2.2.

This report has been approved by the following officers:

Legal officer	Not applicable for Sub Committee
Property/Estates officer	Not applicable for Sub Committee
Financial officer	Not applicable for Sub Committee
Human Resources officer	Not applicable for Sub Committee
Service Director(s)	Not applicable for Sub Committee
Other(s)	Not applicable for Sub Committee
For more information contact:	Sandra Mansell 01332 641931 e-mail licensing@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Sunday Trading request Appendix 2 – Standard conditions Appendix 3 – Location Map Appendix 4 - Decision notice from hearing on 28 November 2013