

REPORT TO THE LICENSING COMMITTEE

TAUNTON DEANE BOROUGH COUNCIL LICENSING COMMITTEE – 12th July 2006

Report of the Licensing Officer

The Licensing of Sex Establishments within the borough of Taunton Deane

Summary

Two sex shop licences have been granted for premises located in Station Road, Taunton. This report summarises the options available to limit the number of sex establishments in the relevant locality under the Local Government (Miscellaneous Provisions) Act 1982, and clarifies the legal position in this regard.

1. Purpose of Report

- 1.1 The purpose of this report is to make recommendations to the Licensing Committee in respect of setting an appropriate number of sex establishments in specific areas within the Borough and to adopt a policy guide to administer this process.

2 Background

- 2.1 There are currently licences for two sex shops in the Station Road area, one granted in November of 2003 at 50 Station Road, the other premises is due to open shortly at 85 Station Road.
- 2.2 The objection letters received when the previous licence applications were considered detail that objectors had concerns that the premises were close to schools, churches and The Ablemarle Centre. The letters also state that Station Road is used by children who walk to school and to various amenities in the town.
- 2.3 The Objectors felt that the presence of the sex shops may lead to a number of extra problems including curb crawling, prostitution, lap dancing premises and more sex shops. It appears from the experiences of other Authorities that these concerns will not be realised with the volume of establishments present at the current time, but it would be reasonable to suggest that this may not be the case should the number of these establishments increase.
- 2.4 A scale map of Station Road and surrounding areas is at Appendix 1.

3 Legal Position

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 Part 2 Schedule 3 governs sex establishments. Paragraph 2 describes the meaning of a sex establishment as a “sex cinema or sex shop”.
- 3.2 Paragraph 12 details the reasons why a licence for a sex establishment shall not be granted or renewed, and paragraph 12(3)(c) states: “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”.

- 3.3 The area designated as the “relevant locality” should pass the “Wednesbury” principle of reasonableness (*R. v Birmingham City Council and other Ex. P. Quietlynn Ltd (1985)*) – Is a decision so unreasonable that no reasonable person would have made it?
- 3.4 There is case law that states that the whole of an administrative area is too large an area to establish as a relevant locality (*R v Peterborough City Council and others ex p. Quietlynn 1986*).
- 3.5 The Licensing Committee may therefore decide whether it is appropriate to establish the number of sex establishments for a relevant locality, and decide what area that relevant locality should be.

4 Options

- 4.1 The appropriate number of sex establishments in any specified locality may be zero, or any number as deemed appropriate.
- 4.2 The Licensing Committee when determining a locality to specify the appropriate number of sex establishments may do so in a variety of ways including:
 - Using a point in a map as the centre of a circle.
 - Using specific points or landmarks in an area as boundary points.
 - Specifying a locality already determined by other means such as areas constituting Council wards.
- 4.3 The Licensing Committee may determine that there is no benefit in having a policy that limits an appropriate number of sex establishments in any specified locality.

5 Officers Comments

- 5.1 There are two existing premises in Station Road licensed as sex shops. It may therefore be prudent to set a limit on the appropriate number of sex establishments in this locality to minimise the risk of further applications being made in this locality.
- 5.2 In determining the locality to set an appropriate number it may be useful to use a pre-existing method of determining the boundary of the locality such as Council wards. All Wards within the district are known areas, and information of where the boundaries lie is readily available. The suggested Council wards that could be used in setting an appropriate number of sex establishments in a given locality are detailed on a map shown at Appendix 2 to this report.
- 5.3 Any policy that details the appropriate number of sex establishments in a given area will not preclude an application being made for additional sex establishments in that locality. Should such an application be made the application must be considered on its own merits.
- 5.4 If the Council approves a policy detailing the appropriate number of sex establishments in a given locality it will not mean that an application for a sex establishment in other locations will be granted, as any such application would also have to be considered on its own merits. In these

circumstances consideration will be given to the location of the premises and the suitability of the premises.

- 5.5 Should the Licensing Committee set an appropriate number of sex establishments in a locality the Licensing Committee may also wish to provide some additional guidance as to what factors are generally taken into account when determining any application for a sex establishment. A suggested guidance document is at Appendix 3 to this report.

6 Recommendation

- 6.1 That the Licensing Committee agrees to recommend to The Council to adopt a policy that sets the appropriate total number of sex establishments in the Wards of Fairwater and Lyngford as two.
- 6.2 That the Licensing Committee approves the guidance, as detailed in Appendix 3, and that it be provided to applicants for sex establishments.

Contact Officer:

Paul Dare, Licensing Officer, 01823 356343 or Ext. 2397, email:
p.dare@tauntondeane.gov.uk



Guide Policy to the Licensing of Sex Establishments

Local Government (Miscellaneous Provisions) Act 1982

The following guidance is supplied to assist potential applicants for Sex Establishments within the Borough. A sex establishment means Sex Shops and Sex Cinemas.

This document is intended as a guide only, and each individual application will be considered on its individual merits.

When considering an application for a Sex Establishment the Council will pay due regard to the locality of the premises relating to any such application and the suitability of the intended premises.

In considering the locality of the premises the following factors may be amongst those considered, other factors not detailed may also be considered.

- a) Proximity to residential property.
- b) Proximity to shops and other business premises that are aimed or cater for the family market especially those that cater for children.
- c) Proximity to properties that are sensitive for religious purposes such as but not exclusively churches.
- d) Proximity to areas that are sensitive because they are frequented by children or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets or covered markets.

In considering the suitability of the premises the following factors may be amongst those considered, other factors not detailed may also be considered.

- a) Historical significance and previous use of the building.
- b) The design and lay out the building.