

APPLICATION FOR THE GRANT OF A LICENCE FOR A SEX ESTABLISHMENT

Submitted by: Democratic Services Manager

Portfolio: Safer Communities

Ward(s) affected: Non specific

Purpose of the Report

To consider the application form attached (**Appendix A**) from Mr Todd Woodhouse for the renewal of a Sex Establishment Licence for Lace Gentlemen's Club.

Recommendation

That the Committee consider the application for the renewal of a licence for a sex establishment and make a decision regarding the granting of the licence.

Reasons

The Council's Constitution has delegated authority to the Licensing Committee to grant and renew Sexual Entertainment Venue licences.

1. Background

The Local Government (Miscellaneous Provisions) Act 1982 introduced a licensing regime to control sex establishments. The Council adopted schedule 3 of the Act on 31 March 2010 and the schedule took effect on 3 August 2010. This meant that the Council could control and regulate the operation of certain kinds of Sex Establishment within its area. No Sex Establishment can operate unless it has obtained a licence from the Council. Any licence may contain conditions that restrict how that Sex Establishment may trade.

No representations have been received in relation to the application.

2. Issues

- 2.1 All applications for a grant, renewal or transfer of an existing licence must be referred to the Licensing Committee.
- 2.2 Any licence may be granted subject to conditions imposed by the Council therefore an application should not be refused if conditions could adequately address any area of concern.
- 2.3 All licences are subject to the Council's Standard Conditions for Sex Establishments in addition to any conditions that the Licensing Committee may impose.

3. Options Considered

- 3.1 To Grant the Licence as per the original application.
- 3.2 To Grant the Licence with additional conditions.

- 3.3 To refuse the Licence. (The Committee is under a duty to give reasons whenever an application is refused, whether requested to do so by the applicant or not.)
- 3.4 The Committee must, in making its decision base its conclusions on fairness. Before imposing regulatory constraint on an applicant, it must ensure that the applicant knows of the concerns raised and has been given 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.
- 3.5 All conditions imposed by the Committee must be non-discriminatory, necessary and proportionate.
- 3.6 The decision of the Committee need not be delivered immediately as time may be required for a reasoned decision to be drawn up.

Refusal of a Licence

- 3.7 The Miscellaneous Provisions Act imposes a duty on the Council to refuse to grant a licence to a:-
 - (a) person under the age of 18; or
 - (b) person who is for the time being disqualified following the revocation of a licence; or
 - (c) person, other than a body corporate, who is not resident in the United Kingdom or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
 - (d) body corporate which is not incorporate in the United Kingdom; or
 - (e) person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence of the Sex Establishment, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

Discretionary Grounds for Refusal

The Act allows the Council to refuse to grant or renew a licence on the grounds that:

- (a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason; or
- (b) 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, or
- (c) the number of sex establishments in the relevant locality at the time the application is made or determined is equal to or exceeds the number which the Authority considers is appropriate for that locality; or
- (d) 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 Sex Establishment in the vicinity are put;
 - (iii) to the layout, character or condition of the Sex Establishment, vehicle, vessel or stall in respect of which the application is made
- (e) The Act provides that the appropriate number may be nil. This policy sets the appropriate number of premises at one
- (f) The Council cannot have regard to the morality of sex establishments. Its approval or disapproval of sex establishments is not a matter which can be considered.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- creating a cleaner, safer and sustainable Borough
- creating a healthy and active community

7. **Legal and Statutory Implications**

- 7.1 The guidance states that any applications received prior to 23 August 2011 are to be considered together and any received after 23 August 2011 would have to be considered at a later date. This is the only application received to date and must therefore be considered by the Licensing Committee prior to any others that may still be received.
- 7.2 The date on which the transitional period ends is 23 February 2012 and it is on this date that the new licence will need to be in place and will take effect..

8. **Equality Impact Assessment**

No adverse impact has been identified

9. **Financial and Resource Implications**

None have been identified

10. **Major Risks**

None identified

13. **Earlier Cabinet/Committee Resolutions**

- 13.1 The Council adopted schedule 3 of the Act on the 31st March 2010.

14. **List of Appendices**

Appendix A: Application For a Licence for Sex Establishment

Appendix B: The Councils Policy in relation to the Licensing of Sex Establishments

Appendix C: Guidance issued by the Home Office.