

BIRMINGHAM CITY COUNCIL

**REPORT OF THE INTERIM ASSISTANT DIRECTOR OF REGULATION &
ENFORCEMENT TO A SUB COMMITTEE OF THE LICENSING AND PUBLIC
PROTECTION COMMITTEE**

LICENSING SUB COMMITTEE C

15 DECEMBER 2021
BORDESLEY & HIGHGATE

CZ BIRMINGHAM, 84 HURST STREET, BIRMINGHAM B5 4TD
RENEWAL AND VARIATION OF STANDARD CONDITIONS OF SEX
ESTABLISHMENT LICENCE

1. Summary

- 1.1 An application has been received for the simultaneous renewal and variation of standard conditions attached to the sex shop licence granted in respect of CZ Birmingham, 84 Hurst Street, Birmingham B5 4TD.
- 1.2 As no objections have been received the renewal element of the application is effectively granted under delegated authority to officers.
- 1.3 However, the application also seeks to vary the standard conditions attached to the existing licence which can only be considered and determined by a Licensing Sub Committee in accordance with our existing scheme of delegations.
- 1.4 There is a statutory requirement for applicants to advertise in the local press and post notices on the premises giving passers by the opportunity to comment or object within a specific time period.
- 1.5 No objections have been received within the statutory time period.
- 1.6 The options available to the authority when considering a request to vary terms, conditions or restrictions on or subject to which a licence is held are outlined in paragraph 5.3 of this report.

2. Recommendation

- 2.1 The Committee is required to consider the requests to vary the standard conditions as outlined in paragraph 3.3. and to determine the requests in accordance with the options available detailed at paragraph 5.3 of the report.

Contact Officer: David Kennedy, Principal Licensing Officer
Telephone: 0121 303 9896
E-mail: david.kennedy@birmingham.gov.uk

3. Background

- 3.1 Libertybelle UK Limited T/A Clone Zone has applied for the simultaneous renewal and variation of standard conditions attached to the sex shop licence granted in respect of CZ Birmingham, 84 Hurst Street, Birmingham B5 4TD and has complied with the statutory requirements. See Appendix 1.
- 3.2 The current sex shop licence permits the following hours of operation: 11.00am – 9.00pm (Monday – Sunday) and 10.00am – 4.00pm (Sunday except Easter Sunday) with the premises to remain closed on Christmas Day & Easter Sunday. See Appendix 2.
- 3.3 The applicants request to vary the standard conditions is summarised below and seeks to permit:
 - 3.3.1 Trading on Good Friday and Easter Sunday as all other shops of our size can do without restrictions;
 - 3.3.2 Trading up to midnight instead of 9.00pm. This would only be used for special events such as Pride weekend.
- 3.4 A copy of Birmingham City Council's Standard Conditions for Sex Shops is attached at Appendix 3 with the relevant conditions highlighted for ease of reference.
- 3.5 In accordance with Paragraphs 18(1), (2) and (3) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 the holder of a sex establishment licence is entitled to apply to the appropriate authority to vary terms, conditions or restrictions on or subject to which the licence is held.

4. Consultation

- 4.1 The legislation requires the applicant to advertise applications in a local newspaper, post a notice outside of the premises for a period of 21 days and serve notice of the application to the Chief Officer of Police.
- 4.2 In addition upon receipt of an application the Licensing Section consults with the relevant Local Policing Unit, the Licensing Enforcement Team and also notifies the appropriate Ward Councillors.
- 4.3 Representatives from West Midlands Police and the Licensing Enforcement Team have confirmed that they have no objections to either the renewal or variation of the licence.
- 4.4 No objections have been received within the statutory consultation period.

5. Determination of the Application to vary sex shop licence conditions

- 5.1 Libertybelle UK Limited T/A Clone Zone have been invited to attend the meeting in support of the application to vary the standard conditions of licence as detailed at Paragraph 3.3 above.
- 5.2 As no objections have been received the renewal element of the application is effectively granted under delegated authority to officers.
- 5.3 Under the above mentioned legal provisions of the 1982 Act, the appropriate Authority may:
- 5.3.1 make the variation specified in the applications;
 - 5.3.2 make such variations as they think fit; or
 - 5.3.3 refuse the variation applications

6. Implications for Resources

- 6.1 There is a right of appeal against the Committee's decision to the Magistrate's Court and from there to the Crown Court. If such an appeal were successful in either Court, the costs of any such proceedings could be awarded against the Council. Any appeal made to the Court must be made in writing within 21 days from the date that the decision is made known to the applicant.

7. Implications for Policy Priorities

- 7.1 The report complies with the City Council's Policies relating to Sex Establishments and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.

8. Public Sector Equality Duty

- 8.1 No specific implications have been identified.

INTERIM ASSISTANT DIRECTOR OF REGULATION & ENFORCEMENT

Background Papers: Nil

From: David Edwards
Sent: 11 October 2021 15:44
To: Licensing
Cc:
Subject: Libertybelle U.K. Ltd trading as Clone Zone 84 Hurst Street, Birmingham. S.E.L. Renewal.

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Emma,

Thank you for your email of 8/10/21.

1/ Regarding the above application we would like to be able to trade on Good Friday and Easter Sunday as all other shops of our size can do without restrictions.

2/ we would like the ability to trade up to midnight instead of 9.00pm. This would only be used for special events such as Pride weekend.

Hopefully this won't be a problem in the light of the fact we have never had an objection to our renewal applications over the last 20 years. We have never had a complaint about the content of the shop and we no longer sell anything that is age restricted.

I look forward to hearing from you soon.

Kind regards,
David Edwards,
Director,
Libertybelle U.K. Ltd.

Sent from my iPad

SEX 1.22

Fair Processing Statement – Any personal data held by Birmingham City Council in relation to your application for a Licence to use a premises, vehicle, vessel or stall as a Sex Establishment, will be held in full compliance with the legal obligations as set out in the Data Protection Act 1998. This is in accordance with the Council's Privacy Policy; a copy is available on the Council's website: www.birmingham.gov.uk/privacy. To protect the public fund we may also use the information you have provided on this form to prevent and detect fraud. We may share this information for the same purposes with other Council Departments and organisations for example, other councils and the police.

BIRMINGHAM CITY COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
PART II (CONTROL OF SEX ESTABLISHMENTS)

Application for a Licence to use any Premises, Vehicle, Vessel or Stall as a Sex Establishment

Application details:

Is this licence for Grant ☐ Renewal ☒ Transfer ☐ 6 months ☐ 12 months ☒

Is the application being made by an individual on behalf of a partnership or body corporate?
Yes ☒ No ☐

Full Name of Applicant (ie the individual, body corporate or unincorporated body). If the applicant is an individual, please also give any former names LIBERTYBELLE UK Ltd.
T/A CLONE ZONE - C2 BIRMINGHAM.

Permanent Residential Address of Applicant (if an individual) or registered or principal office (if a body corporate or unincorporated body) REG OFFICE 30B SPICE QUAY
SHAD THAMES, LONDON SE1 2YA

If Applicant is an individual please give details:

Date of Birth N/A Place of Birth N/A

Date Became Resident in the UK or E.U Member State N/A

National Insurance Number or E.U Member State Equivalent N/A

Telephone Number (during normal office hours) .

Name and address to which correspondence to be sent (if different from above)

DAVID EDWARDS

Has the applicant a financial interest in the business which is the subject of this application?

Yes ☒ No ☐ If "yes" to what extent 100%

Is the whole business owned by the applicant?

Yes ☒ No ☐

Premises details:

Under what name is, or will the premises be known C2 BIRMINGHAM

If Application is in respect of a premises please give full address

84 HURST STREET, BIRMINGHAM B5 4TDAre the whole of the premises described above to be used under the licence? Yes ☒ No ☐

If no, please state:

a) which part of the premises is to be used for the purposes of the licence

N/A

b) the use to which the remainder of the premises are to be put

N/A

c) the names of those responsible for the management of the remainder of the premises

N/A

If the applicant's interest in the premises is a leasehold one, please state:

a) whether a head-lease or a sub-lease Head-lease ☒ Sub-lease ☐

b) the name and address of the landlord and of the superior landlord where applicable

L.C.P. L.C.P. HOUSE, THE PENNSNEY ESTATEKINGS WINFORD, WEST MIDLANDS DY1 7NFc) the length of the unexpired term 4 YEARSIs the application in respect of a sex shop or a sex cinema? Sex Shop ☒ Cinema ☐

Is the application in respect of premises or a vehicle, vessel or a stall?

Premises ☒ Vehicle ☐ Vessel ☐ Stall ☐If application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sex establishment N/AAre the premises, vehicle, vessel or stall in use as a sex establishment at the date of this application? Yes ☒ No ☐

What means are to be taken to prevent the interior of the premises being visible to passers by?

THE WINDOWS + ENTRANCE ARE SCREENED OFF FROM THE STREET

Give details of the times during which it is proposed to open the premises:

i) Days of the week: MONDAY to SUNDAYii) Hours of the day: 11.00 AM - 9 PM

SEX 1.22

If the applicant is a body corporate or an unincorporated body, complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body. In the case of a partnership, details of all the partners must be given.

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member state
DAVID RAYMOND EDWARDS			
SEAN PATRICK DURACK			

If the applicant is a company, what type of company is it (e.g., public or private, limited by share or guarantee, etc.)? LIMITED BY SHARE

In which country is the company incorporated? UK

What is the date of incorporation of the company? 21/12/08

Please give details of the person who is to be responsible for the management of the premises in the absence of the licence holder:

First Name ANDREW GRAHAME Surname GAVIN

Former Name (if any) —

National Insurance Number or E.U Member State Equivalent —

Permanent Address: —

Date of Birth: — Place of Birth: —

Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment? Yes ☒ No ☐

If "yes" give full details: SEE LIST

SEX 1.22

Does the applicant or any persons named in this form have any Convictions/Cautions? Yes ☐ No ☐

If so, please give details below:

Convictions:

Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence
N/A.						

Cautions:

Forenames	Surname	Former Name (if any)	Offence	Date of Caution	Where caution administered
N/A.					

(If necessary, please continue on a separate sheet)

Is there in force against the applicant or any of the persons whose names appear in this application form a disqualification from holding a licence for a sex establishment under the Local Government (Miscellaneous Provisions) Act, 1982? Yes ☐ No ☒

If "yes" give full details:

Please disclose any Forfeiture Order made under the Obscene Publications Act 1959 made in respect of articles seized from premises where the applicant or any person named in this form was carrying on business.

N/A.

Is there any further information which the applicant would wish the Council to take into account when considering this application?

DECLARATION: I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sex Shop/Sex Cinema made by Birmingham City Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000.

Signature

Name of Signatory DAVID RAYMOND EDWARDS

Designation of Signatory DIRECTOR

List of all Clone Zone Licensed Shops.

Clone Zone
36-38 Sackville Street,
Manchester,
M1 3WA.

Clone Zone
84 Hurst Street,
Birmingham,
B5 4TD.

Clone Zone
35 Old Compton Street,
Soho
London,
W1D 5JX.

Clone Zone
266 Old Brompton Road,
Earls Court,
London
SW5 9HR.

From: David Edwards
Sent: 17 October 2021 12:51
To: Licensing
Cc:
Subject: Change to registered office

Dear Licensing Officer,

Please note as from the date of this email the following change,

The registered office of Libertybelle U.K. Ltd is now, Clone Zone, 36-38 Sackville Street, Manchester, M1 3WA.

Please update your records for our Sex Establishment License.

Kind regards,
David Edwards,
Director,
Libertybelle U.K. Ltd.

Sent from my iPad

BIRMINGHAM CITY COUNCIL



Sex/Est:
LN/000032727

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SECTION 2 - SCHEDULE 3 - CONTROL OF SEX ESTABLISHMENTS

SEX ESTABLISHMENTS LICENCE

The Birmingham City Council hereby GRANT

Libertybelle UK Ltd T/A Clone Zone

of 30B Spice Quay, Shad Thames, London, SE1 2YQ

a licence to use any premises, vehicle, vessel or stall as a:-

Sex Shop

at premises known as **CZ Birmingham**

at **84 Hurst Street, Birmingham, B5 4TD**

for **12** calendar months commencing **18th October 2020** for the following times:

11:00am – 09:00pm (Monday – Sunday)
To be closed Christmas Day and Easter Sunday

This licence is granted subject to the attached conditions.

Date: 28th January 2021

S. A. Garner.

FOR INTERIM ASSISTANT DIRECTOR REGULATION AND ENFORCEMENT

General Licensing Regulation & Enforcement
P.O. Box 17831
BIRMINGHAM
B2 2HJ

BIRMINGHAM CITY COUNCIL

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SECTION 2 AND SCHEDULE 3
(Licensing of Sex Establishments)

CONDITION OF LICENCE FOR A SEX SHOP

INTRODUCTION

1. In these conditions "The Council" shall mean the Birmingham City Council and all enquiries concerning this licence shall be directed to General Licensing Regulation & Enforcement, P.O. Box 17831, Birmingham, B2 2HJ. Telephone 0121 303 9896.
2. These conditions are imposed by the Council pursuant to its powers under paragraph 13 (1) of Schedule 3 to the above Act and apply to all premises licensed as a "Sex Shop" as defined by the Act save and insofar as they do not conflict with any special conditions forming part of the Licence nor with the provisions of the Act itself.
3. These conditions are only applicable to a "Sex Shop" as defined. Separate conditions exist in relation to a "Sex Cinema" (as defined by the above Act).

OPENING HOURS

1. The licensed premises shall not be open nor used for the purposes for which the licence is granted except between the hours of 9 am and 6.30 pm on any weekday (including Saturday).
2. The licensed premises shall not be so open or used at all on Sundays, Good Friday, Christmas Day or any other general or public holiday.

WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS

1. The interior of the premises shall not be visible to passers-by and to that intent the licence holder shall obscure all windows and doors in a manner satisfactory to the Council.
2. The windows, doors fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:-
 - (a) The address of the premises
 - (b) The Licensed name of the premises (as explained in paragraph 4 hereof)

- (c) The form of warning notice required to be displayed by virtue of the provisions of Section 1 (6) of the Indecent Displays (control) Act 1981
 - (d) A notice stating the opening hours of the establishment
 - (e) In the case of a Licence granted to a body corporate:-
 - (i) If the Licence name is not the same as the full name of the body corporate then such corporate name and;
 - (ii) If the premises are also the body's registered office for the purposes of the companies Acts then an indication in a form acceptable to the Company that such is the case.
 - (f) The wording "PRIVATE SHOP" or "ADULT SHOP" but no other indication as to the nature of the business carried on at the licensed premises.
3. The lettering used in respect of such permitted items:-
- (a) Shall be of such colour and style as may be approved by the Council.
 - (b) In the case of the permitted items 'a', 'b', 'c', and 'e' the lettering used shall not exceed one foot in height for each letter, provided also that if different sizes of letters are used in respect of different items, that used in respect of item 'f' shall not exceed the height of any other lettering.

LICENSED NAME

1. The Council at the time of granting the licence in respect of the premises appoint a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licence holder shall ensure that the premises are known solely by that name and by no other, save as provided for by paragraph 2 below.
2. An application in respect of a change of licence name shall be made to the Council in writing not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

EMPLOYEES AND MANAGEMENT STAFF

1. The Licence holder shall at all times keep and maintain at the licensed premises a written record of the names, addresses, and dates of birth of all persons employed within the licensed premises whether upon a full or part basis and shall upon request by an authorised Officer of the Council make such records available for inspection to them.
2. The Licence holder shall at all times provide the Council with written notification as to the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licence holder's absence.

CHANGE OF LOCATION AND ALTERATIONS TO PREMISES

1. In the case of licensed premises which are a vessel or stall the licence holder shall not move the licensed vessel or stall from the location specified in the licence unless he shall first give the Council not less than 28 days notice in writing of such intended removal and the Council may require him to lodge such written application as it may deem appropriate and pay such fee as it may deem reasonable in respect of such application provided that this requirement shall not apply to a vessel or stall which habitually operates from a fixed location but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence and which is not used for the purposes for which the licence is granted and any other location than that which is specified.
2. In the case of a business conducted from fixed premises no alteration of any kind shall be made to the interior or the exterior of the premises including any change in the permitted signs displayed thereat or in the manner in which the windows and doors are obstructed unless the licence holder shall first obtain the written consent of the Council.

RESPONSIBILITY OF THE LICENCE HOLDER

The Licence holder or any person purporting to act upon his behalf shall be responsible for ensuring compliance with these and any special conditions of the licence and will be held responsible for any breach thereof.

VARIATION OF CONDITIONS

The Council may at any time waive, modify or vary these conditions or impose additional conditions in any particular case.