

LICENSING REGULATORY COMMITTEE

Local Government (Miscellaneous Provisions) Act 1982 Application to Renew a Sex Shop Licence Sin-Til-Late, Morecambe 15th October 2015

Report of Licensing Manager

PURPOSE OF REPORT

An application to renew a sex shop licence has been received from Sin-Til-Late in Morecambe. An objection has been received and in accordance with the Local Government (Miscellaneous Provisions) Act 1976 Schedule 3 the committee is required to consider the objection to determine whether to renew the licence or not.

The report is public

RECOMMENDATIONS

The Committee is requested to determine, in the light of the representations made, whether to renew the licence for the sex shop known as Sin-Til-Late, as applied for.

1.0 Introduction

- 1.1 The Council grants and renews sex establishment licences in accordance with Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Sex shops fall within the definition of sex establishments.
- 1.2 An application to renew the licence for the premises known as Sin-Til-Late in Morecambe was received on 28th August 2015. The premises was first granted a licence on 2nd October 2008, and this has been renewed annually. A copy of the application is attached at Appendix 1 to this report. A copy of the existing licence and the attached conditions is attached at Appendix 2 to this report. No complaints have been received about the operation of the premises during the currency of the licence.
- 1.3 The application was duly advertised as required by the statutory provisions and an objection was received within the 21 day period. A copy of the objection is attached at Appendix 3 to this report.
- 1.4 The grounds for refusal to grant or renew a licence are set out in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, and the relevant ground in respect of the current objection would appear to be that set out at paragraph 12(3)(d), as follows:
 - (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

- 1.5 Case law indicates that, on an application to renew a licence, it is not necessary for an objector to demonstrate that something has changed since the decision to grant the licence. Were the position otherwise, the efficacy of annual reconsideration would be much reduced. However the decision maker has to have due regard to the fact that a licence was previously granted. If there is no relevant change of circumstances the decision maker must give reasons for departing from the earlier decision. In the event of an appeal, the court would consider whether such reasons are rational.
- 1.6 In accordance with schedule 3 of the LG(MP)A1982, where the local authority receives any objection, the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. The appropriate authority shall give an opportunity of appearing before and being heard by a committee or sub-committee.
- 1.7 The applicant has been duly informed about the content of the objection and has been invited to attend this committee today to make representations. The objector has also been invited to attend to make representations to the committee.

2.0 Conclusion

- 2.1 Members are asked to consider in the light of representations made whether they are content to renew the sex establishment licence for the premises known as Sin-Til-Late in Morecambe.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The impact of human rights legislation has been considered in relevant case law. Whilst Article 10 (the right to freedom of expression) and Article 1 of the First Protocol (right to enjoyment of possessions) are engaged, these rights should be balanced against the protection of the public interest.

FINANCIAL IMPLICATIONS

Financial Services have not been consulted as there are no financial implications.

LEGAL IMPLICATIONS

Appeal against refusal to renew on the grounds set out in Sch.3 para.12(3)(c) and (d) would be to the High Court by way of Judicial Review.

BACKGROUND PAPERS

None

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