

REGULATORY SERVICES COMMITTEE

21 MARCH 2018

PART I - DELEGATED

7. APPLICATION FOR RENEWAL OF A SEX ESTABLISHMENT LICENCE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY THE POLICING AND CRIME ACT 2009 (DCES)

1. Summary

1.1 In 2004 the Council adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the 1982 Act). On 4 April 2011 the Resolution was amended to take account of the changes made by Section 27 of the Policing and Crime Act 2009 (the 2009 Act) to the definition of 'sex establishment'. The effect of the adoption is that any premises in the District used as a sex establishment must be licensed and may only be used in accordance with the terms of the licence.

1.2 The 2009 Act gives a transition period of 12 months after re-adoption of Schedule 3, for any such premises to apply for the new licence. It is therefore illegal for any establishment to provide sexual entertainment after 4th April 2012, without the benefit of a Sex Establishment Licence.

1.3 An application for a Sex Establishment Licence has been made for the premises known as the Prince of Wales Public House, Batchworth Heath, Rickmansworth WD3 1QB. The Council's Constitution requires that an application for such a licence may only be determined by the Regulatory Services Committee.

2.1 Application

On 25 January 2018 Mr Kieron Walsh made an application to the Council for a renewal to the Sex Establishment Licence for the Prince of Wales public house, situated at 14 London Road, Batchworth Heath, Rickmansworth, WD3 1QB.

2.2 The application is valid and has been advertised in accordance with the requirements of the 1982 Act. A copy of the application has also been served on the Chief Officer of Hertfordshire Constabulary within the required time. The cut off date for objections was 22 February 2018. The application, with the required supporting documentation is attached at **Appendix I**.

2.3 As per the Council's Constitution all Councillors were made aware of the application.

3. Options/Reasons for Recommendation

Premises History

3.1 The need for the applicant, Mr Walsh, to apply for a Sex Establishment Licence has arisen due to the changes made to the 1982 Act whereby the definition of a 'sex establishment' under the 1982 Act has been extended to include a new type of premises known as a Sexual Entertainment Venue (SEV).

- 3.2 A SEV is defined by the 2009 Act as an establishment where relevant entertainment is provided before an audience, for the financial gain of the organiser. The type of entertainment referred to would be displays of nudity or a performance of such a nature that it could reasonably be assumed that it is for the purposes of sexually stimulating any member of the audience. A full definition is at **Appendix II**.
- 3.3 A typical establishment will provide entertainment of a sexual nature such as pole dancing, lap dancing, strip shows, table dancing, peep shows and live sex shows. Entertainment by way of girls dancing and stripping naked to music takes place at the Prince of Wales and as such is a SEV.
- 3.4 Prior to the Licensing Act 2003, premises such as the Prince of Wales could provide sexual entertainment as described in 3.2 & 3.3 by means of a Public Entertainment licence for the performance of music and dance (M & D), issued by a Local Authority under the 1982 Act. Our records show that the premise has been so licensed continually since 13 December 1993.
- 3.5 When the Licensing Act 2003 came into force in 2005 there was a transition period which enabled current Justices' Licence holders to apply to convert their Licence to a new Premises Licence provided they did not ask for more than they were already licensed for. A Premises Licence also included all other existing Licences that applied to the premises, for example a Music & Dance licence along with all its Conditions. This was the case with the Prince of Wales when it converted its Justices' Licence on 24th August 2005 to a premises licence.
- 3.6 Following a Committee hearing on 7 December 2011 the premise was granted a Sex Establishment Licence. Conditions were placed on the licence. A copy of the current licence including conditions is included at **Appendix III**.
- 3.7 Under the provisions of the 1982 Act a Council may, by regulation, prescribe standard conditions applicable to licences for sex establishments, that is to say, terms, conditions and restrictions under which licences can be granted, renewed or transferred. These conditions can vary according to the type of establishment and a full list of the Council's model conditions for Sex Establishments as adopted on 28 September 2004 is at **Appendix IV**.
- 3.8 Paragraph 12(1) of Schedule 3 of the 1982 Act sets out the grounds on which an application must be refused:-

A licence shall not be granted:-

- a) to a person under the age of 18 years of age;
- b) to a person who is, for the time being, disqualified as being a licence holder whose licence has been revoked within the previous 12 months;
- c) to a person, other than a body corporate, who is not resident in the United Kingdom, or who was not so resident throughout the period of six months, immediately preceding the date when the application was made;
- d) to a body corporate that was 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.

3.9 The Council may also refuse an application for a Sex Establishment Licence, under paragraph 12(2) of the 1982 Act, on the general grounds given by paragraph 12(3), which are as follows:

(a) The person is unsuitable to hold a licence, by reason of having been convicted of any offence, or any other reason.

(b) That, effectively, the application is a proxy application for the benefit of someone who would not otherwise be granted a licence.

(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 considers is appropriate for that locality.

In relation to this sub-paragraph, there is no policy in place which restricts the number of sex establishments considered appropriate in any locality of the District.

(d) That the grant or renewal of the license would be inappropriate having regard to:

- ◆ The character of the relevant locality; or
- ◆ The use to which any premises in the vicinity are put; or
- ◆ The layout, character or condition of the premises in respect of which the application is made.

For the purposes of this sub-paragraph, relevant locality means, in relation to the premises, the locality where they are situated.

Objections

3.10 Objections can be made by anyone, including the Police, and must be made in writing, the name and address of the objector cannot be revealed, and must be made within 21 days of the date the application was made.

3.11 The objection must be based on the general grounds provided in paragraph 12 of the 1982 Act, and the general grounds of the objection must be given to the applicant, before considering the application.

3.12 The Committee should have regard to any objections made, but as moral grounds are not a ground for the refusal of a licence, such objections are irrelevant.

3.13 No objections have been received.

3.14 During the time that the Prince of Wales has been licensed, both for Music & Dance, as a SEV and the supply of alcohol, no complaints have been made or issues raised.

3.15 The applicant Mr Kieron Walsh has provided a certificate of information held on the Police National Computer, which is clear of any convictions.

4. **Policy/Budget Reference and Implications**

4.1 The recommendations in this report are within the Council's agreed policy and budgets.

5. **Financial, Equal Opportunities, Staffing, Environmental, Community Safety, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications**

5.1 None specific.

6. **Legal Implications**

6.1 To continue using these premises for the purposes of a Sex Entertainment Venue will require a licence to be in place by 4 April 2018. The Committee has the power to either grant, conditionally or unconditionally, or refuse this application. The Committee should consider all the evidence, written and verbal presented to it and reach a reasoned decision as an applicant may appeal to the Magistrates' Court.

6.2 There are no rights of appeal for third party objectors.

7. **Recommendation**

7.1 That the Committee consider the application, and supporting evidence, and

1. Grant the licence with existing conditions

7.2 It is further recommended that the Committee recommend to Council that "officers are given the authority to grant a renewal of a licence for a sexual entertainment venue under delegated powers where there have been no objections"

Report prepared by: Brad Wheeler - Licensing Officer

Background Papers

The application and the file for The Prince of Wales Public House.

APPENDICES / ATTACHMENTS

Appendix I – The application for a Sex Establishment

Appendix II – Definition of a Sexual Entertainment Venue

Appendix III – Conditions to permit entertainment involving striptease and/or nudity and/or sexual entertainment

Appendix I

The application.

Appendix II

Meaning of “sexual entertainment venue”

- (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)

Appendix III



Licence No. SX1

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
As amended by POLICING & CRIME ACT 2009**

SEX ESTABLISHMENT LICENCE

Three Rivers District Council, further to the powers contained in Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing & Crime Act 2009, hereby grants Licence to:-

Name: Mr Kieron Michael WALSH (the licensee)

of: The Prince of Wales

to use the Premises known as: The Prince of Wales
14 London Road
Batchworth Heath
Rickmansworth
Hertfordshire
WD3 1QB

as a "Sexual Entertainment Venue" within the meaning of paragraph 2(A)(1) of Schedule 3 as amended, subject to the Conditions specified below, on the following days and times:-

Monday to Saturday	14:30 – 23:00
Sunday	13:30 – 22:30

The licence is valid from: **4th April 2017** and will expire on: **3rd April 2018**

It may be renewed on application to Head of Regulatory Services, Three Rivers District Council, Three Rivers House, Northway, Hertfordshire WD3 1RL.

Signed for and on behalf of Three Rivers District Council

Kimberley Rowley
Head of Regulatory Services

Date: 28th March 2017

Conditions to permit entertainment involving striptease and/or nudity and/or sexual entertainment

SX3. All references to striptease shall be deemed to include all forms of striptease or nudity, including the wearing of "see through" clothing and sexual stimulation.

- SX4. Only activities to which the Council has given its consent shall take place.
- SX5. The approved activities shall take place only in the areas designated by the Council and the approved access to the dressing room(s) shall be maintained whilst striptease entertainment is taking place and immediately thereafter. The Council will not permit the striptease to be in a location where the performance can be seen from the street.
- SX6. The striptease entertainment shall be given only by the performers/entertainers and the audience shall not be permitted to participate.
- SX7. Whilst striptease entertainment is taking place no person under the age of 18 shall be on the premises. A clear notice shall be displayed at each entrance to the premises in a prominent position so that it can be easily read by persons entering the premises with the following words:- “ **No person under the age of 18 will be admitted**”
- SX8. Except as permitted by Additional Condition SX10, the licensee shall not encourage, or permit encouragement to be made to the audience to throw money at or otherwise to give gratuities to the performers.

Additional Conditions for Tableside Dancing

- SX9. Entertainment under this consent may be provided solely by dancers to customers seated at tables in the approved part of the premises.
- SX10. There shall be no physical contact between customers and the dancers other than the transfer of money or tokens at the beginning or conclusion of the performance.
- SX11. CCTV shall be installed to cover all the areas where dancing will take place.
- SX12. Whilst dancing takes place, not less than ONE door supervisor shall be employed in that part of the premises used for dancing.

Additional Condition(s) imposed by the Committee on 7th December 2011

- SX13. The front and rear car parks of the premises shall be cleared of litter daily.

Head of Regulatory Services

Appendix IV

Council's list of model conditions for sex establishments:

Management of the Premises

1. The Licensee or some responsible person nominated by him and approved in writing by the Council for the purpose of managing the sex establishment (“the manager”) shall have personal responsibility for and be present on the Premises at all times when the Premises are open to the public.
2. Where the Licensee is a body corporate or an incorporated body, any change of director, company secretary or other person responsible for the management of the body shall be notified in writing to the Council within 14 days of such change and such written details as the licensing authority may require in respect of the change of personnel shall be furnished within 14 days of a request in writing from the Council.
3. A copy of the licence and any special conditions attached shall at all times be displayed in a conspicuous position on the Premises, so as to be available for inspection by the police, the fire authority, and authorised officers of the Council or the local trading standards authority.
4. The name of the person responsible for the management of the Premises, whether the Licensee or the manager, shall be displayed in a conspicuous position within the Premises throughout the period during which he is responsible for the conduct of the Premises.
5. The Licensee shall retain control over all parts of the Premises and shall not let, licence or part with possession of any part. The Council must be immediately notified in the event that any part of the Premises is affected by the termination of a lease or other event affecting the Licensee’s control of the Premises.
6. The Licensee shall ensure that the public is not admitted to any part of the Premises that has not been licenced.
7. No person under the age of 18 shall be admitted to the Premises and a notice to this effect, in accordance with condition 19, shall be displayed on the outside of the Premises.
8. Neither the Licensee nor any employee or agent shall personally solicit custom for the sex establishment outside or in the vicinity of the Premises.
9. The Licensee shall ensure that during the hours that the Premises are open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee.

10. The Licensee shall maintain a daily register in which shall be recorded the name and address of any person who is to be responsible for managing the Sex Establishment in the Licensee’s absence and the names and addresses of those employed in the Sex Establishment. The Register is to be completed each day within thirty minutes of the

Sex Establishment being opened for business and is to be available for inspection by the police and by authorised officers of the Council.

Opening of the Premises

11. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted except during the following hours:

*Monday – Friday 0-00am – 0-00pm

12. The Premises shall not, without the written consent of the Council, be opened and used for the purposes for which the licence is granted on Christmas Day or Good Friday.

**To be determined according to the type of premises*

Conduct of the Premises

13. No change from a sex cinema to a sex shop or a sex shop to a sex cinema shall be made without the written consent of the Council.

14. No sex articles or 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.

15. A sex shop shall be conducted primarily for the purpose of the sale of goods by retail.

16. All sex articles and other things displayed for sale, hire, exchange or loan within the Premises shall be clearly marked to show the price being charged.

17. All printed material offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect shall be displayed in a conspicuous position within the Premises.

18. No film, video recording, or DVD (or computer game) shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to the effect.

External Appearance

19. The holder of a sex establishment licence may exhibit on the outside of the Premises the name of the business and a notice, capable of being enclosed by a rectangle one square metre in area or such other size as agreed with the Council, consisting of the words 'Licensed Sex Establishment'.

20. The holder of a sex establishment licence shall exhibit on the outside of the Premises a notice, capable of being enclosed by a rectangle one square metre in area, of the times of opening and of the words 'No person under the age of 18 allowed. People under the age of 21 will be required to show proof of their age.'

21. (a) No other words or signs, or any displays or advertisements, shall be displayed on the outside of the Premises or in the vicinity of the Premises, except those mentioned in

conditions 18 and 19 or otherwise approved by the Council in writing;

(b) No external loudspeakers may be installed.

22. The windows and openings of the Premises shall be of a material or covered with a material, which will render the interior of the Premises invisible to passers-by.

State, Condition and Layout of the Premises

23. Notwithstanding the Licensee's duties under the Health and Safety at Work etc Act 1974 and related legislation and his obligations under any lease or other agreement for the use of the Premises, he shall maintain the Premises in good repair and condition.

24. External doors shall be closed at all times other than when persons are entering or leaving the Premises. The external doors shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

25. The Premises shall be fitted with an inner entrance door or screen so that no part of the interior of the Premises or any of the contents of the Premises shall be visible when persons are entering or leaving the Premises.

26. No access shall be permitted through the Premises to any other Premises adjoining or adjacent except in the case of emergency.

27. Lighting shall be in operation continuously during the whole of the time that the Sex Establishment is open to the public.

28. Alterations or additions, either internal or external, shall be not be made to the Premises without prior written consent from the Council.

29. Any facilities for previewing films, video recordings or other similar material shall be physically separated from the display area of the shop in such a manner that no material being displayed by way of preview shall be visible or audible outside the preview area.

30. No fastenings of any description shall be fitted upon any booth or cubicle within the Sex Establishment nor shall more than one person (including any employee_ be present in any such booth or cubicle at any time.

Safety and Security

31. The Licensee shall take all reasonable precautions for the safety of the public and employees.

32. The Licensee shall institute steps to check the age of customers entering the premises who appear to be between the ages of 18 and 21 in order to ensure that they are not younger than 18.

33. The Licensee shall ensure a closed-circuit television system is installed internally and externally to the satisfaction of the Council.

34. The Licensee shall comply with any fire prevention and safety measures that the Council may require.

Goods Available in Sex Establishments

35. All Sex Articles as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and other things displayed for sale, hire, exchange or loan within a Sex Establishment shall be clearly marked to show to persons who are inside the Sex Shop the respective prices being charged.
36. All printed matter, films, video films and DVDs offered for sale, hire, exchange or loan shall be openly displayed and available for inspection prior to purchase and a notice to this effect is to be prominently displayed inside the Sex Establishment. (This regulation does not require that films, video films or DVDs be exhibited (played) to customers).
37. The Licensee shall without charge display and make available in the Sex Establishment such free literature on counselling on matters related to sexual problems as may be published by the Family Planning Association and by such other similar organisations from time to time and in particular any such material related to AIDS. Free literature relating to the prevention of sexually transmitted diseases shall be given to each customer after purchase of a Sex Article. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash collection points in the Sex Establishment.

Mail Order and Internet Sales

38. Videos, DVDs and other recording material, carrying the British Board of Film Classification rating of R18, must not be sold by Mail Order.

However the Licensee will be allowed to operate an Internet ordering service, provided that :-

- a) Payment is made by Credit Card, issued to persons aged 18 years or over, on a secure web site that will verify the age of the person ordering the material. Payment by a Debit Card of any form, will not be permitted.

- b) The material ordered will be delivered by a reputable Courier service, direct to the person named on the order. The material will be handed over to that person only, on that person signing for the said material. No other person will be allowed to sign or accept the material on behalf of the person named on the order. The British Post Office delivery services of any kind will NOT be used.

- c) No Pictures advertising the material for sale, will be allowed on the internet web site, or in any public areas of the establishment, that can be seen from outside the premises.

- d) Material stored in the Sex Establishment, must be kept in a secure place or store which must be kept locked at all times, unless in use for filling an order. Access to the secure store, must be made by the Licensee, or other person(s) named by the Licensee. When not in use, the keys to the store must be retained by the Licensee or his/her Deputy/Manager.

- e) No person under the age of 18 years is to be employed in any part of the premises