

Date: 25 August 2011
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To: Members of the Licensing & Enforcement Sub-Committee
(Councillors: David Atkins, Steve Hall, Ken Potter)

Licensing Officer
Assistant Solicitor

Dear Sir/Madam

Licensing & Enforcement Sub-Committee, Tuesday 6 September at 9.30am

The Licensing & Enforcement Sub Committee meeting will take place in the Council Chamber, Knowle, Sidmouth, to consider the matters detailed on this agenda.

Members of the public are welcome to attend this meeting. A hearing loop system will be in operation in the Council Chamber. Due to the requirements of the Licensing Act 2003 only parties to the hearing are permitted to address the sub-committee (through their representative as appropriate).

Councillors and members of the public are reminded to switch off mobile phones during the meeting. If this is not practical due to particular circumstances, please advise the Chairman in advance of the meeting.

Yours faithfully,

MARK WILLIAMS

Chief Executive

A G E N D A

- | | Page/s |
|--|--------|
| 1. To confirm the minutes of the meetings of the Licensing and Enforcement Sub Committee held on 26 July 2011. | 3 - 8 |
| 2. To receive any apologies for absence from Members of the Sub Committee. | |
| 3. To receive any declarations of interests relating to items on the agenda. | |
| 4. To consider any items which in the opinion of the Chairman should be dealt with as matters of urgency because of special circumstances. | |

(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).

5. To consider an application for a Sex Entertainment Venue Licence to be granted under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Licensing Officer

9 -

Members Remember!

- ❑ You must declare any personal or prejudicial interests in an item whenever it becomes apparent that you have an interest in the business being considered.
- ❑ Make sure you say the reason for your interest as this has to be included in the minutes.
- ❑ If your interest is prejudicial you must leave the room unless you have obtained a dispensation from the Council's Standards Committee or where Para 12(2) of the Code can be applied. Para 12(2) allows a Member with a prejudicial interest to stay for the purpose of making representations, answering questions or giving evidence relating to the business but only at meetings where the public are also allowed to make representations. If you do remain, you must not exercise decision-making functions or seek to improperly influence the decision; you must leave the meeting room once you have made your representation.
- ❑ You also need to declare when you are subject to the party whip before the matter is discussed.

Getting to the Meeting – for the benefit of visitors



The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road: **From Exmouth, Budleigh, Otterton and Newton Poppleford – 157**

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

From Exeter – 52A, 52B

From Honiton – 52B

From Seaton – 52A

From Ottery St Mary – 379, 387

Please check your local timetable for times

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Tuesday 26 July 2011

- Present:** Councillors:
Jim Knight (Chairman)
David Atkins
Roger Boote
- Officers:** Neil McDonald - Licensing Officer
Chris Lane - Democratic Services Officer
Giles Salter – Assistant Solicitor
- Also present:** Councillor:
Steve Gazzard
- Apologies:** Councillor:
John Jeffery

The meeting started at 9.30 am and finished at 10.10 am.

*10 **Minutes**

The minutes of the meetings of the Licensing & Enforcement Sub Committee held on 5 July 2011, were confirmed and signed as a true record.

*11 **Declarations of interest**

Councillor/ Officer	Agenda Item	Type of interest	Nature of interest
Councillor Roger Boote	*12 – Application to grant a Premises Licence under the Licensing Act 2003 at Heath Close, 3 Lansdowne Road, Budleigh Salterton.	Personal	Personal licence holder.

*12 **Application to grant a Premises Licence under the Licensing Act 2003 at Heath Close, 3 Lansdowne Road, Budleigh Salterton**

The Sub Committee gave consideration to an application for a Premises Licence under the Licensing Act 2003 to permit the provision of sale by retail of alcohol for consumption on the premises at Heath Close, 3 Lansdowne Road, Budleigh Salterton.

The Chairman identified members of the Sub Committee, Officers, applicants and interested parties present. The applicants were Graham and Patricia Ellis.

Application to grant a Premises License under the Licensing Act 2003 at Heath Close, 3 Lansdowne Road, Budleigh Salterton (Cont)

The Sub Committee carefully considered the application for a Premises Licence for the sale of alcohol and the proposed hours of operation with a view to deciding whether the application promoted the licensing objectives, as required by the Licensing Act 2003. They also took into account Government Guidance and the Council's own licensing policy, and the Human Rights Act 1998 in making their decision.

The Sub Committee carefully considered the relevant representations that all parties had made and the written representations and other documentation put before the Sub Committee. They considered the particular locality of the premises on the outskirts of the town centre and its physical relationship with other residential properties in the vicinity. It was considered relevant that representations received from the Police in relation to the Licensing Act objectives that had been the subject of representations made at the hearing, that is to say: public safety, public nuisance, crime and disorder had been mediated prior to the meeting. From this, the Sub Committee concluded that the Police did not consider that there was currently any significant problem associated with the current operation of the premises, or that there was likely to be if the application was granted provided the conditions they have requested were imposed. The applicant had reduced the hours originally asked for as a result of mediation between themselves, the police and 14 of the 15 interested parties.

The applicant's case was that the application was for the supply of alcohol to residents at Heath Lodge. The dining area accommodated 10 people but the mediated conditions limit the sale of alcohol to 8 persons at any one time.

The interested parties' case was on paper, firstly in relation to the prevention of crime and disorder, that garden boundaries were not secure, groups using the premises would roam around the area causing a disturbance. Regarding the prevention of public nuisance, this was a quiet residential area with a high proportion of elderly, retired occupants. If the property was licensed to 2300 hours there was the prospect of frequent, noisy revelry until late into the night which could cause a severe nuisance. The interested party did not attend the hearing.

The Sub Committee carefully considered the operating schedule put forward by the applicants and the likely impact of the application. In relation to the evidence heard regarding the history of the premises, they considered that the event would be well managed and controlled with good policies in place and adequate supervision from management.

The Sub Committee did not consider that there was evidence of a significant public nuisance, risk to public safety arising from the current operation of the premises. The concern of local residents about future operation was taken into account by ensuring that suitable conditions were imposed and that the operating hours were not unreasonably late. At the present time there was no real evidence that the operation the applicant proposed to run would cause the unacceptable impact local residents suggested.

***12 Application to grant a Premises License under the Licensing Act 2003 at Heath Close, 3 Lansdowne Road, Budleigh Salterton (Cont)**

All parties were reminded of the closure and review powers which the Government brought into force on 24 November 2005. Premises which did not operate in an acceptable way in terms of the licensing objectives may in extreme cases be closed down by police action or have their scope of operation reduced by the licensing authority.

RESOLVED

- 1): that the time limited Premises License be granted as follows:
 - (a) The extent of the areas within which the various licensable activities will be permitted is as indicated by the legends on the applicant's plan.
 - (b) Permitted hours for the various licensable activities will be as set out in the Appendix F.
- 2) that whilst the Sub Committee acknowledged the concerns expressed in representations on paper, the Sub Committee believe the concerns expressed in representations had been addressed by the hours of operation for the licensable activities and the conditions that have been imposed which have been tailored to the size, characteristics and activities on the premises which the Sub Committee believe are necessary and proportionate.
- 3) that the Designated Premises Supervisor would be Eileen Patricia Ellis, Heath Close, 3 Lansdowne Road, Budleigh Salterton, EX9 6AH.

***13 Schedule of applications for Sub Committee approval where an agreed position has been reached and all Parties have agreed a hearing is unnecessary**

Consideration was given to the report of the Licensing Officer which set out a schedule of applications for Sub Committee approval where an agreed position had been reached and all parties had agreed that a hearing was unnecessary.

The Licensing Officer explained the background of the application and the negotiations carried out.

RESOLVED that the application be granted as below, subject to the agreed positions set out in the schedule and any relevant statutory conditions and the applicants having complied with relevant statutory requirements.

Type of Application	Name of premises and address	Agreed position reached by the parties
Application for a premises licence to be granted	Lidl Store, Dinan Way, Exmouth, Devon,	Following mediation the applicant and the Police have agreed that they consider a hearing to be unnecessary if the following

	EX8 4RZ.	<p>agreed position is approved.</p> <p>The application be approved as submitted subject to the addition of the following conditions:</p> <ol style="list-style-type: none"> 1. CCTV must be installed, operated and maintained at the premises to a standard that provides images of evidential quality. The CCTV system will be installed so as to provide camera cover at the entrance/ exit of the premises, along the checkouts and in the area of the store where alcohol is displayed. All cameras located on entrances must be able to produce images of evidential standard as defined by the Home Office Guidance. Entrance Cameras must be capable of providing good quality head and shoulder images of persons entering/ leaving the premises. They should be high resolution colour cameras complete with an auto iris vari-focal lens. Cameras in the main areas of the premises must be able to cope with the extreme lighting conditions that may be present. The cameras, recording equipment and all ancillaries should be maintained according to the manufacturers instructions to ensure that the standard of the image is not compromised. 2. CCTV images will be retained for a minimum of 14 days and will be produced as soon as is reasonably practicable and in any event within 48 hours of a request by the Police or a Licensing Officer of East Devon District Council. Recording media must be set to a minimum of 25 frames per second. The CCTV recordings must be stored on a digital multiplex recorder with either an on board CD/DVD re-writer and/ or a USB port for evidence recovery. The system must be capable of producing single images and forward, reverse, pause and slow motion at full screen resolution. All equipment must have constant time/ date generation. 3. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing
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		<p>Service must be informed immediately by email.</p> <p>4. Warning notices of at least an A5 size must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002.</p> <p>5. The CCTV recording system must be housed in a secure room/ cabinet where access is restricted and the operation is strictly limited to authorised persons.</p>
	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	
Application for a premises licence to be granted.	Domino's Pizza 19 Imperial Road, Exmouth, Devon, EX8 1BY.	<p>Following mediation the applicant and the Devon & Cornwall Constabulary, the Councils Environmental Health service, two District Councillors and a local resident have agreed that they consider a hearing to be unnecessary if the following agreed position is approved.</p> <p>The application be approved as submitted subject to the addition of the following conditions:</p> <ol style="list-style-type: none"> 1. CCTV must be installed, operated and maintained to the satisfaction of the Licensing Authority and the Chief Officer of Police in accordance with the requirements set out in the EDDC Licensing Policy. 2. CCTV images must be retained for a minimum of 14 days and to be produced on the request of the Police or a Licensing Officer of East Devon District Council. Recording media must be set to 25 frames per second. 3. The CCTV system must be operational at all times whilst the premises are trading. If the system is faulty or not working then the Police and East Devon Licensing Service must be informed immediately.

		<p>Details of the malfunction must be recorded in the premises incident book.</p> <ol style="list-style-type: none"> 4. A4 sized warning notices must be displayed in public areas of the premises and at all entrances advising that CCTV is in operation. The signs located at entrances should be located on the exterior of the building at, and adjacent to, all public access doors. All signs must comply with the requirements of the Data Protection Act 2002. 5. The holder of the premises licence must ensure that all delivery drivers are instructed to enter and leave their vehicles quietly and considerately, not to leave engines running, to park considerately and at all times to keep in mind neighbours. 6. The holder of the premises licence must ensure that doors and windows will be kept closed at night to prevent the transmission of noise. 7. The holder of the premises licence must ensure that the customers who visit the premises to purchase takeaways will be asked to leave quietly and with due consideration for the neighbours. 8. All counter service must end at 3am with last orders 10 minutes before but we will continue to deliver pizzas until 5am. (This condition amended in relation to deliveries after 3am by condition 10). 9. The store must be closed between the hours of 5am and 8am. 10. The store must close completely at 3am with no deliveries taking place after that time.
Recommendation	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Chairman

Date

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Sub Committee held at Knowle, Sidmouth on Tuesday 26 July 2011

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RESOLVED that the time limited Premises License be granted as follows:

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Recommendation	Recommend approval of application subject to the amended operating schedule and the relevant mandatory conditions of the Licensing Act 2003	

Chairman Date

Agenda Item 5

Licensing & Enforcement Sub Committee

6 September 2011

JT

Application for a Sex Entertainment Venue Licence to be granted under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

Summary

The report summarises an application for a Sex Entertainment Venue Licence to be granted.

Recommendation

That members consider the application for a Sex Entertainment Venue Licence to be granted under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 for the premises known as Lush, Elm Grove, Exmouth, EX8 1DJ

a) Reasons for Recommendation

To comply with statutory processes.

b) Alternative Options

To either grant, refuse or modify the application.

c) Risk Considerations

None

d) Policy and Budgetary Considerations

The Council's Sex Establishment Licensing Policy is referred to in the body of the report. There is a possibility of the Council having to pay the applicant's court costs if a successful appeal is brought against the decisions made today.

e) Date for Review of Decision

The council's decision may be appealed to the Magistrates Court. In addition licences issued under the Local Government (Miscellaneous Provisions) Act 1982 can only be granted for a maximum length of 12 months. Further 12 monthly renewals are permitted following a renewal application however at that point there is the ability for objections to be raised against the renewal. If that should occur the renewal application would be brought before a Sub Committee for consideration.

1 Description of Application

- 1.1 An application has been received from Paul Hendrik Kortland and Kimberly Jean Kortland of Exton, Exeter for the grant of a Sex Entertainment Venue licence for premises known as Lush, Elm Grove, Exmouth, EX8 1DJ
- 1.2 Lush is accommodated within a two storey building with areas for public trade on both floors. The ground floor consists of a dance floor with two bars and is not part of this application. The first floor is split into two. Lush is one of these areas and contains a lounge with bar and stage which is separated and accessed independently from the remainder of the first floor which also contains a bar and is named on the plans accompanying the application as 'Upstairs Club Bar'. To be clear this application relates only to that part of the building on the first floor that is marked on the plans as 'Lush'.
- 1.3 The plan of the premises will be available at the meeting to show the layout of the establishment and the location of Lush within the building. Unfortunately the plan accompanying the application shows the whole building and does not clearly show which part of the building the applicant wishes to licence for sex entertainment. The Licensing Office is in contact with the applicant and it is anticipated that before the meeting on the 6 September an agreed boundary for Lush can be drawn on the plan. However for the purposes of preparing this report I have assumed that the boundary will be the same as that indicated in the plans approved in 2010 for the Premises licence (PLWA0539) granted under the Licensing Act 2003 for the Q Club.
- 1.4 A full copy of the application is reproduced at **Appendix A**.
- 1.5 A copy of the 'Management Operational Manual 2011' in use at Lush and which also includes the 'house rules' are attached at **Appendix B**.
- 1.6 The whole of the building including the area known as Lush currently enjoys and will continue to enjoy, unless a variation application is made, the benefit of premises licence PLWA0539. The licence permits, subject to conditions:
- Exhibitions of a film on both floors
 - the performance of live and recorded music on both floors,
 - the performance of dance and anything of a similar description to music and dance on both floors,
 - The provision of facilities for making music, dancing, and entertainment of a similar description on both floors,
 - The provision of late night refreshment on both floors, and
 - the sale by retail of alcohol for consumption on and off the premises on both floors.
- 1.7 The full Licensing Act 2003 Premises licence (PLWA0539) is produced at **Appendix C**.
- 1.8 The application for a Sex Entertainment Venue licence is for the following permitted hours:
Monday to Thursday and Sunday
9.30 pm until 2.00 am
Friday and Saturday
9.30 pm until 3.00 am

1.9 There is an exemption for premises with Sex Entertainment Venue licences to exempt them from needing a Licensing Act 2003 Premises licence where live music or the playing of recorded music is integral to the provision of relevant entertainment, such as lap dancing. However in practice Lush will still require a Premises licence to at least permit the sale of alcohol or for the provision of other types of entertainment not covered by the exemption.

1.10 For comparison purpose the permitted opening hours on the current Licensing Act Premises licence are:

Monday to Thursday and Sunday	10.00 am until 2.30 am
Friday and Saturday	10.00 am until 3.30 am

1.11 **Meaning of a 'Sexual Entertainment Venue'**

A 'sexual entertainment venue' means:

"any premises at which relevant entertainment is provided before a live audience for financial gain of an organiser. For the purposes of the Act it does not matter whether the financial gain arises directly or indirectly from the performance or display of nudity."

❑ **'Relevant entertainment'** means:

(a) Any live performance; or

(b) Any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means). An audience includes an audience of one.

❑ A **'display of nudity'** means:

(a) In the case of a woman, exposure of her nipples, pubic area, genitals or anus; and

(b) In the case of a man, exposure of his pubic area, genitals or anus;

❑ An **organiser** means:

Any person who is responsible for the organisation or management of;

(a) The relevant entertainment; or

(b) The premises.

1.12 **Representations**

1.12.1 The application process requires that the applicant place notice of their application in a local newspaper circulating in the area and also to place a public notice on the exterior of the premises to be licensed for a period of 21 days.

1.12.2 The police are statutory consultees for all applications under the legislation. The Council have received responses from the police and Exmouth Town Council. These responses are contained in **Appendix D** to this report. Neither organisation has objected to the application.

1.12.3 As a result of the notices referred to in paragraph 1.12.1 the Council has received a total of five objections. Details of these objections are also contained in **Appendix D**. The legislation permits the representations to be made anonymously unless the objector permits the Licensing Authority to disclose their name and address to the applicant. At the time of preparing this report all the objectors have been asked if they agree to their identities being disclosed and replies are awaited. All objectors have a right to address the Sub Committee and must be permitted the same time as the

applicant to make their observations. This Council normally permits objectors and applicants 10 minutes to make their objection/application under the Licensing Act 2003. It is suggested that a similar time period is imposed in this case.

- 1.12.4 When considering the representations, moral or religious grounds may not be taken into account.

2. Back ground to this application

- 2.1 The Q Club has been operating as a night club for many years and on conversion to the Licensing Act in 2005 was granted a Premises licence. However in 2008 the current licence holders decided to convert part of the upstairs snooker club to provide a sex entertainment venue. This required a new Premises licence to permit additional musical and dancing activities in that area as it had only previously been used for snooker. However at that time the law did not require a specific type of licence to permit sex entertainment dancing – for example lap and striptease type dancing. All that was needed was an ordinary Premises licence granted under the Licensing Act, the same as a pub or a night club needs. That licence merely permitted the sale of alcohol and the provision of music and dancing.
- 2.2 In 2009 Parliament passed the Policing and Crime Act 2009 which permitted local authorities to adopt a requirement that all premises providing sex entertainment within their district be required to hold a sex entertainment venue licence. As a result of this change of legislation East Devon District Council decided to require that all sex entertainment venues within the district be licensed under the new provisions. It is my understanding that this is the sole reason for the current application.
- 2.3 The application, in effect, is merely a request to continue to operate in the same way that they have operated since Lush opened in 2008. During this time no complaints about activities being carried on at the premises have been received.

3. The legislation

- 3.1 On the 23 November 2010 the Licensing and Enforcement Committee considered a report by the Licensing Manager recommending the adoption of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009. The effect of adopting this Schedule was to require that all sex establishments including sex shops, sex cinemas and sex entertainment venues within the District be licensed by the District Council. The District Council has since 1983 required that all sex shops and sex cinemas should be licensed and the effect of the recommendation was to include sex entertainment venues also.
- 3.2 Following consideration of that report the Committee recommended to Council that Schedule 3 should be adopted as amended by Section 27 of the Policing and Crime Act 2009.
- 3.3 On 9 December 2010 Council adopted the recommendation which came into effect on the 1 February 2011.
- 3.4 There is now a transitional period of twelve months where existing operators can apply for licences under the new legislation. There is no automatic “grandfather rights” as there was under the Licensing Act 2003 and the Gambling

Act 2005. If an existing operator is granted a licence it will take effect immediately or at the time any appeal arising out of the grant has been determined. Otherwise existing operators can continue to operate until the end of the twelve-month transitional period (3rd appointed day) which in our case is 1 February 2012. Until that date the business can continue to operate under its existing Licensing Act 2003 premises licence.

3.5 Whilst there is no automatic “grandfather rights” with this legislation as there was with both the Licensing Act 2003 and the Gambling Act 2005 the Sub Committee when making decisions on this application must take into account any rights the existing operators may have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to the peaceful enjoyment of their possessions) and Article 10 (freedom of expression).

3.6 There is one exemption provided by the new legislation that exempts premises from needing a licence where only infrequent relevant entertainment is held. This enables relevant entertainment to be provided on 11 occasions within any period of 12 months provided that each occasion lasts no longer than 24 hours and no such occasion begins less than a month from the end of the last.

3.7 **Grounds for refusal of an application**

The legislation allows local authorities to refuse applications, whether they are from existing operators or new applicants, on one or more grounds set out in paragraph 12 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act. This provides for both mandatory and discretionary grounds for a Licensing Authority to refuse an application. These are listed in paragraphs 3.7.1 and 3.7.2 respectively.

3.7.1 **Mandatory Grounds for Refusal**

The council must refuse to grant or transfer a licence to:

- (a) A person under the age of 18;
- (b) A person who is for the time being disqualified from holding a licence;
- (c) A person who is not resident in an EEA state or was not so resident throughout the period of 6 months immediately preceding the date upon which the application was made;
- (d) A body corporate which is not incorporated in an EEA state; or
- (e) A person who has, within the period of 12 months immediately preceding the date upon which the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.7.2 **Discretionary Grounds for Refusal**

An application for grant or renewal of a licence may be refused on one or more of the grounds shown below:

- (a) That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- (b) 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;

- (c) That the number of sex establishments in the relevant locality that the application is made is equal to or exceeds the number which the council considers is appropriate for that locality (nil may be an appropriate number for these purposes).
- (d) That the grant or renewal of the licence would be inappropriate having regard to:
 - i. The character of the relevant locality;
 - ii. The use to which any premises in the vicinity are put; or
 - iii. The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.7.3 I am satisfied that none of the mandatory grounds for refusal apply in this case. Members, after hearing the objectors, will need to decide if any of the discretionary grounds for refusal apply. Should any of the objectors elect to address the Sub Committee, unlike the hearing provisions of the Licensing Act 2003, they are permitted to introduce additional information and issues.

4. Conditions

- 4.1 The legislation provides two separate but linked routes to the imposition of conditions. The first is the imposition of standard conditions. The second is the imposition of conditions tailored to the individual case.
- 4.2 Conditions play an important role in attaining the objectives of the legislation and in achieving the standards which the authority demands of licensed premises. They amount to a code of conduct for management and a clear set of rules to which staff may set out to adhere.
- 4.3 The legislation permits Councils to prescribe standard conditions applicable to licences for sex establishments. A set of Standard Conditions for Sexual Entertainment Venues has been agreed by this Council as part of its Licensing Policy. A copy of these conditions is reproduced as **Appendix E** to this report.
- 4.4 Standard Conditions act as default conditions. Meaning that there is a presumption that every licence granted, renewed or transferred is subject to such conditions, unless the conditions have been expressly excluded or varied. Therefore, an applicant who does not wish to be saddled with certain conditions would need to indicate as such at the time of making the application.
- 4.5 This is the case with this application. When making it the applicant has requested that condition 18 in the Council's Standard Conditions be replaced with condition 2 of the 'house rules' contained within the 'Management Operational Manual 2011' in use at Lush attached at **Appendix B**.
 - (a) Standard Condition 18 states:
There shall be no physical contact between customers and the performers except for the placing of money or tokens into the hands of the dancer or into an arm band, waistband, garter or similar receptacle at the beginning or conclusion of a performance.
 - (b) The applicant seeks to replace Condition 18 with:
There shall be no contact between a performer and customer other than introductory handshake/kiss or

when a tip is placed in their garter/armband or when payment is made for a performance.

- 4.6 The request would seem reasonable however I have a slight reservation as I feel that the last part of the proposed condition 'or when payment is made for a performance' needs some qualification to explain in these circumstances what contact is being permitted.
- 4.7 As explained at paragraph 1.9 the Premises licence that currently authorises licensable activities will be retained. When making their application in 2008 the applicants were quite open about the nature of activities intended for Lush and offered various conditions relating specifically to adult entertainment. As a result a number of conditions of this type were placed on the licence specifically to apply to the part of the business now referred to as Lush (formerly the VIP Lounge). A copy of these conditions is reproduced at **Appendix F**.
- 4.8 These conditions have been compared with the Council's Standard Conditions. The Council's conditions are more comprehensive apart for one condition that appears on the Premises licence. There is no equivalent condition in the Council's Standard Conditions. The condition is reproduced below:

"Changing rooms must be provided for performers of adult entertainment and these must be separate from the parts of the premises to which the public have access. No persons, other than performers or staff approved by the premises licence holder for that purpose, is to be permitted to enter the changing rooms."

- 4.9 Should a Sex Entertainment Venue (SEV) licence be granted then legislation requires that conditions should not be duplicated between the two types of licence, nor should they conflict. The transitional provisions provide where a SEV licence is granted then certain conditions on the Licensing Act 2003 licence are 'treated as deleted'. These conditions which either relate expressly and exclusively to the regulation of sexual entertainment at the premises or are inconsistent with, and less onerous than, the conditions in the sexual entertainment venue licence.

5. Observations

- 5.1 The application being considered is for the grant of a Sex Entertainment Venue Licence and relates only to the business called Lush which is accommodated in the building that also accommodates the Q Night Club. However although owned by the same people it is understood that Lush is a separate operation from the night club.
- 5.2 Your attention is draw to paragraph 1.3. At the time of preparing this report the plan supplied with the application does not suitably demark the boundary of the proposed licensed area. Before a licence is agreed the Sub Committee should be satisfied that the boundary can be properly identified. Particularly in relation to the 'lobby' and the double doors that appear to provide access between the 'Upstairs Club Bar' and 'Lush'.
- 5.3 Some of the representations seem to suggest that there has been some confusion over the permitted hours that the applicants are seeking. The existing Premises licence

granted under the Licensing Act 2003 has the following general opening hours **Monday to Thursday and Sunday 10.00 am until 2.30 am and on Friday and Saturday 10.00 am until 3.30 am**. The application for the new licence is for the operating hours of **Monday until Thursday and Sunday 9.30 pm until 2.00 am and on Friday and Saturday 9.30 pm until 3.00 am**. You will note that the operating hours in the daytime have been totally removed and that Lush will not be able to open before 9.30 pm. The terminal hour at the end of the night is cut back by half an hour. Where some of the confusion may have occurred is that currently, presumably for commercial reasons, Lush is only opened for three days a week. It would seem reasonable for the applicants to keep their options open for the remaining four days.

- 5.4 The representations relating to this application appear at **Appendix D**. All the objectors have been invited to address the Sub Committee or be represented. Replies are awaited. They have also been informed that if they wish to they can expand on their original objection letter and if they do details will be provided to the applicant and brought to the Sub Committee's attention at the meeting.
- 5.5 The application is merely a request to continue to operate in the same way that the premises have operated since Lush opened in 2008. During that time no complaints about activities being carried on at the premises have been received.
- 5.6 The only grounds for refusal of this type of application are set out in paragraphs 3.7.1 and 3.7.2.
- 5.7 If the Sub Committee is minded to grant this application consideration needs to be made on the conditions to be attached to the licence. The Council's default Standard Conditions are set out in **Appendix E**. I also draw your attention to paragraphs 4.5 and 4.6 where the applicant has requested to replace the Council's Standard Condition 18 with an existing condition 2 in the 'house rules' contained within the Management Operational Manual 2011 which appears at **Appendix B**. Please note my comments in paragraph 4.6 and 4.9.
- 5.8 Licences will generally be issued on an annual basis but can be issued for a shorter term if deemed appropriate.
- 5.9 The Sub Committee will now need to consider whether to grant this application as it stands or refuse the application or grant it in a different form. To assist you in this decision you should have regard to:
1. The application – Appendix A
 2. The relevant parts of any representations – Appendix D
 3. The Council's Sex Establishment Licensing Policy – Appendix G
 4. Home Office Guidance for Sexual Entertainment Venues
- Whilst you should have regard to the Council's Sex Establishment Licensing Policy and the Home Office Guidance for Sexual Entertainment Venues you can disregard them if you have good reason to do so. If you do have reason to do this then the reasons should be explained in your decision on the application.
- 5.10 Under the Licensing Act 2003, the general principle is that, if no representations have been made, the authority cannot act unilaterally to fill in the gaps and invent objections of its own. The position under the Local Government (Miscellaneous Provisions) Act 1982 is quite different. The authority can refuse a licence or attach conditions even where there have

been no objections. Or it can discount the objections on the merits and refuse the licence or attach conditions for reasons entirely of its own. The only constraint upon this is one of fairness and compliance with the legislation. Before imposing regulatory restraint on an applicant, it must ensure that the applicant knows of the concerns and has had an opportunity to address them, whether by arguing that the concerns are invalid or that they can be met, for example by the imposition of conditions.

- 5.11 Reproduced at **Appendix G** is a copy of the District Council's Sex Establishment Licensing Policy.

6. Human Rights Act 1998

- 6.1 The sub-committee must have regard to the provisions of the Human Rights Act 1998 when determining this application. The 1998 Act made the European Convention of Human Rights directly enforceable in British courts. The relevant provisions are Article 6 (right to a fair trial), Article 8 (right to respect for private and family life), Article 11 (freedom of association) and Article 1 of the First Protocol (right to peaceful enjoyment of one's possessions). These provisions are explained below. Essentially, they require the sub-committee to identify correctly the competing interests, give each appropriate weight in the circumstances of the case, and balance them against each other in order to arrive at a fair and reasonable decision.
- 6.2 Under Article 6, "everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law". The procedures established by this Council for licensing hearings are compliant with Article 6.
- 6.3 Under Article 8, "everyone has the right to respect for his private and family life, his home and his correspondence". This right may not be interfered with except in accordance with the law and as may be "necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others". In this case this means that the sub-committee must have regard to the effect of its decisions on local residents, and balance their interests against those of the public at large (e.g. the customers of the premises under consideration) and the people operating the business from the premises.
- 6.4 Under Article 11, "everyone has the right to freedom of peaceful assembly and to freedom of association with others" except where it is lawful to restrict that freedom in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others". In this cases this means, for example, that the sub-committee is entitled to impose conditions to ensure that patrons of licensed premises do not unreasonably disturb others living or working nearby. Again, the sub-committee should balance the competing interests.
- 6.5 Article 1 of the First Protocol (that is, the first amendment to the Convention) says that every natural or legal person (meaning a human being or a company) is entitled to peaceful enjoyment of his possessions, except where the law provides for restrictions on that right in the public interest. This means, for example, that it is compliant with the

Convention to impose restrictions, such as those permitted in the Local Government (Miscellaneous Provisions) Act 1982, upon business premises where it is in the public interest to do so. On the other hand the same applies to the owners and occupiers of neighbouring premises.

7. Appeals

If the Sub-Committee rejects the application or imposes conditions on the licence with which the applicant disagrees, he or she may appeal within 21 days of notification of the decision to the Magistrates' Court. The magistrates' court may dismiss the appeal, or substitute its own decision, or send back the case to the licensing authority with directions as to how the case is to be dealt with. The magistrates' court may make any costs order it thinks fit. Unlike the Licensing Act 2003 there is no provision for objectors to bring an appeal.

Legal Implications

The report sets out the statutory framework clearly, including the relevant human rights and appeal provisions.

A preliminary and vital consideration for the Sub Committee will be the proper identification of the proposed licensed area (paragraphs 1.3 and 5.2), as enforcement of times of opening and other conditions will depend upon this.

Members are reminded that the consideration of objectors' representations should be in the context of whether any of the discretionary grounds for refusal apply (paragraph 3.7.2), and for no other reason.

Financial Implications

No additional cost, income generated from licence fee will offset against administration expenses relating to this application.

Appendices

- Appendix A – Copy of licensing application
- Appendix B – Management Operational Manual 2011' in use at Lush
- Appendix C – Copy of the Licensing Act 2003 Premises licence (PLWA 0536)
- Appendix D – Responses to the application
- Appendix E – Standard Sex Entertainment Venue Conditions
- Appendix F – Premises licence conditions that only apply to Lush (formerly the VIP Lounge)
- Appendix G – District Council's Sex Establishment Licensing Policy

Background Papers

- ❑ Licensing Application dated 20 July 2011
- ❑ The District Council's Sex Establishment Licensing Policy
- ❑ Home Office Sexual Entertainment Venues Guidance for England Wales
- ❑ Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009

John Tippin Ext. 5787
Licensing Manager

Licensing & Enforcement Sub Committee
6 September 2011

Local Government Miscellaneous Provisions Act 1982

Sex Establishment Licence



New Licence Application Form

 Knowle
 Sidmouth
 EX10 8HL

 Tel: 01395 517411
 Fax: 01395 517507
 www.eastdevon.gov.uk
 DX 48705 Sidmouth

SEX001

Application is hereby made and the necessary fee enclosed for:

(Please tick box to indicate Licence type and application type applied for)

(a) For Sex Cinema	Tick	(b) For a Sex Shop	Tick	(c) For a Sex Entertainment Venue	Tick
	<input type="checkbox"/>		<input type="checkbox"/>		<input checked="" type="checkbox"/>
New Licence	<input type="checkbox"/>	New Licence	<input type="checkbox"/>	New Licence	<input checked="" type="checkbox"/>
Transfer of Licence	<input type="checkbox"/>	Transfer of Licence	<input type="checkbox"/>	Transfer of Licence	<input type="checkbox"/>
Renewal of Licence	<input type="checkbox"/>	Renewal of Licence	<input type="checkbox"/>	Renewal of Licence	<input type="checkbox"/>
Variation of Licence	<input type="checkbox"/>	Variation of Licence	<input type="checkbox"/>	Variation of Licence	<input type="checkbox"/>

Section 1

If the application is not being made by a body corporate or incorporated body please complete this section. If applicant has resided at other addresses in the past 5 years please include a separate sheet showing all addresses and the dates. (Where there are more than two applicants please photocopy this section and a separate section for each additional applicant).

1. Full name of first applicant

PAUL HENDRIK KORTLAND

Mr/Mrs/Miss/Other (Please state)

2. Permanent Address

 BYWAYS HOUSE
 EXTON
 EXETER

Post Code: EX3 0PW

Telephone No:

E-mail:

Mobile No:

Date of Birth

Occupation

NIGHT CLUB OWNER

Section 1 (Continued)

If applicant has resided at other addresses in the past 5 years please include a separate sheet showing all addresses and the dates. (Where there are more than two applicants please photocopy this section and a separate section for each additional applicant).

1. Full name of second applicant

KIMBERLEY JEAN KORTLAND

Mr/Mrs/Miss/Other (Please state)

2. Permanent Address

AS PAUL KORTLAND

Post Code:

Telephone No:

E-mail:

Mobile No:

Date of Birth:

Occupation

NIGHT CLUB OWNER

Section 2

If the application is being made by a body corporate or incorporated body please complete this section.

1. Full name of applicant body, including whether a corporate or unincorporated body**2. Registered or Principal Office Address**

Post Code:

Telephone No:

E-mail:

Mobile No:

3. If the application is made on behalf of a body corporate is that body incorporated in the United Kingdom? (Please tick Yes or No)		Yes <input type="checkbox"/>	No <input type="checkbox"/>
4. Full names, dates of birth and private addresses of the directors or other persons responsible for the management of the business. (Continue on a separate sheet if necessary.)			
(a) Full name		Date of Birth	
Mr/Mrs/Miss/Other (Please state)		Position held in company:	
Address			
Post Code:		Telephone No:	
E-mail:		Mobile No:	
(b) Full name		Date of Birth	
Mr/Mrs/Miss/Other (Please state)		Position held in company:	
Address			
Post Code:		Telephone No:	
E-mail:		Mobile No:	
(c) Full name		Date of Birth	
Mr/Mrs/Miss/Other (Please state)		Position held in company:	
Address			
Post Code:		Telephone No:	
E-mail:		Mobile No:	

3. (continued from previous page) - Please supply details of any previous convictions of all persons whose name appears in either Section 1 or 2 of this form together with any previous convictions of their spouses. All convictions should be included except for 'spent' convictions, as defined in table 1 at the end of this form. (Continue on a separate sheet if necessary.)

(ii) Full name: KIMBERLEY JEAN KORTLAND

Date of Conviction	Offence	Sentence (including suspended sentences)
NONE		

(iii) Full name:

Date of Conviction	Offence	Sentence (including suspended sentences)

(iv) Full name:

Date of Conviction	Offence	Sentence (including suspended sentences)

(v) Full name:

Date of Conviction	Offence	Sentence (including suspended sentences)

Section 4

To be completed by all applicants

1 Full address of the premises to be used as a sex establishment including description and location.

PART OF FIRST FLOOR (LUSH!)
THE Q CLUB
ELM GROVE
EXMOUTH

Post Code: EX8 1DJ Telephone No: 01395 265333

2 If a vehicle, vessel or stall is to be used as a sex establishment please specify the location in which it is proposed to be so used.



N/A

3. What are the proposed hours of operation of the premises

	Please tick	From	To
Monday	<input checked="" type="checkbox"/>	21.30	02.00
Tuesday	<input checked="" type="checkbox"/>	21.30	02.00
Wednesday	<input checked="" type="checkbox"/>	21.30	02.00
Thursday	<input checked="" type="checkbox"/>	21.30	02.00
Friday	<input checked="" type="checkbox"/>	21.30	03.00
Saturday	<input checked="" type="checkbox"/>	21.30	03.00
SUNDAY	<input checked="" type="checkbox"/>	21.30	02.00

4. Please specify with appropriate details whether the interior of the premises vehicle, vessel or stall will be visible to passersby.

THE AREA OF THE PREMISES IN WHICH ENTERTAINMENT WILL TAKE PLACE IS ON THE FIRST FLOOR AND IS NOT VISIBLE TO THE PUBLIC PASSING BY

Section 5	
To be completed by all applicants	
	Please tick for Yes
(a) I/we understand that if any of the information given above is false in any material respect, I/we may be guilty of an offence for which I/we may be liable to a fine of up to £20,000	<input checked="" type="checkbox"/>
(b) I enclose a scale plan of 1: 100 of the proposed premises.	<input checked="" type="checkbox"/>
(c) I enclose the application fee of £6,000 which includes the refundable uncontested hearing fee of £4,000 if there is no contested hearing. (Cheques should be made payable to East Devon District Council).	<input checked="" type="checkbox"/>
(d) I/we confirm that all persons whose name appears within this application have been resident in the UK throughout the six months immediately preceding the date of this application.	<input checked="" type="checkbox"/>
(e) Where one or more of the applicants have resided at more than one address in the five years preceding the date of this application a separate sheet is enclosed for each applicant listing the addresses and relevant dates.	<input type="checkbox"/>
Signature of first applicant	
Signature	
Date	20.07.11
Capacity	SOLICITOR
Signature of second applicant	
Signature	
Date	20.07.11
Capacity	SOLICITOR
Contact name (where not previously given) and postal address for correspondence associated with this application	
GRAHAM GOVER SOLICITOR 10 SOUTHERNHAY WEST EXETER	
Post Town	EXETER
Post Code	EX1 1JG
Telephone number	01392 423090
If you would prefer us to correspond with you by email your email address	GRAHAM@GRAHAMGOVER.CO.UK

LUSH! GENTLEMENS CLUB

MANAGEMENT OPERATIONAL MANUAL

2011

Lush! Gentlemen's Club

Manchester St

Exmouth

Devon

EX8 1DF

1. MANAGEMENT & KEY ROLES WITHIN LUSH!

General Manager:	John D Hutchinson Premises DPS
Club Manager:	Charlotte L Bright
Head Door Supervisor:	Ben Waring
Primary Bar Staff:	Donna Skinner
Primary Kiosk Attendant:	Sarah Pyle
Approximate Number of additional part time staff:	3 plus DJ (Friday and Saturday)	
Standard Number of Door Staff per night	2 (plus available back up – see Security)	
Approximate Number of Dancers:	12 (for details see Dancers)	

2. BASIC OPERATIONAL INFORMATION

1. Lush! normal opening hours: 9.30pm – 2am Wednesday 10.30pm – 3am Friday 9.30pm – 3am Saturday
2. Standard Operational Staff: Member of Management, Member of Bar Staff, Kiosk Attendant, Minimum 2 Door staff, 4/5 Dancers (see Dancers)
3. Standard Door Price: £5.00 Wednesday ~ £5.00 Friday ~ £5.00 before 12am, £10.00 After 12am Saturday ~ £7.50 entry via Qube (Saturdays only.)
4. Maximum number of customers permitted into the club at any time = 100
5. Radio Channel used by all Lush! staff – Channel 15.
6. Dances are paid for at the bar. Money is exchanged for a token (multiples of £10, £20, £30 & £50) which is signed with the designated dancer's name and given to the dancer. At the end of the night, the dancer hands in her tokens and receives in return payment minus House Fee and House Commission.

3. STANDARD CUSTOMER PROCEDURE

1. Before entering the club, **every** customer must be subjected to interview by a member of door staff. This comprehensive interview includes general assessment of the potential customer's sobriety, behaviour and appearance. If the potential customer is adjudged to be under 25, he/she will be subjected to an identification check. Following initial interview, the potential customer will be read the House Rules and instructed to turn off all mobile devices and cameras before proceeding.

2. At the kiosk, the customer will be required to pay an entrance fee. If at this stage he/she is deemed to be intoxicated or ill-mannered, he/she will be asked to leave before payment is taken.
3. While inside the club, the customer must abide by the **House Rules** (see House Rules Section).
4. Use of a mobile phone will incur one warning from a member of door or bar staff. Second use of a mobile phone will lead to ejection of the customer.
5. Serious breaches of the House Rules, such as physical contact with a dancer, attempts to pass on personal details (i.e. business cards), invading the stage area or any manner unbecoming will result in immediate ejection from the club.
6. Customers are permitted to leave the club for short periods for cigarettes or to collect money from a nearby bank.
7. A customer thought to be or reported to be romantically involved with a performer will be asked to leave the premises and, providing he is mannerly, offered a refund.

HOUSE RULES

1. No person under the age of 18 years shall be admitted to the premises.
2. There shall be no contact between a performer and customer other than introductory handshake/kiss or when a tip is placed in their garter/armband or when payment is made for a performance.
3. No member of the audience shall throw money or otherwise give gratuities to the performers except as permitted in 2) above.
4. There shall be no participation by any member of the audience.
5. Customers are not permitted to photograph, record, film or electronically transmit a performance. Any person suspected of doing so will be required to leave the premises.
6. No customer shall accept from or give to any performer or member of staff any telephone number, business card or note.
7. Customers shall remain seated whilst receiving/watching a performance of 'approved adult entertainment.'
8. Any customer suspected of doing anything in breach of the House Rules or attempting to do so will be required to leave the premises immediately.

DANCERS

1. Performers who appear at Lush! are self-employed and not *employed* nor *contracted* by Lush!
2. Every new performer is required to produce photograph identification before her first appearance at Lush! This identification must be verified by a member of management and the serial numbers (or applicable) kept on record.
3. Every Dancer is required to fill out and sign four forms: Lush! Dancer Information Form, Dancer Code of Conduct, Private Dance Rules and Fine Implementation.
4. Lush! Dancer Information Form requires basic dancer information (name, address N/I Number,) a signature of responsibility to pay National Insurance and Income Tax on **all** earnings, and a declaration that pole tricks are undertaken at the dancer's own risk.

5. Dancers going outside for cigarette breaks must wear a full length black coat (provided) and stay within vision of the doorway camera.
6. Dancers **must** adopt a 'pseudonym' for work. At no time should she divulge her personal information or identity to a customer.
7. All performers must adhere to both the House and Dancer Rules. Failure to do so will result in a fine of varying amount according to the severity of the breach.
8. Dancers found to be in breach of Licensing Rules will be dismissed.
9. All Performers **must** sign a copy of the House Rules before commencing her first shift. A copy of this is held in the Management Operational Manual folder.

SECURITY & PERSONAL SAFETY

A. Personnel

1. All members of Door Staff must sign a copy of the House Rules before commencing his/her first shift. A copy of this is held in the Management Operational Manual folder.
2. Customers who are rude to any of the performers or member of staff will be removed. A performer who is made to feel uncomfortable can report their feelings to the member of door staff who will deal with the matter in a discreet fashion.
3. Door staff, where possible, must have a diplomatic and mature approach towards customers considered to be in breach of the rules. In more hostile situations, Door Staff **must** request backup from either another member of Lush! door staff or Q Club/Qube if applicable. Door Staff are not advised to attempt to deal with hostile situations on their own.
4. Door Staff are advised to use self-control in all situations. Where violent customers are concerned, necessary force may be applied to restrain only.
5. Door Staff must ensure **every** performer is escorted to her car/taxi etc at the end of every night. A lift must be arranged for any dancer without transport from the venue.

B. Technology

6. For the security of all members of staff and the public, Lush! is extensively covered by CCTV. 16 cameras cover the interior of the club from the main front doors, to the hallways, kiosk, and throughout the club.
7. Each of Lush's 7 private dance booths are covered by an individual camera. Booth 6 (double sized booth) is fitted with 2 cameras that cover the area in entirety.
8. CCTV is monitored during opening hours by a kiosk attendant and/or member of management. Breaches of House/Dancer rules witnessed via CCTV are reported to a member of door staff via a mobile radio device.
9. Door staff may inform kiosk attendant/manager of any customer whose behaviour they deem to be 'questionable' or who has the potential to break the rules. This customer will then be watched closely via all CCTV units for the duration of his/her visit to the club.

C. Personal items

1. Performers are advised to use the changing room provided (not the toilets) to change and to store personal items. Lockers are provided, for which keys may be obtained and signed for from a member of Management. The Changing room door is fitted with a combination lock. Dancers are advised to keep the changing room doors locked at all times.
2. Bar Staff and Door Staff must not store personal items, such as bags, behind the bar. All personal items must be left in the kiosk at the beginning of the shift and collected at the end. No mobile phones may be used during service.

PREMISES SAFETY & PROCEDURES.

A. Fire Safety Awareness

1. All Fire call points should be checked regularly by a member of Management and the dates logged in a diary.
2. The main Fire Alarm should be checked every 3 months and logged in the diary.
3. All members of Staff, including dancers, must be briefed in Fire safety and evacuation procedure every 3 months or as/when staff is rotated.

B. Fire Procedure.

1. In the event of the fire alarm being activated, all effort must be made to evacuate the premises as swiftly and calmly as possible.
2. Door Staff are responsible for the safe removal of all customers from the premises.
3. A Member of Management must report to the Alarm panel to record the zone at which the alarm was sounded. In the event of a false alarm, the buzzer may be silenced and once everything is checked, the panel reset. In the event of a fire, the Management should ensure that all effort is being made to evacuate the building.
4. Performers must not return to the changing room to collect personal items or clothing, Q Club Marshalls will be on hand at the fire exits with blankets.
5. Bar Staff and DJ must leave immediately and convene at the assembly point.
6. In the event of a fire all Lush! personnel should report to Lloyds Bank Car Park (Assembly Point)

RISKS & SOLUTIONS

POTENTIAL RISKS

- i. Under the influence
- ii. Stairs
- iii. Kiosk Door.
- iv. Toilets
- v. Bar Area/Tables.

- vi. Spillages and broken glass
- vii. Stage
- viii. Pole Dancing
- ix. Dancer & Bar Staff Footwear.
- x. Trip Hazards
- xi. Electrical Failure
- xii. Risks outside the club.

A. Customer

1. A drunken customer is a danger to himself and those around him. Customers in an unacceptable state of inebriation must not be admitted to the venue.
2. Lush! Staircase is a trip hazard. Stair carpets should be maintained to a good standard and any frayed sections removed/replaced.
3. Kiosk 'stable' door should be kept locked (bottom half) at all times to avoid the possibility of a customer/member of staff leaning on it and subsequently falling through.
4. Toilet floors must be kept dry to avoid slip hazard. Vomit or other spillage must be cleared immediately upon discovery.
5. Tiles and foot rail at the bar should be kept dry and free of glass/objects. Empty glasses/bottles should be removed from the bar/tables as soon as possible and disposed of in a bin or washed in the dishwasher.

B Lush! Personnel.

1. 2 & 4 as above
2. Empty bottles/glasses should be cleared as swiftly as possible to avoid being knocked off tables or the bar. Special care should be taken when placing glasses in and removing them from the dishwasher. Bottles & broken glasses should be 'placed' in the bottle skip, not dropped as this may cause shards of glass to spring out of the skip.
3. The stage must be kept clear of objects and/or spillages that may prove slippery.
4. The pole is secured to concrete and frequently checked. Dancers must perform only tricks they are practised and confident at. Injuries caused from pole routines must be treated immediately and reported in the accident book. Where risk of serious injury, concussion, muscle tears etc, professional First Aid help must be sought either via ambulance or by transportation to a hospital.
5. The pole should be regularly rubbed with liquid chalk to avoid the possibility of slipping.
6. Performers wearing high heels may catch shoes in the carpet/furniture. To avoid this, dancers must not climb on the furniture and must take care when walking around the club. Similarly, Dancers must be careful when sitting on the high pink poseur stools not to trap their heels in the metal foot rest.
7. Dancers leaving the club temporarily for cigarette breaks must be careful when travelling up and downstairs.
8. Bar staff should wear sensible shoes appropriate to working behind a bar. Flip Flops are not permitted.
9. Spillages and dropped ice behind the bar must be dried immediately to avoid risk of slipping.

10. Dancers & bar staff **must** take care not to put themselves vulnerable positions outside of the club. Dancers should not converse with customers outside the club and must not leave the venue alone. If a dancer is suspicious of a customer waiting for her to finish work, she must report this to a member of staff who will ensure the dancer a chaperone for as long/far as necessary.

C. Premises

1. All internal doors (fire doors) & external doors should be closed (& locked where applicable) at night.
2. All lights, plugs, fans and air conditioning should be turned off at the end of the night.
3. In the event of a power cut, battery operated security lights will ensure there is enough light throughout the building to evacuate/investigate the problem.
4. The Steps leading into the booths are a potential trip hazard. To reduce risk of accident, this step is illuminated with LED lighting. These lights **must** be on every night the club is open.
5. Musical equipment must be shut down at the end of the night and the relevant 'trip' switch flicked. Special care should be taken to keep liquids away from this equipment at all times.
6. Chrome stand barriers should be brought inside at the end of the night and placed in a single file line on the left hand side (in front of push-bar door) to ensure easy access from inside and out.

NOTES/ADDITIONAL COMMENTS:

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Knowle
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EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

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East
Devon

www.eastdevon.gov.uk

Licensing Act 2003 Premises Licence

PLWA0539

East Devon District Council has granted this Premises Licence in accordance with the Licensing Act 2003. The licence authorises the identified premises to accommodate the licensable activities set out in the document and the plan deposited with and approved by the Licensing Authority. Where the sale of alcohol is authorised as a licensable activity the licence identifies the Designated Premises Supervisor.

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Q Club (The)

Elm Grove, EXMOUTH, Devon, EX8 1DJ.

Telephone 01395 265333

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		



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THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors) continued ...			
E. Performance of live music (Indoors)			
	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		
F. Playing of recorded music (Indoors)			
	Monday to Thursday	8:00pm	2:00am
	Friday & Saturday	8:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	8:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		
G. Performance of dance (Indoors)			
	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		



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Premises Licence **PLWA0539**

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
G. Performance of dance (Indoors) continued ...			
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)			
	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		
I. Provision of facilities for making music (Indoors)			
	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		
J. Provision of facilities for dancing (Indoors)			
	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		



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THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
J. Provision of facilities for dancing (Indoors) continued ...			
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Monday to Thursday	7:00pm	2:00am
	Friday & Saturday	7:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	7:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		
L. Late night refreshment (Indoors)	Monday to Thursday & Sunday	11:00pm	2:00am
	Friday & Saturday	11:00pm	3:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve	11:00pm	5:00am
	Bank Holiday Sundays	11:00pm	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Thursday	8:00pm	2:00am
	Friday & Saturday	8:00pm	3:00am
	Sunday	Noon	2:00am
	Non Standard Timings:		
	An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
	New Year's Eve-Except Sundays	8:00pm	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	New Year's Eve-On a Sunday	Noon	Midnight
	And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
	Bank Holiday Sundays	Noon	3:00am
	Applies to Easter, May, Spring & August Bank Holiday Sundays.		



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Licensing Act 2003 Premises Licence

PLWA0539

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Thursday & Sunday	10:00am	2:30am
Friday & Saturday	10:00am	3:30am
Non Standard Timings: An extra one (1) hour added to the end of permitted hours on the Saturday when British Summer Time begins when the normal permitted hours extend beyond 2 am.		
New Year's Eve	10:00am	Midnight
And from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
Bank Holiday Sundays	10:00am	3:30am
Applies to Easter, May, Spring & August Bank Holiday Sundays.		

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Paul Hendrik Kortland [REDACTED]	Byways House, Green Lane, Exton, EXETER, Devon, EX3 0PW. Telephone [REDACTED]
Kimberley Jean KORTLAND [REDACTED]	Byways House, Exton, Exeter, Devon, EX3 0PW. Telephone [REDACTED]

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

John Derek HUTCHINSON	[REDACTED] Telephone [REDACTED]
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PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. EDVE0229	Issued by East Devon
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Licensing Act 2003
Premises Licence

PLWA0539

R. L. Pocock

Rachel L Pocock
Corporate Legal and Democratic Services Manager



Licensing Act 2003 Premises Licence

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ANNEXES

ANNEXE 1 - MANDATORY CONDITIONS

1. a) There shall be no sale or supply of alcohol when there is no designated premises supervisor in respect of this premises licence or at a time when the said premises supervisor does not hold a personal licence or when his/her licence is suspended.
b) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
Source: Section 19 Licensing Act 2003
2. a) Admission of children (under the age of 18) to any exhibition of films must be restricted in accordance with the film classification applied by the body designated as the authority under Section 4 of the Video Recordings Act 1984.
b) Where the film classification is not specified or where the Licensing Authority notifies the licence holder that Section 20(3) (b) applies to the film in question, admission of children must be restricted in accordance with any recommendations made by the Licensing Authority.
Source: Section 20 Licensing Act 2003
3. Any person used to carry out a security activity as required under conditions 5, 8, 20 and 21 of the premises operating schedule (Annexe 2) must be licensed by the Security Industry Authority.
Source: Section 21 Licensing Act 2003

ANNEXE 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. CCTV must be installed, operated and maintained to the satisfaction of the Chief Officer of Police.
2. CCTV recordings must be maintained for one month unless a different period is agreed in writing with the Chief Officer of Police.
3. Notices must be prominently displayed at the entrance to the premises stating that a CCTV system is in operation.
4. The licensable activities authorised by this licence are confined to the areas that are outlined in **RED** on the plan deposited with and approved by the Licensing Authority.

This condition applies to the Ground Floor only

5. Suitable doorstaff must be employed from when the premises are opened until 30 minutes after the end of licensing hours. All doorstaff must be employed at a ratio of 1:75 unless the licensing authority direct otherwise in writing to the premises licence holder. In addition a female door supervisor must be employed if searches are to be conducted on female customers.

These conditions apply to the First Floor Bar Area only

6. The existing digital CCTV system must be extended to cover the First Floor bar area and data to be kept for fourteen (14) days.
7. Should the CCTV equipment become inoperative the Police and Licensing Authority must be informed within seven (7) days and immediate steps to be taken to restore the equipment to full



Licensing Act 2003 Premises Licence

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ANNEXES continued ...

working order.

8. Suitable doorstaff must be employed when licensable activities are taking place from when the premises are opened until 30 minutes after the premises close.
9. When doorstaff are employed a minimum of one doorstaff to be employed on the entrance with a ratio of 1:75 inside the premises.

These conditions apply to the VIP Lounge only

10. In these conditions 'adult entertainment' shall mean striptease, nudity, lap dancing, pole dancing and entertainment of a like kind.
11. No person under the age of 18 must be admitted to the premises, or allowed to remain on the premises, when adult entertainment is being provided.
12. All persons who appear to be under the age of 21 must be required to produce proof of their age.
13. The area within which adult entertainment may be provided is outlined in **BLUE** on the approved plan and must not be provided in any other part of the premises without the approval in writing of the Licensing Authority. In the event of adult entertainment being held in other parts of the premises these conditions shall also apply to that part while such entertainment is being provided.
14. Adult entertainment must only be provided by performers who are hired for that purpose by the premises licence holder.
15. Customers must remain seated whilst adult entertainment is being provided during the performance of a private dance and no customer may participate in the provision of adult entertainment.
16. No person other than performers providing adult entertainment shall be in a state of undress.
17. There must be no physical contact between customers and performers who are providing adult entertainment other than:
 - (a) When money or tokens are placed into the hands of the performer or into an arm band, waistband, garter or similar receptacle at the beginning or end of the performance, or
 - (b) Where that contact is limited to a handshake or kiss at the beginning or end of a performance.
18. The CCTV system required to be provided for the purpose of investigation of crime must cover all areas in which adult entertainment takes place. Recordings must only be provided to an approved officer of a responsible authority for the purpose of ensuring compliance with the conditions attached to this licence. No other photographic, film, recording or transmission of adult entertainment shall take place without the consent in writing of the Licensing Authority.
19. No adult entertainment is to be provided by any person unless they have provided beforehand documentary proof to the premises licence holder that they are over 18 years of age. Copies of such documents must be retained by the premises licence holder.
20. On each occasion that performances of adult entertainment are provided on the premises they must be constantly monitored by a registered door supervisor or CCTV to ensure compliance with these conditions.
21. Three door supervisors must be on duty in this part of the premises at all times when adult entertainment is about to be or is being provided. The words 'this part of the premises' mean VIP Lounge outlined in **BLUE** on the approved plans, the dedicated ground floor entrance door to that part of the premises and the access route between the two.
22. Changing rooms must be provided for performers of adult entertainment and these must be



Licensing Act 2003 Premises Licence

PLWA0539

ANNEXES continued ...

separate from the parts of the premises to which the public have access. No person, other than performers or staff approved by the premises licence holder for that purpose, is to be permitted to enter the changing rooms.

23. On arrival each customer must be shown a copy of the House Rules which have been approved in writing by the Licensing Authority which shall include the following:
- No person under the age of 18 will be admitted to the premises.
 - There shall be no physical contact between the customer and the performer except as provided for by these conditions.
 - Customers may not throw money or otherwise give tokens, tips or gratuities except as provided by these rules.
 - Customers may not participate in or provide adult entertainment.
 - Customers may not photograph, record, film or electronically store any performance of adult entertainment.
 - No customer may accept from or give to any performer their name, any contact details, business card or any note containing the same.
 - Customers must remain seated whilst adult entertainment is being provided during the performance of a private dance and no customer may participate in the provision of adult entertainment.
 - Any customer suspected of doing anything in breach of these House Rules or attempting so to do will be ejected from the premises immediately.
24. A copy of these conditions and the House Rules must be given to each performer prior to their first performance at the premises and must be prominently displayed in the performers' changing room.
25. Performers must not:
- Sit on or climb onto tables or chairs provided for customers
 - Simulate sex acts with each other or customers
 - Remain in a state of nudity after they have completed their performance.

ANNEXE 3 CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

- If the CCTV equipment is inoperative the Licensing Authority must be informed as soon as possible and immediate steps must be taken to restore the equipment to full working order.
- Irresponsible drinks promotions must not be permitted, and the Standards for the Management of Responsible Drinks promotions including Happy Hours produced by the British Beer and Pub Association will be complied with.
- A proof of age policy agreed in writing by the Licensing Authority must be enforced.
- The licence holder must ensure that staff regularly patrol the premises both indoors and out to supervise the orderly conduct of patrons.
- Prominent, legible notices requesting people to leave the premises and the area quietly must be displayed at all exits.
- No person carrying open or sealed bottles or glasses will be admitted to the premises at any time.
- No customers will be permitted to take open containers of alcoholic or soft drinks from the premises.

