

# LICENSING AND SAFETY COMMITTEE

19 MAY 2008

## APPLICATION FOR GRANT OF SEX ESTABLISHMENT LICENCE 174 RAINHAM ROAD, CHATHAM ,KENT

Report from: Deborah Upton, Assistant Director, (Housing and Corporate Services)

Author: Chris Webb, Licensing Manager

### 1. INTRODUCTION

The purpose of this report is to ask the licensing and safety committee to determine the application for the grant of a sex establishment licence in respect of 174 Rainham Road, Chatham, Kent.

### 2. DECISION ISSUES

- 2.1 The committee has delegated powers to consider and determine this application.

### 3. BACKGROUND

- 3.1 The Council has a current policy setting a limit on the number of sex establishment licences allowable to be a maximum of two within the Medway area. There is currently one licensed sex establishment at 18 High Street Chatham, in the Council's area.
- 3.2 An application dated 25 February 2008 for the grant of a new sex establishment licence in respect of premises at 174 Rainham Road, Chatham has been received by the council. A copy of the application, location and premise plan is attached at Appendix A. Photographs of the premises and adjacent area will be on display at the meeting.
- 3.3 The applicant has complied with the requirements of Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, giving notice of the application in the local press and at the premises for the required period.
- 3.4 The application has been processed in the usual manner by way of internal and external consultation. The results of this consultation are detailed in the report.

#### **4. SUBMISSION BY THE APPLICANT**

- 4.1 Attached at Appendix B for the committee's consideration is a submission by the applicant. Mr Butler will be attending the meeting to present his application. He will respond to the officers, objectors and consultees comments.

#### **5. COMMENTS OF THE LICENSING MANAGER**

- 5.1 The application relates to premises at 174 Rainham Road, Chatham which are currently vacant.
- 5.2 The applicant is over the age of 18 and has no previous convictions or cautions. He has not had a licence revoked and is resident in the United Kingdom. He has not to date ever been refused a licence with Medway Council.
- 5.3 The immediate location of the premises is in a retail trading area. These shops have residential accommodation above. There are residential properties to the north, south and west of the application site. A list of the types of properties immediately to the east and west of the application premises is attached at Appendix C. The front entrance to Chatham Grammar School for Girls in Rainham Road is approximately 450 metres from the application premises and the Ash Tree Lane pedestrian entrance to the school is approximately 100 metres away from the proposed shop.
- 5.4 If a licence were granted, any possible impact on the area needs to be considered.

#### **6. OBJECTIONS AND CONSULTTEES COMMENTS**

- 6.1 The Police have raised no objection to the application.
- 6.2 The Council has received 31 representations from the public which are attached at Appendix D for the Committee's consideration.

The Committee will note that the objections relate mainly to the effect of a licence being granted in relation to the location of the proposed shop to Chatham Grammar School for Girls, in particular its closeness to the pedestrian entrance to the school in Ash Tree Lane. The layby outside the premises is used to drop off girls being brought to school by car and a large number of pupils walk to and from the school past 174 Rainham Road.

Reference is also made to the possible effect on nearby residential properties, the effect on adjacent existing business, undesirable customers, the possible attraction of prostitutes to the area, the location of the proposed shop to a nearby busy road junction and the likelihood of drivers and pedestrians being distracted and the risk of attracting paedophiles. Window displays and the question of need are also referred to.

- 6.3 The director of regeneration, community and culture does not object to the application. However, if a sex establishment licence were to be granted with standard (or additional) conditions regarding the external appearance of the building and the internal layout of the premises, the licensee would need to ensure that planning legislation was complied with. For example a permanent blackout of the windows would require planning permission (curtains/blinds would not). Also any licensing condition imposed which required any internal work (eg: sectioning off any areas) may also need planning/building regulation consent.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 There are no direct financial implications arising from the application at present. Legal advice regarding possible costs arising from any appeal will be given to members at the meeting.

## **8. LEGAL IMPLICATIONS**

- 8.1 Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 is the relevant piece of legislation for licensing sex establishments throughout England and Wales, including the London area. On 19 July 2000, the Council resolved that Schedule 3 should apply to the entire administrative area of Medway with effect from Friday 1 September 2000.
- 8.2 Sex shop means any premises, vessel, vehicle or stall used for a business which consists to a significant degree of selling, hiring or exchanging, lending, displaying or demonstrating sex articles or other things intended for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity.
- 8.3 Sex article means anything for use in connection with or for stimulating or encouraging sexual activity or acts of force or restraint which are encouraged with sexual activity. A licence is not required for the sale, supply or demonstration of birth control items.
- 8.4 In adopting Schedule 3 (paragraph 8.1 refers) the Council also made regulations pursuant to paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. A copy of these regulations, with standard operating conditions is attached for the committee's guidance at Appendix E. The committee will note that the applicant also wishes to open on a Sunday from 11am to 5pm which does not accord with the Council's standard operating times. The standard conditions can be varied by special conditions if appropriate.
- 8.5 Paragraph 9 of schedule 3 indicates that if granted, a licence shall remain in force for twelve months or such shorter period as the Council may determine.

- 8.6 A Council should decide whether or not the applicant is fit and proper person to be granted a licence. This is a matter for the authority to determine in each case.
- 8.7 The committee's attention is drawn to Appendix F regarding refusal of Sex Shop licences. Members will note the specific grounds for refusal.
- 8.8 In the case of sex establishments there is a right of appeal against the council's decision (paragraph 27 Schedule 2). However, in the case of people whose application is refused because they:
- 1) are under eighteen; or
  - 2) are disqualified from holding a licence because they have had one revoked; or
  - 3) are a person not resident in the United Kingdom for six months before the date of the application; or
  - 4) are a company incorporated outside the United Kingdom; or
  - 5) are a person who has had an application refused during the previous twelve months;

there is no right of appeal unless they can prove that the appropriate ground of refusal does not apply to them.

- 8.9 Further, a person whose application is refused because the number of sex establishments in the relevant locality is equal to or exceeds the number which the council has determined is appropriate has no right of appeal.
- 8.10 There is also no right of appeal if an application is refused on the grounds that:
- a) the grant or renewal of a licence would be inappropriate because of the character of the locality; or
  - b) the use to which premises in the vicinity are put; or
  - c) because of the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

However the council's decision can still be challenged by way of judicial review.

- 8.11 A similar right of appeal exists against any condition attached to a licence.
- 8.12 Any appeal must be lodged with the magistrates court within twenty one days from the date on which the person was notified of the decision or became aware of the condition. A further appeal is then available to the Crown Court.

## **9. HUMAN RIGHTS IMPLICATIONS**

- 9.1 The Committee's attention is drawn to the assessment at Appendix G.

## **10. RECOMMENDATION**

10.1 That the application be considered and determined by the committee.

11. Background Papers

- 11.1 Local Government (Miscellaneous Provisions) Act 1982
- 11.2 Application documents file
- 11.3 Supporting statement from applicant (see Appendix B to report)
- 11.4 List of existing properties (see Appendix C to report)
- 11.5 Letters of objection (see Appendix D to report)
- 11.6 Council Regulations (see Appendix E to report)
- 11.7 Reasons to refuse licences (see Appendix F to report)

**Lead officer contact:** Chris Webb, Licensing Manager  
Telephone: 01634 337114  
Email: [chris.webb@medway.gov.uk](mailto:chris.webb@medway.gov.uk)

# APPENDIX 'A'

MEDWAY COUNCIL  
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

APPLICATION FOR GRANT/~~RENEWAL~~\*  
~~TRANSFER OF SEX SHOP ~~OR~~ ~~SEX CINEMA~~~~\*

Name of Applicant ALAN DAVID BUTLER

Registered Address PILLOW TALK GRANVILLE BUSINESS CENTRE

PARAGON HOUSE GRANVILLE ~~AVENUE~~ ROAD MAIDSTONE ME14 2BJ

Full Names and Private addresses of Directors (please supply separate sheet if necessary) HOME - GRIFFIN LODGE  
GORE COURT ROAD, OTHAM  
MAIDSTONE ME15 8RE

Full Address of Premises to which it relates  
174 RAINHAM ROAD CHATHAM ME5 7EN

Type of Licence applied for:- Sex Shop\* ~~Sex Cinema\*~~ / Grant\*, Renewal\*, Transfer\*

Hours and Days of opening  
MON TO FRIDAY 9.00AM - 8 PM SAT 9 - 6PM SUN 11AM - 5PM

Please return one copy of this form, with the appropriate fee made payable to MEDWAY COUNCIL to:-

Licensing Unit, Annexe A, Civic Centre, Strood, Kent ME2 4AU

Grant £ 3675-00

Renewal £

Transfer £

Please return one copy of this form to the Police Licensing Officer, Kent Police, Crime reduction Unit, Medway Police Station, Purser Way, Gillingham, Kent ME7 1NE within 7 days of application to the Licensing Unit.

Each application form should be accompanied by a sketch plan describing all parts of the premises if the layout will differ from existing.

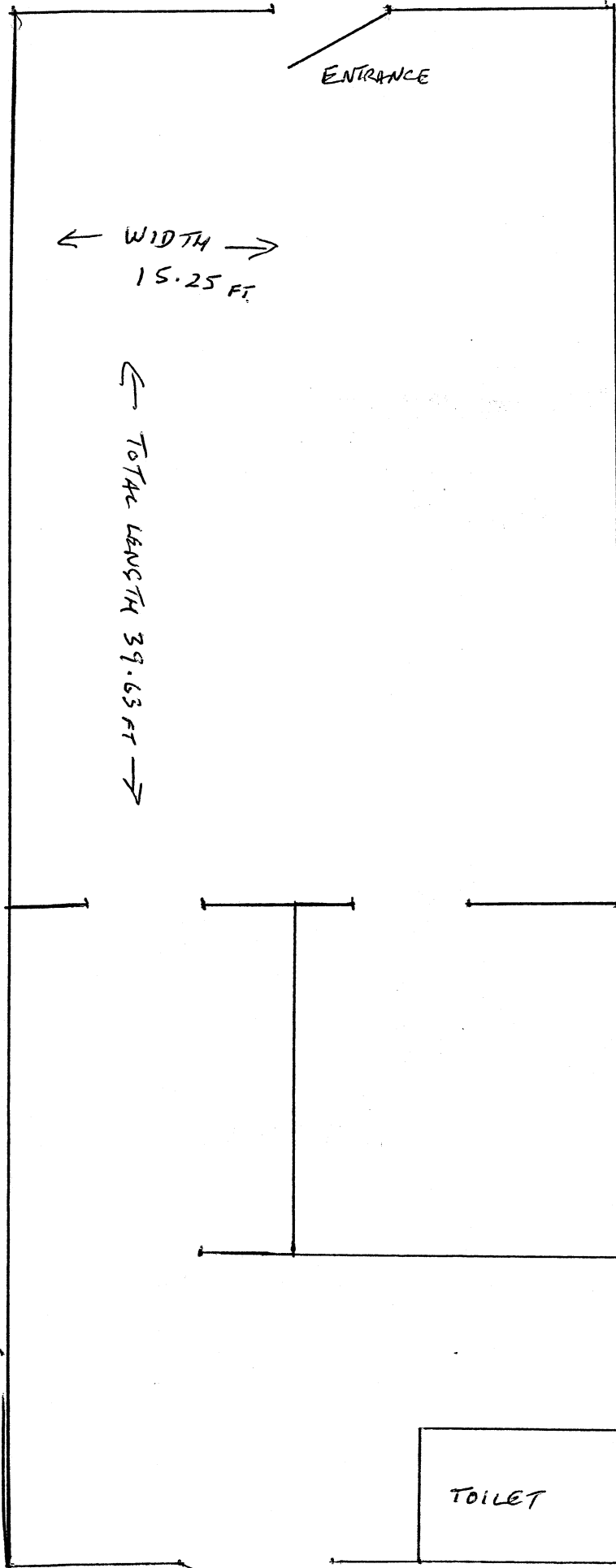
Date 25-02-08 Signed ADD

\* delete as applicable

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
20 FEB 2008	
TO	
ACTION	INITIALS
	19

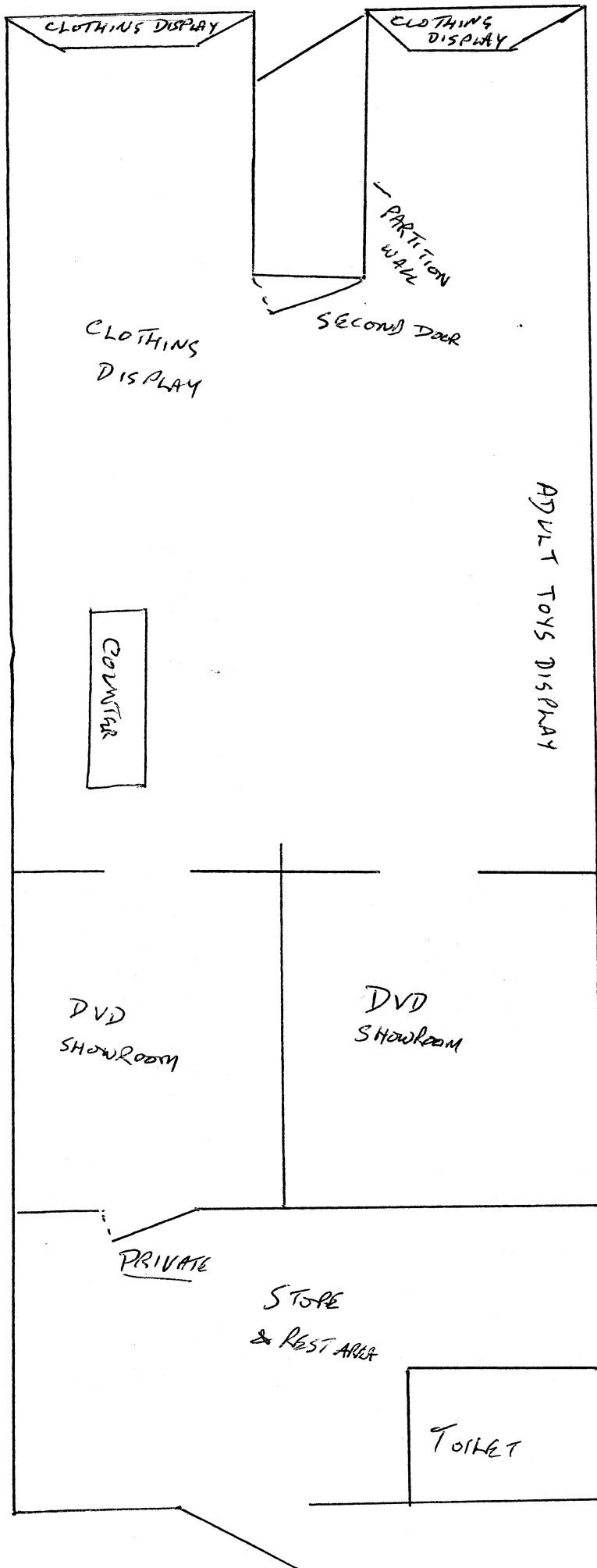
PAVEMENT

PILLOW TALK THE ADULT GIFT SHOP



THE SHOP AS IT IS  
AT PRESENT

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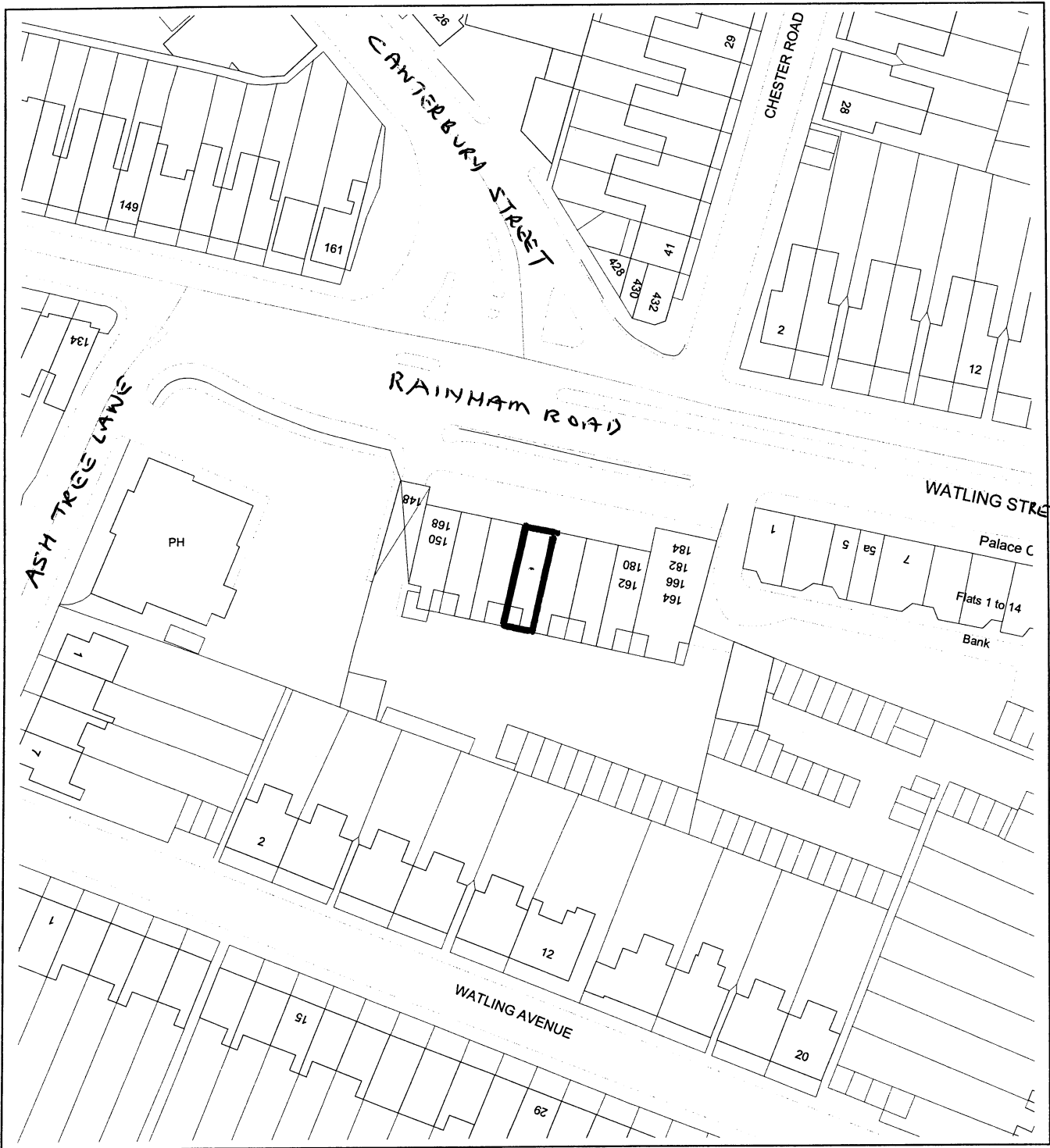


HOW WE WOULD  
CHANGE THE SHOP

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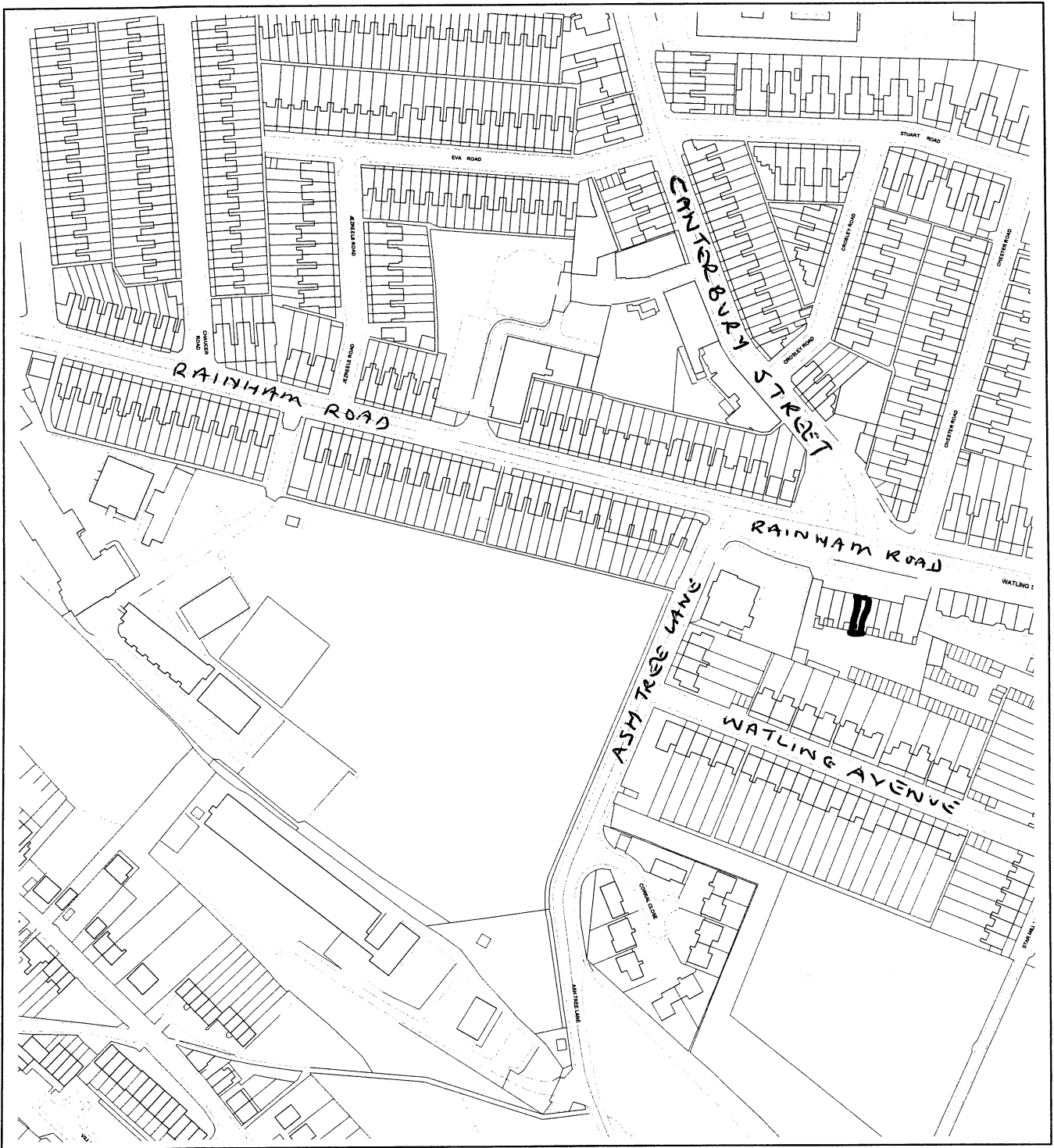


# NORTHGATE SE GIS Print Template



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# NORTHGATE SE GIS Print Template



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# APPENDIX 'B'

Alan Butler  
Pillow Talk  
Granville Business Centre  
Paragon House  
Granville Road  
Maidstone  
ME14 2BJ

15th April 2008

Chris Webb  
Medway Council  
Licensing Unit  
Business Support Department  
Annex A Civic Centre  
Strood, Rochester ME2 4AU

Dear Chris

Application - 174 Raimham Road

Enclosed is my Submission as requested also a copy of the advert in the local paper.

I confirm that I placed the advert and contacted the police within 7 days and that the advert stayed in the window for more than 21 days as required.

Anything else that I can do to help please do not hesitate to call me.

Yours sincerely



Alan Butler - Applicant

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
10 APR 2008	
TO:	
ACTION	INITIALS



## **ALAN BUTLER**

### **PILLOW TALK**

My name is Alan Butler, I started Pillow Talk 28 years ago with one shop, I am 60 years old with a grown up family of 3 Daughters and 1 Son, My 2 youngest have University degrees, my 2 Eldest Daughters work full time for Pillow Talk and they have all worked for the family business at some stage.

When I started Pillow Talk in 1980 I established myself within the trade for being the 'nicer' side of the business, specialising in lingerie and glamourwear. Now, that is still the important side of the shop giving a good image to the front of the shop, making sure nobody is offended if passing by.

One of my aims was to improve the image that sex shops had in the early 80's. I feel that I have made a major contribution to what has happened to the trade since then. The sex trade has now become 'The Adult Trade' and gone mainstream, appearing in High Streets in most large Towns. Ann Summers say they will have 400 shops, 1 in every High Street by 2010.

**The trade has gone from seedy back street book shops, with boarded up windows, to prominent Main Road shops with attractive window displays, selling Lingerie/Adult gifts, controlled by local Councils. Selling openly to couples and single women rather than just single men.**

**I have 12 Licenses gaining my first one in 1983 and in 25 years I have had no trouble with any of the Councils or Police. We have never had an under age person found in any of our shops. I have kept to all their regulations without fault**

## PILLOW TALK

Pillow Talk has been trading for 28 years starting in Margate where we have 2 shops. In Kent we are also trading in Gravesend, Ashford and Maidstone. We have shops in East Grinstead, Crawley, Redhill, Reigate, Croydon, Crystal Palace, Waltham Cross, Cheshunt and East Harling Norfolk. We also have a wholesale division and a Party Plan company. Our Head Office is in Essex and we have an Office and Warehouse in Maidstone. At present we are the 4th largest and one of the oldest established retail companies in the UK with Licensed shops.

We pride ourselves on running the Company professionally, we trade within all the laws that effect our business and regularly take advice to make sure we stay within Government guidelines, including Licensing, Trading Standards, Health & safety and Employment law. We have an excellent record with all these bodies. I always form a good relationship with both the Licensing Dept and the Police, always taking on board their recommendations.

None of our shops have ever faced a prosecution regarding our Licence conditions or had any cautions for having under age people in our stores. We take our responsibilities seriously. Anyone who looks under 18 is asked for ID, If they can't produce any, they are asked to leave the premises and will not be sold anything.

We have now become - Pillow Talk, Adult Gift Store. As the sex shops have become more mainstream the name Sex Shop is becoming out of date. Most of the companies around the Country are changing to a softer image, more user friendly with attractive window displays that fit in with other shops in the Road. The Private shops as in Chatham are the exception, keeping to their closed windows. But even they have started putting window displays in their new shops.

Our Window displays are very strictly controlled by management. We only display tasteful Lingerie, dresses and uniforms. We never put anything into the display that may offend.

## 174 RAINHAM ROAD

The Shop at 174 Rainham Road will be set out with either one or two window displays showing our range of Lingerie. If one only, the other window would be covered in Vynal with wording stating what products that we sell, and clearly stating that we are an ADULT SHOP. There would be a clear sign stating 'OVER 18s ONLY

The one or two windows with Lingerie in would have a wooden partition behind to above head height so that the interior of the shop could not be seen. The Door would have a warning clearly stating OVER 18s ONLY and there would be a partition inside so that when the door opened the goods in the shop would still not be visible.

We take all precautions necessary to stop anyone under age viewing the products we offer for sale.

I have read the objections and it is clear there are only two issues

- 1) That there is not a need for this type of shop.
- 2) The School being near.

There obviously is a need, as this type of shop is opening in every town in the country and being sold on ever increasing numbers of web sites. This is also not a concern to these people, it is a commercial decision by myself. If there is no need then I would not have been in business for 28 years..

As regards the Children, I have spent time at the shop and have analysed the children and their movements.

The main points are that

- 1) We don't open until they are in School.
- 2) When they are dropped off & picked up, they are with their parents. They then walk to the main entrance in Rainham Road
- 3) We have strict policy in place with 28 years of experience to deal with under age people.
- 4) There will be nothing to see except Lingerie which they can see in many shops in the High Street.
- 5) The shop will not look 'seedy'
- 6) The suggestion of paedophiles being a risk is wrong, ADULT shops do not attract them, Schools do.

There are only 9 individual letters of objection, all the rest are photocopies from someone going door to door pushing people to object.

## THE LICENCE

## LEGISLATION

SCHEDULE 3 of the LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 is the relevant legislation for the Control of Sex Establishments

For the purposes of this Application PILLOW TALK, THE ADULT GIFT STORE of 174 Rainham Road, Chatham, ME5 7EN is a SEX SHOP

At PARAGRAPH 6 of the schedule, the Act requires any person using premises, as a Sex Shop to be granted a Licence by the appropriate authority.

## THE BENEFITS OF GRANTING A LICENCE

THE benefits of granting a Licence to PILLOW TALK will be to ensure that a sex shop in your area is strictly regulated and controlled by yourselves.

YOU HAVE THE OPPORTUNITY TO:-

State how your sex shop is presented to the public

Control the hours which it may trade

State the safeguards are in place for the public

State what information is displayed outside the premises

Control the layout of the premises

Prevent the growth of unregulated shops

*"Consider what is available in **illegal** outlets....."*

*I can understand why there is a reluctance to grant licences...  
But here I think Councillors are acting blindly.*

*The trade will be going on anyway under there eyes."*

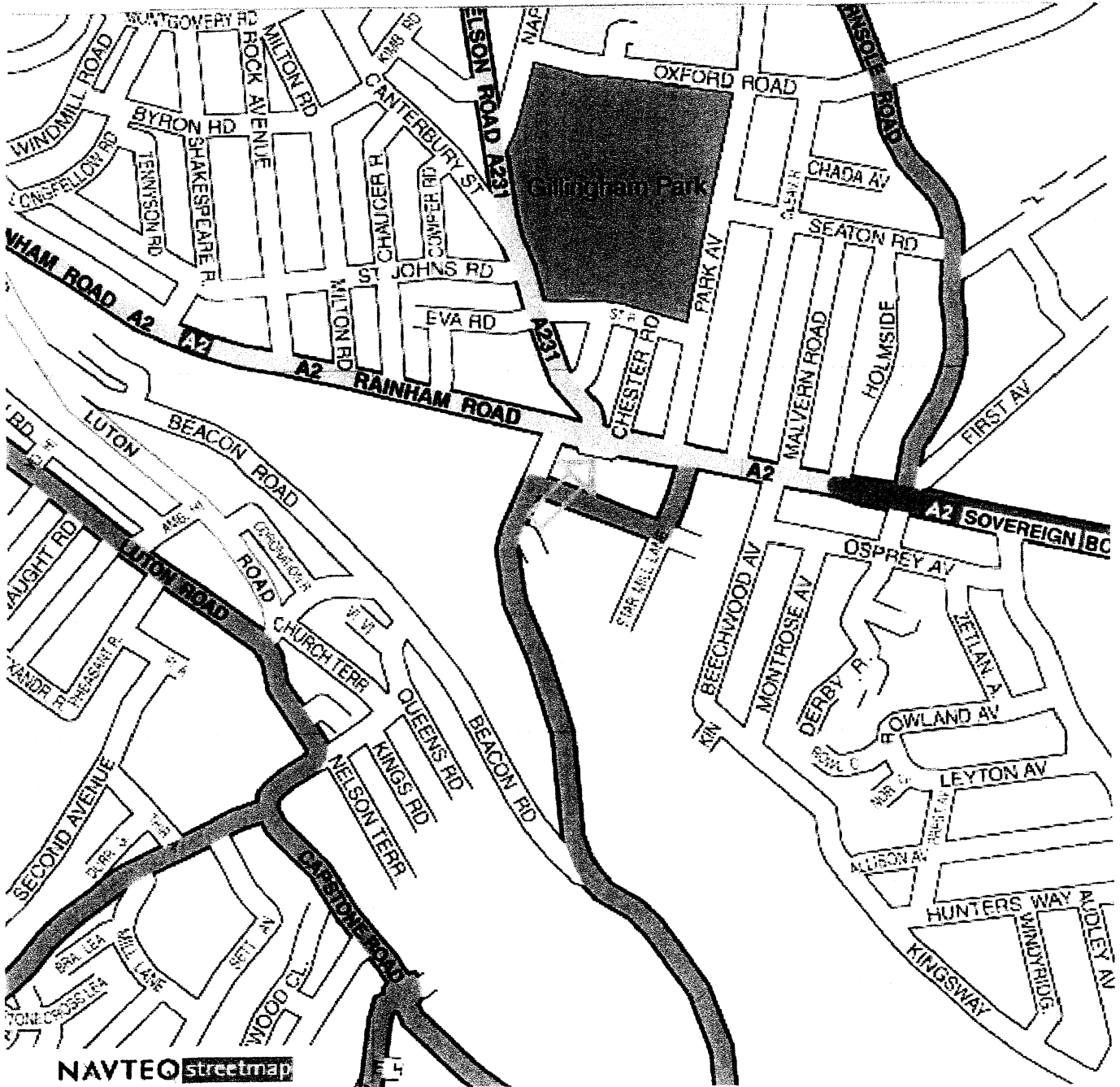
**Andreas Whittam-Smith**

**Director of the British Board of Film Classification**



# THE LOCATION

174 Rainham Road, Chatham ME5 7 EN



## THE APPLICATION

The application was made to the Council on February 25th 2008

On the same day the Police were notified.

On the same day a notice was put in the window of the premises clearly visible to passers by. This was required to stay in the window for 21 days. In fact it stayed there for over a month.

The same week an advert appeared in the local KM Extra under Public Notices. A copy was sent to the Council.

All that was required by the Act was carried out in the timescale to comply.

**THERE WAS NO OBJECTIONS FROM THE POLICE**

# APPENDIX 'C'

## APPLICATION FOR SEX ESTABLISHMENT LICENCE 174 RAINHAM ROAD CHATHAM

### SCHEDULE OF EXISTING PROPERTIES TO EAST AND WEST OF APPLICATION SITE

<b><u>Southside Rainham Road/Watling Street</u> <u>West to East</u></b>	<b><u>Northside of Rainham Road/Watling Street</u> <u>East to West</u></b>
Houses	Houses
Ash Tree Public House	Hairdressers
Betting shop	Estate Agents
Takeaway Food Shop	Houses
Tattoo Parlour	
Vacant Premises (Application Site)	
Blinds Shop	
Pizza Takeaway	
Hairdressers	
Plumbing & Bathroom Supplier	
Recruitment Agency	
Kitchen Shop	
Kebab Takeaway	
Hairdressers	
Cartridge Shop	
Restaurant	
Beauty Shop	
Insurance Brokers	
Kitchen Shop	
Estate Agent	
Note: The above retail properties all have residential accommodation above (Palace Court)	

APPENDIX 'D'

10<sup>th</sup> March 2008

The Licensing Manager  
Business Support Department  
Annex A  
Civic Centre  
Strood  
ME2 4AU

MEDWAY COUNCIL	
FILE NO:	
11 MAR 2008	
TO:	
ACTION	INITIALS

Dear Sir

**Application for Licence for Sex Shop at 174 Rainham Road, Chatham ME5 7EN**

I am writing to formally lodge an objection to the above application for a licensed sex shop.

These premises are barely 100 metres from the Ash Tree Lane pedestrian entrance to the school, on a route where a significant proportion of our girls walk past. The lay-by outside the premises is also a favourite dropping-off point for girls being brought to school by car.

Whilst I am aware that sex shops do not use window displays I do feel that this is an entirely inappropriate location for such an establishment, and that pupils and parents will find it seedy and upsetting. This row of local shops already includes a tattoo parlour. If I understand correctly that the Council has decided that only two sex shops will be licensed in the whole of Medway, parents and council tax payers will be amazed that the local authority permits one of them to be so close to a school.

Yours sincerely

19<sup>th</sup> March, 2008.

The Licensing Manager,  
Business Support Department Annexe A,  
Civic Centre,  
Strood,  
ROCHESTER,  
Kent,  
ME2 4AU.

MEDWAY COUNCIL	
FILE NO.	
20 MAR 2008	
TO:	
ACTION	INITIALS

Dear Sir,

Application for licence for sex shop at 174 Rainham Road, Chatham, Kent, ME5 7EN

The Committee of this Association wishes to submit an objection to the above application by Mr Alan D Butler, Pillowtalk, Granville Business Centre, Paragon House, Granville Road, Maidstone, ME14 2BJ. We understand that there are already two such shops in the Medway Towns and, furthermore, its proposed situation would mean that many pupils at the nearby Girl's Grammar School will need to pass the shop two or more times a day on the way to and from school.

Yours faithfully,

Licensing Manager  
Business Support Dept.  
Annexe A  
Civic Centre  
Strood

14/3/2008

MEDWAY COUNCIL	
FILE REF	
18 MAR 2008	
TO	
ACTION	DETAILS

Dear Sir,

Re: Application for License for Sex Shop.

We write as both tenants and local residents in objection to the proposed license for a Sex Shop at 174, Rainham Road, Chatham.

We occupy the adjacent property as tenants running a business for families with a predominantly female clientele. A Sex Shop would be detrimental to attracting customers. Our female staff often work alone on the premises and feel uneasy with the type of customers a Sex Shop might attract.

Also as residents in the area we feel a Sex Shop is not a suitable business to be sited in a largely residential area with a nearby girls school.

Yours Faithfully

22 March 2008

The Licensing Manager  
Business Support Department  
Annexe A  
Civic Centre  
Strood  
Kent ME2 4AU

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
26 MAR 2008	
TO:	
ACTION	INITIALS

Dear Sir

**APPLICATION FOR LICENCE FOR SEX SHOP AT 174 RAINHAM ROAD, CHATHAM**

We are writing to express our concern that an application for a licence for a sex shop has been applied for at the above address.

As local residents, my husband and I do not feel such a shop is suitable in this particular location. I work at a nearby primary school where a number of children attending walk past this address. Our grand-daughter attends Chatham Grammar School for Girls and she, and a very large number of pupils of that school, also walk to and from school past 174 Rainham Road.

We do not feel that pupils should have to walk past a sex shop which we feel would lower the tone of the whole area.

We are aware that many other local residents feel the same way as we do and hope that you will take our objections into account when considering granting a licence for these premises.

Thank you for considering our views.

Yours faithfully

18<sup>th</sup> March 2008

MIDWAY COUNCIL	
MUNICIPAL BUILDINGS	
FILE REF	FILE REF
19 MAR 2008	
TO:	
ACTION	
ACTION	INITIALS

Dear Sir or Madam

Re: 174 Rainham Road, Chatham, Kent ME5 7HN

I am writing to object to the application by Alan D Butler, of Pillowtalk, Granville Business Centre, Paragon House, Granville Road, Maidstone, Kent ME14 2BJ, to use the above premises as a sex shop.

My reasons are

- This is a residential area with no apparent market for this kind of establishment
- Pupils at nearby Byron Primary School, where I currently teach, and Chatham Grammar School for Girls would have to pass this on their journey to school
- Undesirable customers could be attracted to the area, posing a low risk element towards children and females
- Area could be generally portrayed as a "red light district" as is the case with the current shop in Rochester High Street
- Prostitution may be attracted to the area

I believe my objections have to reach you by 23 March 2008.

Thank you for considering my views.

Yours sincerely



18<sup>th</sup> March 2008

MEDWAY COUNCIL	
FILE REF	
19 MAR 2008	
TO: Licensing	
ACTION	PERIOD

Dear Sir or Madam

Re: 174 Rainham Road, Chatham, Kent ME5 7HN

I am writing to object to the application by Alan D Butler, of Pillowtalk, Granville Business Centre, Paragon House, Granville Road, Maidstone, Kent ME14 2BJ, to use the above premises as a sex shop.

My reasons are

1. This kind of establishment could attract undesirables to the district
2. It is not the kind of place to I would want to have in this area
3. People do not want to see a place of this type in the district
4. It is not necessary

I believe my objections have to reach you by 23 March 2008.

Thank you for considering my views.

Yours sincerely



174 RAINHAM ROAD, CHATHAM

APPLICATION FOR A SEX SHOP LICENCE

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
18 MAR 2008	
TO:	
ACTION	INITIALS

**THE PUBLISHED NOTICE DOES NOT REQUIRE OBJECTORS TO STATE THEIR NAME AND ADDRESS.** So I withhold mine, as anonymity is the only sure way to prevent my identity being disclosed inadvertently. If they read this, cherished neighbours may guess my nonconformist identity but they cannot KNOW it. Thus I hope to avoid tiresome argument over differences of opinion, especially as some of them drew your notice to my attention!

We can all be a NIMBY about something. I would strongly oppose the introduction of local premises that encourage drug addiction by dispensing free new hypodermic needles. I would strongly oppose a "massage parlour" in the neighbourhood as that can be a front for prostitution.

But a "sex shop"? The local pharmacy is a "sex shop" as it displays a shocking range of condoms bordering the waiting area for customers who may include children. However, nobody complains about that and it has not boosted sex crime in the neighbourhood, as far as I know.

Would a specialist "sex shop" endanger local inhabitants or visitors? I don't think its customers should be expected to behave badly in public, with sub-human morality, any more than patrons of the nearby betting shop. Arguably using sex aids is less immoral than gambling, and certainly the clientele of licensed liquor premises is a much greater public hazard.

**So I object to the application ONLY IF there cannot be satisfactory controls over the shop's advertisements OR IF its presence would make a future application for a "massage parlour" in the vicinity harder to oppose.**

Just on the advertisements aspect, I cannot imagine local media now accepting lurid advertisements for e.g. the latest line in blow-up dolls (BOGOF!!! for superseded models) but predicting future trends is difficult! So if advertisements can be limited to brief, words-only entries in trade directories and personal ads, and if the shop's façade can be required to be very discreet, all as conditions for the application's approval, then I don't see how the shop can bring the neighbourhood into disrepute, thus I don't object to the application.

18 March 2008

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
- 7 MAR 2008	
TO:	
ACTION	INITIALS

We the undersigned wish to protest against the application for a licence for a SEX SHOP at 174 Rainham Road Chatham.

On the grounds that this will be on a very busy junction which is likely to distract drivers and also pedestrians causing accidents, therefore becoming a Health and Safety Issue.

But one of the main reasons of appeal is the fact that our CHILDREN and other YOUNG GIRLS attending, Chatham Grammar School for GIRLS and have to pass this shop and would likely to be at a great risk from paedophiles and such.

Finally do we need this type of Business as to my knowledge there is already one in "Chatham" and also in Rainham.

**NAME**

**SIGNATURE**

ONE SIGNATURE

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
- 7 MAR 2008	
TO:	
ACTION	INITIALS

Date 3/3/08

I the undersigned wish to protest against the application for a licence for a **SEX SHOP** at 174 RAINHAM ROAD CHATHAM

The main reasons of appeal is the fact that our **CHILDREN** and other **YOUNG GIRLS** attending, Chatham Grammar School for **GIRLS** and have to pass this shop and would likely to be at a great risk from paedophiles and such.

Finally do we need this type of Business as to my knowledge there is already one in "Chatham" and also in Rainham.

**SIGNATURE**

Date 3-3-08

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
-7 MAR 2008	
TO:	
ACTION	INITIALS

I the undersigned wish to protest against the application for a licence for a SEX SHOP at 174 RAINHAM ROAD CHATHAM

The main reasons of appeal is the fact that our CHILDREN and other YOUNG GIRLS attending Chatham Grammar School for GIRLS and have to pass this shop and would likely to be at a great risk from paedophiles and such.

Finally do we need this type of Business as to my knowledge there is already one in "Chatham" and also in Rainham.

**SIGNATURE**

Date

2.3.08

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
7 MAR 2008	
TO:	
ACTION	INITIALS

I the undersigned wish to protest against the application for a licence for a SEX SHOP at 174 RAINHAM ROAD CHATHAM

The main reasons of appeal is the fact that our CHILDREN and other YOUNG GIRLS attending Chatham Grammar School for GIRLS and have to pass this shop and would likely to be at a great risk from paedophiles and such.

Finally do we need this type of Business as to my knowledge there is already one in "Chatham" and also in Rainham.

**SIGNATURE**

Date 3, 3, 08

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MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
- 7 MAR 2008	
TO:	
ACTION	INITIALS
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Date 4.3.08

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Date 2<sup>nd</sup> March 2008

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Date 2/3/08

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**SIGNATURE**

Date 02-03-08

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FILE REF	
- 7 MAR 2008	
TO:	
ACTION	INITIALS

Date 5-3-08.

MEDWAY COUNCIL MUNICIPAL BUILDINGS	
FILE REF	
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TO:	
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TO: PERSON	INITIALS

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# APPENDIX 'E'

## MEDWAY COUNCIL (SEX ESTABLISHMENT) REGULATIONS 2000

These regulations are made by Medway Council ("the Council") pursuant to paragraph 13 of Schedule 3 to the Local Government (miscellaneous Provisions) Act 1982 ("the Act") and shall be known as the Medway Council (Sex Establishment) Regulations 2000.

A. The Regulations apply to licences for sex establishments granted renewed or transferred by the Council under the provisions of Schedule 3 to the Act.

### **Definition**

B. In these Regulations the following expressions shall have the following meanings:

1. "Sex Establishment" "Sex Cinema" "Sex Shop" and "Sex Article" shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

2. "Premises" means a building or part of a building including any other form of structure whether permanent or temporary and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of a licence for a sex establishment granted under the said Third Schedule.

3. "Approval of the Council" or "Consent of the Council" means the approval or consent of the Council in writing under the hand of the Director of Community & Environment.

4. "Approved" means approved by the Council in writing.

5. "Film" shall have the meaning ascribed to it in the Films Act 1960.

### **General**

C. The following standard terms, conditions and restrictions are applicable to licences to which these Regulations apply:

1. In the event of a conflict between these terms, conditions and restrictions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.

2. The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment by-law order or regulation other than Schedule 3 of the Act.

3. The headings in these terms, conditions and restrictions are inserted for the purposes of convenience only and shall not affect in any way the meaning or construction thereof.

### **Times of Opening**

4. Except with the previous consent of the Council the premises shall not be open to the public before 09.00am and shall not be kept open after 20.00pm.
5. Except with the previous consent of the Council the premises shall not be open on Sundays or on Christmas Day or on Good Friday.

### **Conduct and Management of sex Establishments**

6. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change and such written details as the Council may require in respect of any new director, secretary or manager are to be furnished within 14 days of a request in writing from the Council.
7. The licensee or some responsible person nominated by him for the purpose of managing the premises shall be in charge of and upon the premises during the whole time they are open to the public and the name of such person shall be prominently displayed within the premises throughout the period during which the person is responsible for the conduct of the premises.
8. The licensee shall maintain at the premises a daily register in which he shall record the names and addresses of those employed in the premises. The register is to be completed each day within thirty minutes of the premises opening for business and it is to be open for inspection by the Police and by authorised officers of the Council.
9. The licensee shall retain control over all portions of the premises and shall not let, sublet licence or part with possession of any part of the premises.
10. The licensee shall maintain good order in the premises.
11. No person under the age of 18 shall be admitted to or employed at the premises.
12. The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
13. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
14. The licensee shall ensure that no employee or other shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.
15. The licensee shall comply with all statutory provisions and any regulations made thereunder.

16. The licensee shall ensure that during the hours the premises are open for business, every employee wears a badge of a type to be approved by the Council, indicating his name and that he is an employee.

### **User**

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

18. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.

19. No change from a sex cinema to a sex shop or from a sex shop to a sex cinema shall be effected without the consent of the Council.

20. Neither sex articles nor 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 sold, hired exchanged, loaned or demonstrated in a sex cinema.

### **Goods Available in Sex Establishment**

21. All sex articles and other things displayed within the premises shall be clearly marked to show to persons who are inside the premises the respective maximum prices being charged.

### **External Appearance**

No display advertisement, sign or any matter or writing shall be exhibited so as to be visible from outside the premises except:-

22. Any notice required to be displayed by law, by these terms, conditions and restrictions or by any condition of a licence granted by the Council.

23. Such display advertisement sign matter or writing as shall have been approved by the Council.

24. 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 Premises**

25. The premises shall be maintained in good repair and condition.

26. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of the time that the premises are open to the public.

27. The number, size and position of all doors and openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:-

28. All such doors or openings approved by the Council shall be clearly indicated with notices bearing the words "Exit" or "Fire Exit" approved by the Council.

29. Doors and openings other than exits which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".

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

31. The external doors to the premises shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.

32. The licensee shall make provision in the means of access both to and within the premises for the needs of members of the public visiting the premises who are disabled.

33. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout shall not be made except with the prior approval of the Council.

34. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

### **Safety**

35. The licensee shall take all reasonable precautions for the safety of the public and employees.

36. The licensee shall comply with any fire prevention and safety measures that may be required by the Council.

37. The premises shall be provided with fire appliances suitable to the fire risks of the premises and such fire appliances shall be maintained in proper working order and shall be available for instant use.

D. These Regulations shall come into operation on 1<sup>st</sup> September 2000.

## REFUSAL OF LICENCES

## APPENDIX 'F'

In respect of sex establishments paragraph 12 of Schedule 2 sets out specific grounds for refusal.

A Council cannot grant a Licence to:-

- (i) someone under eighteen;
- (ii) a person who has held a Licence but has had it revoked cannot hold another Licence for a period of twelve months from the date of revocation;
- (iii) to an individual who is not resident in the United Kingdom or has not been resident for a period of six months preceding the date of the application.
- (iv) a company which is not incorporated in the United Kingdom; or
- (v) a person who has, within twelve months from the date of making an application, been refused the grant or renewal of a Licence.

The Local Authority may refuse an application if:-

- (a) the applicant is unsuitable because they have been convicted of an offence or for any other reason;
- (b) the Licence was 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 have been refused the Licence if they had applied themselves;
- (c) the number of sex establishments exceeds the number or is equal to the number which the Council consider is appropriate;
- (d) the grant or renewal of the Licence would be inappropriate because of
  - (i) the character of the *relevant locality*;
  - (ii) the use to which any premises in that area are put; or
  - (iii) the layout, character or condition of the premises, vehicle, vessel or stall.

Nil may be an appropriate number for the purposes of the legislation.

Relevant locality means the locality where premises are situated or where the vehicle, vessel or stall is going to be used.

## HUMAN RIGHTS ASSESSMENT

Members are aware that the Human Rights Act 1998 came into effect on 2 October 2000 and although not mentioned in representations, it is prudent to consider relevant parts of the Act in the following manner:

- a description of the human rights issue raised;
- identifying whether, and if so which, human rights article has been engaged,
- advice as to whether the breach is nevertheless in accordance with the law and complies with any justification required under the individual articles, by reference to the article's actual restrictions;
- advice as to the "significance" or extent of the human rights issue and therefore the appropriate method for determination;
- advice as to whether a breach of the article is nevertheless proportionate (namely "no greater than is necessary"), and fair in terms of Section 14.

Article 6 must be complied within all circumstances. However, Article 8 and Article 1 of the first protocol are restrictive articles. This means that even if there is a recognised breach of them, if it can be argued that one of the exceptions set out applies, the breach can be considered as justifiable. The detail of the exceptions is set out below.

### **Article 6 states, inter alia,:**

"In the determination of his civil rights and obligations and of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law..."

**Response:** It can be argued that the licensing and safety committee is an impartial tribunal and that its proceedings are carried out in public and that the information put forward by the applicant has been put forward to and properly considered by the committee. Moreover, it can be argued that the committee procedure of allowing both the applicant and objectors to speak was such a procedure. In addition the applicant has a right of appeal against the committee's decision to the Magistrates Court and potentially to the Crown Court should the application be refused, and other interested parties also have rights of legal challenge.

### **Article 8 states:**

"Everyone has the right to respect for his private and family life, his home and correspondence."

**Response:** paragraph 2 of Article 8, sets out the cases where breach of the article can be justified. A public authority may interfere with the right where



that interference is lawful and necessary in a democratic society in the interest of:-

- national security
- public safety
- the economic well-being of the country
- preventing disorder or crime
- protecting health or morals
- protecting the rights and freedoms of others

In this case it can be argued that the interference is lawful in the protection of the rights and freedoms of others, since the licensing legislation is designed to balance the interests of the general public with those of applicants.

In this case the rights of the applicant and the community that would utilise the proposed facility have been considered and balanced against those of others in the area who are affected. In this case, Members should take into account the character of the locality (See Appendices A to D together with other references in the report). It is felt that any interference with the latter's rights is justifiable as being lawful and necessary for the reason stated above, and having taken into account the full circumstances of the application set out in the committee report and as is presented in oral evidence.

A further part of the assessment under the Human Rights Act, is to determine whether the interference of an individual's rights by reliance on a reason in the Article is "proportionate". This means that any interference must be no greater than is necessary, that is, it is reasonable and fair. The proposed imposition of regulations and conditions to control the proposed activity allows the impact to be contained and ensure that the interference is in accord with this principle.

**Article 1 of the First Protocol states:**

"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".

**Response:** Paragraph 2 of Article 1, sets out the cases where breach of the article can be justified. The preceding provisions, shall not, in any way impair the right of the 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

In this case the first justification would apply. The peaceful enjoyment of the residential and business amenity of the area can be protected by licensing conditions.

Again the rights of the applicant and the community that would utilise the proposed facility have been considered and balanced against those of others in the area who are affected. It is felt that any interference with the latter's rights is justifiable a being lawful and necessary for the reason stated above, and having taken into account the full circumstances of the application set out in this report.

The comments as to whether the breach of these rights is "proportionate" apply also.