

REPORT OF CORPORATE DIRECTOR OF COMMUNITIES

**APPLICATION FOR RENEWAL OF A SEX ESTABLISHMENT LICENCE
PRIVATE SHOP, 81- 85 UPPER PARLIAMENT STREET, NOTTINGHAM**

1.0 SUMMARY

- 1.1 This application is for a renewal of a sex establishment licence.
- 1.2 An application dated 23 March 2010 for the renewal of the sex establishment licence for 81-85 Upper Parliament Street has been received. An objection was received on 20th April on the grounds referred to at 3.3 and is attached to this report. A late letter of objection was received on 2 August on the grounds referred to at 3.4 and is also attached to the report.

2.0 RECOMMENDATIONS

IT IS RECOMMENDED that the Committee:

- 2.1 Determine whether to take the late letter of objection and support for Councillor Collins' objection into account.
- 2.2 Determine the application.

3.0 BACKGROUND

- 3.1 These premises have been licensed as a sex shop since 2004. The current licence was due to expire on 4 April 2010, however, as an application for renewal was made prior to expiry the licence remains in force until the application for renewal is determined. The current licence is attached at Appendix 1.
- 3.2 The renewal application has been advertised in accordance with the legislative requirements in the Nottingham Evening Post and exhibited on the premises. There has also been consultation with Ward Councillors (including those of the immediately adjacent wards,) Police, The Chief Fire Officer, Social Services, Trading Standards, Planning, Programmes & Strategies and the Health & Safety Officer. Where comments have been received they are specified below.
- 3.3 One objection has been received from Councillor Collins on the grounds that the grant of the licence would be inappropriate having regard to the character of the locality, or, the use to which any premises in the vicinity are put. The objection is attached at Appendix 2.
- 3.4 A late letter of objection has been received from Peter May from NEMS Healthcare Limited in support of Councillor Collins objection on the grounds that the grant of the licence would be inappropriate having regard to the character of the locality, or, the use to which any premises in the vicinity are put. The objection letter is attached at Appendix 3.

- 3.5 Private Shop, 81-85 Upper Parliament Street is situated next door to West End Arcade in an area of retail shops. There are no schools in the vicinity and it is not a residential area. There is a bus stop immediately outside the premises, one outside the premises next door at number 77 with another further along Upper Parliament Street outside 95a. A map showing the location of the premises is attached.
- 3.6 No compliance issues or complaints have been reported to the Licensing Section relating to these premises.
- 3.7 This matter was last before the Committee on 4 August 2010. On that occasion Mr Sullivan attended the meeting on behalf of Darker Enterprises Limited and accepted that the Committee would be entitled to consider the additional letter if it felt appropriate. The matter was however adjourned to a later date to allow him time to consider some additional matters raised in the letter and to enable other representatives of the applicant company to be present to address the Committee.

4.0 COMMENTS OF THE INTERIM CORPORATE DIRECTOR OF DEVELOPMENT

- 4.1 The premises are located in a prominent position on the south side of Parliament Street adjacent to a number of well used bus stops. Parliament Street is a key public transport route.
- 4.2 The City Council has sought to promote the regeneration of this part of the city through improvements that have been carried out as part of its Turning Point initiative. This has resulted in the provision of better public realm on Parliament Street including wider pavements and landscaping. In addition the Planning authority has negotiated a major successful redevelopment and renovation scheme for the former Co-operative department store on the north side of Parliament Street. This investment by the public and the private sectors will be put at risk if this sex shop continues to operate. Confidence in an area and the perception of it as a quality place are fundamental to attracting continued investment and a use like this sends the wrong signal to investors about the future of this part of the city centre.
- 4.3 The current fragility of the economy makes it even more important that we attract appropriate retail and other uses that add vitality to the street scene. This establishment does not have the normal window display and presents a blank frontage. This is particularly significant given the size of the unit which was a furniture store previously. This is having a negative impact on the street and is adding to its perceived transitory nature which will counter the positive actions already undertaken referred to in 4.2.
- 4.4 The Nottingham City Centre Urban Design Guide approved in 2009 sets out a considered and strategic approach to the development, design, management and character of buildings and streets in the city centre. In this document this section of Parliament Street is identified as a High Street with Primary Active Frontages. This highlights the importance of buildings in this area having active ground floor shop windows so that activity within the building is visible from the street. The existing establishment conflicts with this objective.

5.0 FINANCIAL IMPLICATIONS

None

6.0 LEGAL IMPLICATIONS

6.1 The Local Government (Miscellaneous Provisions) Act 1982 prescribes a 28 day period within which objections may be received. Case law has established that objections which contain relevant information which are received outside of this period can be taken into account at the Council's discretion. The case law indicates that it might be right to disregard a late objection if it was intentionally made at the last minute or received so late that taking it into account would lead to unfairness to the applicant or an acceptable disruption of the Council's business. The late letter of objection comes from a neighbouring occupier and relates to the character of the area in which the application premises are situated and the use to which other premises in the vicinity are put. It is therefore relevant to the grounds of refusal prescribed by the Act and the Committee could take into account should it determine to do so.

6.2 The Committee has discretion as to whether to renew a sex establishment licence. However, the Act lays down specific provisions as to grounds upon which a refusal can be made.

The Act specifically prohibits the granting of a licence to:-

- any person under the age of 18;
- a person who has had a sex establishment licence revoked within the last 12 months;
- a person who has not lived in the UK for the 6 months prior to the application being made;
- a company not incorporated in the UK;
- a person who has been refused a licence in the last 12 months, (either on initial grant or renewal), in respect of the application premises.

6.2 The Committee can only refuse to renew a licence on the following grounds:-

- that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- that if the licence were to be granted, renewed or transferred 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, renewal or transfer of such a licence if he made the application himself;
- 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;
- 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;
 - iii. to the layout character or condition of the premises in respect of which the application is made.

Particular regard should therefore be had to the above matters when considering the application.

7.0 EQUALITY AND DIVERSITY IMPLICATIONS

None

8.0 STRATEGIC AIMS

- **Creating a more attractive place to live, work and visit.**
- **Making Nottingham a safer city** – Working with communities and partners to reduce crime and fear of crime and promoting community safety.

9.0 CRIME AND DISORDER ACT IMPLICATIONS

Close partnership working between the City Council, applicants, the local community and enforcement agencies is key to the successful delivery of the licensing regime. A key aim of the City Council is to reduce the risk of crime and disorder occurring in local neighbourhoods and the community in general.

10.0 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

- Application form dated 23 March 2010
- Memo from Compliance Officer dated 31 March 2010

11.0 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

Local Government (Miscellaneous Provisions) Act 1982

12.0 COPYRIGHT ACKNOWLEDGEMENT

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**ANDREW ERRINGTON,
DIRECTOR COMMUNITY PROTECTION
CENTRAL POLICE STATION, NORTH CHURCH STREET, NOTTINGHAM
NG1 4BH**

Contact Officer: Zoey Mayes
Telephone number: 0115 9156082
email: zoey.mayes@nottinghamcity.gov.uk
Legal Observations by: Ann Barrett
Telephone number: 0115 8764411
email: ann.barrett@nottinghamcity.gov.uk

APPENDIX 1

Community & Culture
Lawrence House
Talbot Street
Nottingham
NG1 5NT
Tel: 0115 915 6773
Fax: 0115 915 6145

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

LICENCE FOR SEX ESTABLISHMENT

NOTTINGHAM CITY COUNCIL hereby grant to **Darker Enterprises Limited**

Of Unit C 26 Thames Road, Barking, Essex IG11 0JA

this licence to use the premises situate at **Private Shop, 81- 85 Upper
Parliament Street, Nottingham NG1 6LD**

for the purpose of a **sex shop**

This licence shall continue in force from **5 April 2009** until **4 April 2010**

or until sooner revoked and is granted subject to the conditions imposed by the
City Council set out below.

Dated : 15 June 2009

Signed

Licensing Officer

STANDARD CONDITIONS

1. **No-one shall be admitted to the premises who is, or appears to be, under the age of 18.**
2. **The licensee or some responsible person nominated by him in writing for the purpose shall be in charge of and present on the premises while they are open to the public.**
3. **No change from a sex shop to a sex cinema or vice versa may be made without prior consent in writing of the City Council.**

4. There shall be maintained to the satisfaction of the City Council in all windows of the licensed premises a window display which shall not include any sex articles or other indecent matter.
5. No sex articles shall be so displayed within the premises as to be visible to passers by, whether the doors are open or closed.
6. For the purposes of Conditions 4 and 5 “sex article” has the meaning assigned to it in paragraph 4 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
7. No person under the age of 18 shall be employed on the premises.

SPECIAL CONDITIONS

1. There must be CCTV coverage of the shop entrance while the premises are open to the public

Private Shop, 81-85 Upper Parliament Street, Nottingham



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|--|---|--|
| <ul style="list-style-type: none"> Political: Council areas City of Nottingham Nottinghamshire County Council Other districts in Nottinghamshire Basemap: Basemap 7 (MasterMap) | <ul style="list-style-type: none"> Building General Surface Water Open Ground Path Rail (continued...) | <ul style="list-style-type: none"> Road Or Track Slope |
|--|---|--|

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My Ref: JC/TP/Ach
Your Ref:
Contact: Councillor Jon Collins
Email: jon.collins@nottinghamcity.gov.uk



Nottingham
City Council

Leader's Office
 The Council House
 Old Market Square
 Nottingham
 NG1 2DT

Tel: 0115 915 5412
Fax: 0115 915 5200
www.nottinghamcity.gov.uk

Caraline Ryan,
 Head of Public Protection,
 Public Protection Section,
 Lawrence House,
 Talbot Street,
 Nottingham. NG1 5NT

16th April 2010

Dear Caraline,

**Objection to Renewal of Sex Shop Licence for the Private Shop,
 Upper Parliament Street, Nottingham**

I object to the renewal of the licence for the above-mentioned sex shops on the grounds contained in Schedule 3, paragraph 12(3)(d) of the Local Government (Miscellaneous Provisions) Act 1982 (LGMPA 82).

Schedule 3 LGMPA 82 provides that the appropriate authority may refuse an application for renewal of a licence on grounds specified in paragraph 12(3).

The ground of my objection is paragraph 12(3) (d) which provides;

"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

Specifically, the Private Shop is sited on a main arterial route/gateway to the city centre, creating a poor impression for visitors and having a detrimental impact on the surrounding area. Since the Private Shop was granted a renewal of its licence last year, there has been an increasing number of vacant and derelict properties in the vicinity as a result of the recession, including the fire-damaged Liberty's pub, and several other vacant establishments. The number of vacant units in the locality, including the nearby West End Arcade, makes it a prime site for regeneration, particularly given its position in relation to the city centre, but the Private Shop acts as an obstacle to potential regeneration, as developers/businesses may be put off locating in the area due to its presence.

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INVESTOR IN PEOPLE

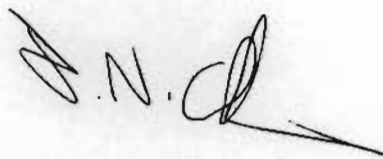


Nottingham

Since last year, a walk-in Health Centre has opened next door to the Private Shop. This is a service accessed by vulnerable people, including children and young people, making the current position of the Private Shop inappropriate. The Private Shop is also sited adjacent to a bus stop, which means that citizens are forced into close proximity to the sex shop in order to access the city centre and other amenities.

I strongly object to the renewal of a licence for the Private Shop, given its location on a main route into Nottingham and the nature of surrounding businesses and services, particularly the health centre and a number of restaurants which face the premises.

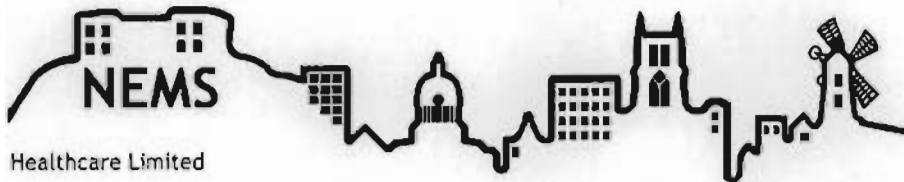
Yours sincerely,

A handwritten signature in black ink, appearing to read 'J.N.C.', with a long horizontal stroke extending to the right.

Councillor Jon Collins
Leader of Nottingham City Council
Direct line ☎: 0115 915 5142

484 Derby Road
Nottingham
NG7 2GW

Telephone 0115 846 2395
Fax 0115 913 3007
www.nems.nhs.uk



2nd August 2010

For the Attention of: Zoey Mayes - Licensing Officer
Regulatory and Appeals Committee
Nottingham City Council
Loxley House
Station Street
Nottingham
NG2 3NG

Community & Culture - Licensing
Time received _____
02 AUG 2010
£ _____

Dear Zoey,

**Application for Renewal of a Sex Establishment Licence
Private Shop, 81-85 Upper Parliament Street, Nottingham**

I am writing to you in respect to the application for renewal of the sex establishment licence for the Private Shop located at 81-85 Upper Parliament Street, Nottingham, and in particular to support the views expressed by Councillor Collins in his letter dated 16th April 2010 objecting to the renewal of the license.

I am Executive Director for NEMS Healthcare Ltd, the company awarded the contract to deliver the new Health Centre for NHS Nottingham City which occupies the premises next door to the Private sex shop.

Before awarding the contract for the Health Centre, NHS Nottingham City conducted a public consultation to find out where the public wished the new service to be located. The response was that the public wanted the new Health Centre to be located near, or on, Old Market Square. No suitably sized building was located in the Square, and the nearest available location of the required size was 79a Upper Parliament St.

With respect to the character of the locality, NEMS found the presence of the Private Shop to be a major disincentive to delivering our services from that location. The Private Shop is the most visible property on the Southern side of this part of Upper Parliament Street due to the signage located on the canopy extending over the pavement in front of the shop. The signs mounted perpendicular to the front of the building are visible for a considerable distance both East and West along Upper Parliament Street.

NEMS considers that the introduction of the Health Centre into the southern side of Upper Parliament St constitutes a substantive beneficial change to the character of this street. In due course a new pharmacy is due to open with frontage to the Eastern side of the Health Centre, a further beneficial development that is directly linked to the presence of the new Health Centre.



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Since opening earlier this year, attendance at the Health Centre has grown rapidly and it is currently providing services to an annual equivalent of over 17,000 patients. Health Centre attendance is projected to rise to more than 45,000 patients per year. The presence of people on Upper Parliament St for the purpose of attending the Health Centre gives rise to increased visibility for premises in this part of Upper Parliament St and also means that there is a major potential for the Health Centre to become a catalyst to regeneration in this particular area for the benefit of the whole community.

Councillor Collins' letter objecting to renewal of the sex shop licence refers to our service treating vulnerable and young people. NEMS provides services to numbers of vulnerable adults at the Health Centre and, with respect to delivery of services to young people, 29.9 % of attendees at the Health Centre are 19 years old or younger.

In conclusion, NEMS consider the following points support Councillor Collins objections to renewal of the Private Shop license:

- In considering moving to this location the biggest drawback for us was the presence of the Private Shop;
- The presence of the Health Centre makes a substantive beneficial difference to the character of the area. There is now potential for the area to support the healthy lifestyle agenda actively promoted by the Council;
- Approximately 30% of Health Centre attendees are young children or teenagers. Vulnerable adults also access our services.

Yours Sincerely

Peter May

Executive Director
NEMS Healthcare Ltd