

AGENDA ITEM No.



City of Westminster Licensing Sub-Committee

Meeting:	<i>Licensing Sub-Committee</i>
Date:	<i>9th March 2017</i>
Classification:	<i>General Release</i>
Premises:	<i>British Sex Shop, 8 Green's Court London W1F 0HH - 16/05871/LISEXR</i>
Wards Affected:	<i>West End</i>
Financial Summary:	<i>None</i>
Report of:	<i>Director of Public Protection and Licensing</i>

1. Executive Summary

- 1.1 The Council has received an application to renew the sex establishment licence from Mr Nigel Moon for the sex shop at British Sex Shop, 8 Green's Court London W1F 0HH. This report sets out the application details, objections, policy and legal context along with other considerations that the Licensing Sub-Committee ("The Committee") requires to determine this application under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("The 1982 Act") as amended by section 27 of the Policing and Crime Act 2009.

2. Options

- 2.1 That following consideration of the information given orally at the hearing and in writing by the applicants and objectors Members may;
- 2.1.1 Renew the licence in full
 - 2.1.2 Renew with additional special conditions which the Licensing Sub-Committee deem appropriate; or
 - 2.1.3 Refuse the application

3. Application

- 3.1 On 8th June 2016 the licence holder, Mr Nigel Moon, applied to renew the Sex Shop licence for the premises at 8 Green's Court, London W1F 0HH (see **Appendix A1**).
- 3.2 The current licence for the premises is attached at **Appendix A2**. This licence expired on 18th June 2016. Under Paragraph 11(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, as a renewal application was made prior to its expiry, this licence remains in force until the withdrawal of the application or its determination by the Council.
- 3.3 The premises has held a Sex Establishment licence to operate as a Sex Shop since 18th June 2015. The original application was unopposed.
- 3.4 The licence is subject to the Standard Conditions for Sex Establishments, attached at **Appendix B**.

4. Objections

- 4.1 The application has received one objection, attached as **Appendix C**. The objection is from a local resident. As permitted by paragraph 10(17) of Schedule 3 to the Act, personal details of the objector have been redacted. At the time of publication, the objector has not waived their right to anonymity.

Please note: the objector refers to two separate premises operating from this address. The City Inspectors have confirmed that:

"8 Green's Court has been known to the City Inspectors (previously Licensing Inspectors) for a number of years.

The ground floor at 8 Green's Court has held a sex establishment licence since 2011, and a number of visits have been carried out since then to ensure compliance with the relevant standard and special conditions.

The basement of Green's Court is an unlicensed sex shop and enforcement visits have been undertaken using a range of powers.

There is not a known link for us between the operators of the ground floor and the operators in the basement"

- 4.2 On 16th June 2016, a local resident made an objection to the application on the basis that the noise has increased around the area due to staff and visitors at the premises beyond their opening and closing hours. This is a breach of Condition 4 of the licence (see **Appendix A2**).

5. Policy Considerations

- 5.1 On 15 June 1999 the Planning and Transportation Committee decided that, for the purposes of licensing sex establishments (excluding Sexual Entertainment Venues) under the provisions of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, one of the relevant locations should be Soho and the appropriate maximum number of sex establishments within that locality should be 18. As this is a renewal application, determination of this application will not affect this cap.
- 5.2 Within Soho locality as defined there are currently 12 licensed sex establishments. These are:

Licence Holder:	Premises Name:	Address:
Heart of Soho Ltd	Prowler Soho	5-7 Brewer Street
Mr James Poulton	Soho Original Bookshop	12 Brewer Street
Mr Timothy Hemming	Simply Pleasure.Com	31 Brewer Street
Swish Publications Ltd	Super Mags	33 Brewer Street
Harmony Limited	Harmony	99A Charing Cross Road
Simply Pleasure Ltd	Fifty & Dean	50 Old Compton Street
Mr James Poulton	Soho Original Bookshop	121-125 Charing Cross Road
Harmony Limited	Harmony Adult Centre	4-4A Walker's Court
Mr David Edwards	Clone Zone	64 Old Compton Street
Harmony Limited	Harmony Adult Centre	103A Oxford Street
Mr Nigel Moon	British Sex Shop	8 Green's Court
Mr Stephen Squire	Adult World	5 Walker's Court

6. Legal Implications

- 6.1 The Committee using its powers as aforesaid may determine to:
- (a) Renew the application in full
 - (b) Renew with additional special conditions which the Licensing Sub-Committee deem appropriate; or
 - (c) Refuse the application.
- 6.2 Before refusing to renew the licence, the Licensing Authority shall give the licence holder an opportunity to appear before and of being heard by the Committee under Para 10(19) to Schedule 3.
- 6.3 In considering this application, the Licensing Sub-Committee shall have regard to any observations submitted to them by the Chief Officer of Police and any objections that have been received in writing within the 28 day consultation period under Para 10(18) Schedule 3.

- 6.4 The Committee may refuse to renew the licence for the following reasons:
- (a) that the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
 - (b) that if the licence were to be granted 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 of such a licence if he made the application himself;
 - (c) that the number of sex establishments in the relevant locality at the time the application is *made* [determined] is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate, having regard—
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
- 6.5 If the Committee determine to renew the Sex Establishment licence, the licence will be subject to the Standard Conditions for Sex Establishment licences, unless the Committee determines that certain Standard Conditions should be expressly excluded otherwise varied pursuant to Para 13(4) to Schedule 3.
- 6.6 Should the Committee determine to refuse the application for the renewal of a licence under Paragraph 12(3)(a) or (b) Schedule 3, the applicant may appeal to the Magistrates' Court within 21 days beginning with the date on which the applicant is notified of the refusal of his application Para 27(1) Schedule 3, the applicant may appeal to The Magistrates' Court within 21 days beginning with the date on which the applicant is notified of the refusal of his application under Para 27(1) to Schedule 3.

7. Human Rights and Equalities Implications Act

- 7.1 In making a decision consideration will need to be given to the applicants rights under the Human Rights Act 1998 (incorporating the European Convention on Human Rights). The right to peaceful enjoyment of possessions (Article 1 of the First Protocol) and freedom of expression (Article 10) may be relevant. The Home Office Guidance suggests that "local authorities would be well advised to consider whether any interference with the applicants rights under Article 10 or Article 1, Protocol 1 of the European Convention on Human Rights is necessary and proportionate for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of other, or in the case of Article 1, Protocol 1, can be justified in the general interest".

7.2 The Council in its capacity as Licensing Authority has a duty to ensure that all applications for Sex Establishments are dealt with in accordance with its public sector duty under section 149 of the Equalities Act 2010 ("The 2010 Act"). In summary section 149 provides:-

- (1) "A public Authority must, in the exercise of its functions, have due regard to the need to –
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
 - (b) advance of equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
 - (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1)....."

7.3 Accordingly, section 149 (7) of the 2010 Act defines the relevant protected characteristics as age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

7.4 This duty places an obligation on the Committee to ensure that the need to promote equality is taken into consideration with regard to every aspect of its decision making, this will include the circumstances of each individual application, the findings of fact once the application has been considered, including the taking into account of any objection and response the applicant may choose to make.

Appendices

- A1 – Application Form
- A2 – Current Sex Establishment Licence
- B – Standard Conditions for Sex Establishments
- C – Local resident objection
- D – Map of the locality

If you have any queries about this report or wish to inspect any of the Background Papers please contact: Sumeet Anand-Patel 020 7641 2737 or at sanandpatel@westminster.gov.uk.

BACKGROUND PAPERS

- Local Government (Miscellaneous Provisions) Act 1982
- Report to Planning and Transportation Committee of 15 June 1999
- Rules of Procedure governing Sex Establishment Licensing
- Standard conditions for Sex Establishment Premises



City of Westminster

PREMISES MANAGEMENT
LICENSING SERVICE

08 JUN 2016

CITY OF WESTMINSTER

APPLICATION FOR RENEWAL OF A SEX ESTABLISHMENT LICENCE

This form should be completed and forward to the Director of Legal & Administrative Services, City of Westminster, 4th Floor, Westminster City Hall, 64 Victoria Street, London SW1E 6QP (Telephone: 020 7641 1090) with a cheque or postal order for the appropriate fee made payable to the City of Westminster and crossed.

CASH SHOULD NOT BE SUBMITTED.

Fee Paid:	
Date Received:	
Initials:	
Cheque/Receipt No:	
App. No.	

I/We apply for renewal of a licence for the premises in item 2.

1.	(a) Full name and address of applicant(s). (Use separate sheet if applicable)	Name:- NIGEL MOON Address:- 123 KENMORE ROAD KENTON, MIDDX HA3 9EY
	(b) Tel No: (during normal office hours)	0780 987 4066
2.	If the applicant is an individual the following information is to be supplied:-	
	(a) Date of Birth	31. 07. 1972
	(b) Place of Birth	UK.
3.	(a) Name and address of premises.	Name:- BRITISH SEX SHOP Address:- 8 GREEN'S COURT LONDON W1F 0HH
	(b) Tel No:	0780 987 4066
4.	Give details of the total turnover of the business during the 12 months immediately prior to this application.	AWAITS FINAL ACCOUNTS CIRCA £52,000
5.	Give details of the anticipated turnover of the premises for the next 12 months.	AWAITS FINAL ACCOUNTS CIRCA £52,000
6.	Give details of the articles which are to be offered for sale at the premises.	R18 VIDEOS SEX TOYS

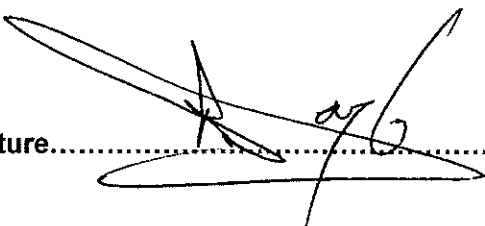
IMPORTANT NOTE: THIS APPLICATION IS OPEN TO INSPECTION BY THE PUBLIC

7.	Has the management of the premises in the absence of the licence holder changed?	Yes/No (If yes, the following details need to be supplied on a separate sheet). (a) Full Name (b) Private Address (c) Date of Birth (d) Place of Birth (e) Four photos of them
8.	(a) Name of newspaper in which application was advertised.	WEST END EXTRA
	(b) Date of newspaper: (See Note B)	3RD JUNE 2016
9.	Date poster exhibited at the premises: (See Note C)	2ND JUNE 2016.
10.	Have you sent a copy of the application to the Metropolitan Police Service as required by the Act. (See Note D)	Yes/ No
11.	Address to which licence and correspondence should be sent.	P.J.L CONSULTANTS LTD UNIT 9 WESTFIELD COURT PORTSMOUTH ROAD SURBITON, AT6 4HG

WARNING

ANY PERSON WHO, IN CONNECTION WITH THIS APPLICATION, MAKES A FALSE STATEMENT WHICH THEY KNOW 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.

I/We (please print full name) PHILIP DOYLE declare that the information given above is true and complete in every respect.

Signature..... 

Date..... 31ST MAY 2016.....

Data Protection Act 1998: This information will only be used for the purposes stated above. Please address any data protection enquiries to the Data Protection Officer, Information Services, 16th Floor, Westminster City Hall, 64 Victoria Street, London SW1E 6QP.





City of Westminster

WARD : West End
UPRN: 010033557010

SEX ESTABLISHMENT LICENCE

The CITY OF WESTMINSTER under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Greater London Council (General Powers) Act 1986

hereby licences MR NIGEL MOON

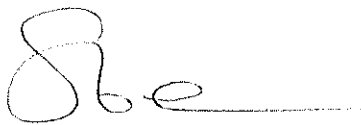
to use the premises BRITISH SEX SHOP
 8 GREEN'S COURT
 LONDON
 W1F 0HH

as a establishment.

This licence is in force up to 18 JUNE 2016

and is granted subject to the Standard Conditions of the Council annexed hereto, to the following additional special conditions (if any) :

None

<p>DATE: 18 JUNE 2015</p>	<p> SIGNED: pp Operational Director - Premises Management</p>
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Schedule of Conditions

Standard Conditions relating to all Sex Establishment premises (excluding Sexual Entertainment Venues)

Standard Condition 3:

The licence or a clear copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises.

Standard Condition 4:

The premises shall not, for any purpose of the licence, be opened before 0900 hours and shall not be kept open beyond 2300 hours.

Standard Condition 5:

- (a) The licensee shall take all reasonable precautions for the safety of the public and employees and except with the consent of the Council, shall retain control over all portions of the premises.
- (b) No poster, advertisement, photograph, sketch, synopsis or programme shall be displayed by or on behalf of the licensee at the licensed premises or at any other public place except in accordance with the Town and Country Planning (Control of Advertisements) Regulations 1992 or any Order amending or replacing the same.
- (c) The premises may not be used under the terms of the licence unless and until any necessary permission and/or consents have been obtained pursuant to the Town and Country Planning Act 1990, the London Building Acts 1930-1939 and the Building Act 1984 or any legislation amending or replacing the same.

Standard Condition 6:

- (a) The licensee or some responsible person over 18 years of age nominated by him in writing for the purpose shall be in charge of, and upon, the licensed premises during the whole time that they are open to the public. Such written nomination shall be continuously available for inspection by a police officer or an officer authorised in writing by the Council.
- (b) The person in charge shall not be engaged on any duties which will prevent him from exercising general supervision and he shall be assisted as necessary by suitable adult persons to ensure adequate supervision. The person in charge should be conversant with these conditions, a copy of which should be held on the premises.
- (c) A notice showing the name of the person in charge of the premises at the time they are open under the licence shall be conspicuously exhibited in a position where it can be easily seen by customers.

- (d) All members of staff shall be easily identifiable as such. If required by the Council in writing the licensee shall ensure that during the hours the premises are open for business every employee or person (apart from, where employed, hostesses or other companions) working in the licensed premises wears a badge of a type approved by the Council indicating his name and that he is an employee or person working in the premises.

Standard Condition 7:

- (a) The licensee shall maintain good order on the premises and in particular shall ensure that none of the following shall take place:
 - (a) Unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971;
 - (b) Indecent behaviour, including sexual intercourse;
 - (c) The offer of any sexual or other indecent service for reward;
 - (d) Acts of violence against person or property and/or the attempt or threat of such acts.
- (b) The licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
- (c) The licensee or any other person concerned in the conduct or management of the premises shall not seek to obtain custom by means of personal solicitation or touting from the premises, immediately outside the premises or in the vicinity of the premises, nor allow the premises to be used by prostitutes.

Note: Soliciting includes the distribution of leaflets unless authorised by a consent under section 4 of the London Local Authorities Act 1994

- (d) No person under the age of 18 shall be admitted to any part of the premises which is used as a sex establishment or be employed in the business of the sex establishment.
- (e) No poster, photograph, sketch, painting or any form of advertisement or display shall be displayed by or on behalf of the licensee on, outside or within the premises in a position where it is visible to the public if the Council regards it as unsuitable for exhibition to the public. If the licensee is notified in writing that the Council objects under this rule to a poster, photograph, sketch, painting, advertisement or display such poster, photograph, sketch, painting, advertisement or display shall be removed or completely obscured from sight.

Standard Condition 8:

- (a) The entrances to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers-by.
- (b) Windows and openings to the premises other than entrances shall either be obscured or with the consent of the Council shall have suspended behind them, in a position and at an

altitude approved by the Council, opaque screens or blinds of a type and size approved by the Council.

Standard Condition 9:

No change of use of any portion of the premises from that approved by the Council shall be made until all necessary consents have been obtained from the Council. For the avoidance of doubt this includes a change from one class of sex establishment (e.g. a sex shop) to a different class of sex establishment (e.g. a sex encounter establishment).

Standard Condition 10:

No alterations (including temporary alterations) shall be made to the premises, without the prior written consent of the Council. This condition shall not require notice to be given in respect of routine maintenance works.

Where works necessitate the premises being closed for a period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the Council of the satisfactory completion of the work.

Standard Conditions relating specifically to sex shops:

Standard Condition 29:

All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the sex shop the respective prices being charged.

Standard Condition 30:

All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.

Standard Condition 31:

No film or video shall be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification or such other authority performing a similar scrutinising function as may be notified to the licensee by the Council, and bears a certificate to that effect and is a reproduction authorised by the owner of the copyright of the film or video film so certified.

Reference - 16/05871/LISEXR

June 13, 2016 Appendix C

PREMISES MANAGEMENT
LICENSING SERVICE

16 JUN 2016

CITY OF WESTMINSTER

Dear Sir,

The British Set Shop in the ground floor and the British Set shop in the basement in No. 8 Greens Court are two different ownership. They open at 7:00 A.M. and close at 4:00 A.M. Sometimes 3:00 A.M.

at 9:00 or 9:30 A.M. the staff of the 2 shops are outside in front of the shop talking loudly.

at around 12:30 P.M. a lot of people outside the shop hanging around the British Set Shop in the ground floor talking to the staff of the British Set Shop basement.

I live in

since 2002. Please Sir could you help us and do something about our problem. We can not open our window because of the noise of talking so loud. I talked to them several times asking them not to talk so loud but still the same. Some people who live here are and temporary but we live here permanent. Please help us to solve our problem.

P.S MOST OF THE TIME STAFF
BRITISH SET SHOP SLEEP INSIDE THE
SHOP.

Respectfully yours,

British Sex Shop

- Westminster Boundary
- Schools
 - Primary
 - Secondary
- Faith Groups
- Live Sex Establishments

Appendix D



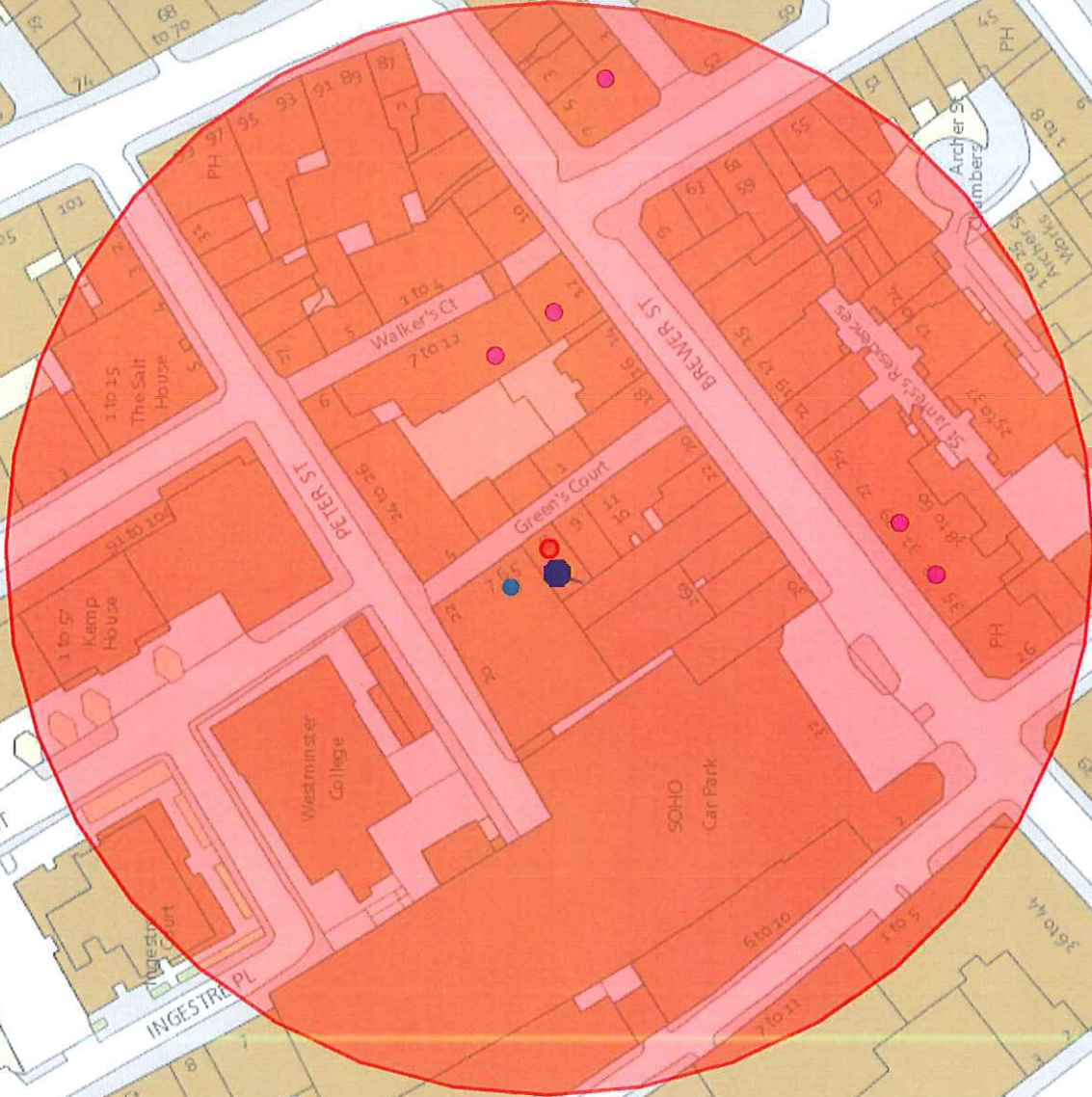
City of Westminster



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Data Source:
Date: 05/01/2017

Appendix D



Premises within 75m of: British Sex Shop, 8 Green's Court			
p / n	Name of Premises	Premises Address	Premises Type
15/07952/LISEVR	The Boulevard	7 - 12 Walker's Court London W1F 0BS	Sexual Entertainment Venue
15/06091/LISEVR	The Box	11-12 Walker's Court London W1F 0ED	Sexual Entertainment Venue
15/08973/LISEVN	The Box	11-12 Walker's Court London W1F 0ED	Sexual Entertainment Venue
16/00459/LISEXR	Prowler Soho	The Shadow Lounge 5 - 7 Brewer Street London W1F 0RE	Sex Shop
16/01214/LISEXR	Super Mags	Ground Floor 33 Brewer Street London W1F 0RU	Sex Shop
15/12161/LISEXR	Simply Pleasure.Com	29 - 31 Brewer Street London W1F 0RU	Sex Shop
15/08960/LISEVN	The Box	11-12 Walker's Court London W1F 0ED	Sexual Entertainment Venue
15/06700/LISEVR	Shadow Lounge	Basement And Part Ground Floor 3-7 Brewer Street London W1F 0RD	Sexual Entertainment Venue
16/01277/LISEXR	Soho Original Bookshop	Basement And Ground Floor 12 Brewer Street London W1F 0SF	Sex Shop