

# Crawley Borough Council

	Report No:ES/218	<b>F</b>
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## Report to Licensing Committee

9 September 2009

### Application for the Renewal of the Sex Establishment Licence for Xesdesire – 4, lfield Road, West Green

#### 1. Summary

- 1.1 On the 20<sup>th</sup> July 2009 the Council received an application for the renewal of the Sex Establishment Licence for Xesdesire, 4 lfield Road, West Green Crawley. A Public notice was displayed in the local press and on the premises in accordance with the Local Government (Miscellaneous Provisions) Act 1982 and the Council's procedure. Consultation was completed and inspections were carried out on the premises. The Council has received one objection from a member of the public and this application has therefore been brought before the Committee for a decision.

#### 2. Recommendations

- 2.1. The Licensing Committee is recommended to:

**Grant the renewal of the Sex Establishment Licence subject to the standard terms and conditions.**

Angela Tanner  
Head of Regulatory Services

### **3. Background**

- 3.1 On the 20<sup>th</sup> July 2009 an application was submitted to the Council's Licensing Section for the renewal of the Sex Establishment Licence from Deal Gold Ltd for the premises called Xesdesire, 4 Ifield Road, West Green, Crawley.
- 3.2 The current Sex Establishment Licence for the premises covers the ground floor shop area from Monday to Sunday, from 9am to 6pm.
- 3.3 The premises are located in a pedestrianised street on the periphery of the town's commercial and retail centre. The premises are next to fast food outlets and a barber's shop.
- 3.4 The applicant has notified the Police of the application for the renewal of this licence, as required by the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act"). The applicant has also displayed the required notice in the window of the premises for 28 days.
- 3.5 The premises sells Restricted 18 category films, sexually explicit magazines, marital aids and other similar articles which are collectively defined as "sex articles" in schedule 3 of the 1982 Act. The premises is therefore a "sex shop" within the meaning of the 1982 Act. As Crawley Borough Council has resolved that Schedule 3 of the 1982 Act shall apply within the Borough, Deal Gold Ltd must hold a licence to continue to operate this business.
- 3.6 On the 22<sup>nd</sup> July 2009 formal statutory consultation was carried out with the Police, Fire Officer, West Sussex Trading Standards Department and the Council's own Environmental Services Division.
- 3.7 On the 1<sup>st</sup> July 2009 a public notice was placed in the Crawley News as required by the Council's sex establishment application policy and the 1982 Act.

### **4. Content**

- 4.1 West Sussex County Council's Trading Standards Department have made no objections to the renewal of Deal Gold Ltd's licence and have not advised that they have found offences recorded against either of the applicant's officers.
- 4.2 West Sussex Fire Brigade's Fire Officer and the Police Licensing Officer have not made any formal objections to this application.
- 4.3 The Council's own Environmental Services Division has no objections to this application. The business which has been licensed for the sale of sex articles has operated without any complaints since 2002. The Council's Licensing Officers have conducted numerous inspections of the premises both announced and unannounced. During those inspections no offences or breaches of the Council's conditions have been found. The licensee Mr Powell has operated the premises without fault.
- 4.4 On the 27<sup>h</sup> July 2009 the Council received an objection letter from a member of the public who lives in the Borough but not near the premises. The

objection is based on the close proximity of the premises to the heart of the Town and the impact of the establishment's clientele merely visiting to gain access to merchandise of the type sold in the shop as regards young families, teens and the elderly. A copy of the objection letter is attached to this report as Appendix 1. It is a statutory requirement that the Council does not disclose the objector's name and address to the applicant and so you will see that the name and address in Appendix 1 has been redacted accordingly.

## **5. Ward Members' Views**

- 5.1 Ward members were not consulted for their views on this matter as there has been no material changes to the licence or location since it was last discussed.

## **6 Financial, Legal and Staffing Implications**

- 6.1 There will be no financial or staffing implications as a result of this Licence being granted.
- 6.2 If Members decide to refuse this application, or to grant it subject to conditions with which the applicant does not agree, the applicant has a right to appeal to the Magistrates' Court under paragraph 27 sub paragraph (1) (a) and/or (c) of Schedule 3, Section 2 of the Local Government (Miscellaneous Provisions) Act 1982

## **7. Other Implications**

- 7.1 The Human Rights Act 1998 requires Local Authorities to consider the implications of any aspect of the use or the location of the premises which may affect local residents or members of the public visiting the area, and to balancing such matters against the applicants' rights to respect for their private and family life and also the peaceful enjoyment of their possessions.

## **8. Reasons for the Recommendation**

- 8.1 These premises have operated without complaint for the past 7 years. The Council has only received one objection to this application.
- 8.2 The objection to this application is based on the following
- The premises are close to the heart of the Town
  - Patrons of the shop may have an undesirable effect on children and young families in the area
  - The shop will consequently affect the locality and as such make this an unsuitable location.

Although the objection is based on one of the grounds upon which the Council may refuse the renewal application (that the renewal would be inappropriate having regard to the character of the relevant locality), in the view of Officers

this objection is not supported by any evidence such that refusal could be recommended to members. Specifically, the location in which the premises are situated has not drastically altered over the last 12 months and in the view of Officers this has not changed the character of the relevant locality to such an extent that the location has become inappropriate for the continued operation of these well-run premises.

- 8.3 The Council has attached conditions to the licence for the premises to ensure that passing members of the public do not see into the shop. The premises do not stand out in the parade and are in keeping with the general appearance of the surrounding premises. Pictures of the shop will be available at the Committee meeting for members to view.

## **9. Background Papers**

Deal Gold Limited application form  
Consultation Correspondence  
Objection letter Appendix A

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