



## Licensing Sub Committee

**Minutes of meeting held in Court Room - Town Hall, Eastbourne on 26 September 2019 at 6.00 pm**

**Present:**

Councillor Robin Maxted (Chair)

Councillors Candy Vaughan and Penny di Cara

**Officers in attendance:**

Danielle Ball (Specialist Advisor - Licensing, Service Delivery), Michele Wilkinson (Lawyer (Housing & Regulatory)) and Elaine Roberts (Committee Officer)

**1 Appointment of Chair**

Councillor Vaughan proposed and Councillor Di Cara seconded that Councillor Maxted be appointed as Chair of this meeting.

RESOLVED: That Councillor Robin Maxted was appointed Chair for the meeting.

**2 Minutes of the meetings held on 1 April 2019**

The minutes of the meetings of the Sub Licensing Committee held on 1 April 2019 were approved and the Chair was authorised to sign them as a correct record.

**3 Apologies for absence / declaration of substitute members**

None received.

**4 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct**

There were none.

**5 Application for the variation of a Sexual Entertainment Venue Licence, Lux, 2a-2b Pevensey Road, Eastbourne, BN21 3HJ**

The Chair welcomed everyone. All parties present introduced themselves and the Chair detailed the procedure to be followed and asked if there were any representations to vary it. There were none.

Counsel for the Applicant, Mr James Rankin, declared he would be speaking on behalf of the Applicant, Mr Forte.

The Specialist Advisor presented a report which outlined the application and highlighted relevant policy considerations.

The Chair invited Members and then the Applicant and Mr Rankin, to ask questions of the Specialist Advisor. There were none.

Mr Rankin, Counsel, representing the applicant, addressed the Sub Committee.

Having noted that no objections to the application had been received, Mr Rankin focussed on addressing considerations pertaining to the Council's own Policy.

Points put forward for consideration included:

- That Mr Forte's history of owning the adjacent nightclub demonstrated a well run establishment.
- That the investment in the nightclub had led to an increase of investment and overall improvement to the area
- That the Police traditionally welcomed such establishments, as high levels of management help to ensure avoidance of public disorder.
- That the variations being requested were in line with national trends and customer expectations around full nudity and that the Council's policy had become outdated in this area.
- That the current licence conditions had deterred national companies who would otherwise have been interested in operating the premises.
- That the club would be appealing to the same customer profile as identified in the Council's Tourism Policy (those aged 35+ with disposable income).
- That historically the 1 metre distance rule between dancer and customer had been shown to be difficult to enforce and difficult to evidence. Mr Rankin suggested that nationally, the stipulation now was for 'no physical contact' and further argued that this 'simpler' version was in line with advice from the Home Office and that the current Licence already had this stipulation (Condition 8) in place.

In summary, Mr Rankin said that the request for variations to the Licence brought the conditions in line with current expectations and norms, as outlined earlier.

The Chair invited Members to ask questions of Mr Rankin.

Councillors asked a number of questions and Mr Rankin replied, referring and expanding on the points of argument laid out in his addressing remarks.

Regarding questions about the variation for full nudity, Mr Rankin explained that his client had been unable to open and create a 'track record' because potential operators were not interested if they were unable to meet market

expectation for full nudity. To operate the premises himself, his client would be faced with the same barrier to business success.

Regarding questions about the loss of the 1 metre rule distance rule, Mr Rankin argued that any safeguarding rule needed to be practical and enforceable to have meaning and cited legal best practice and Home Office advice to argue that the 'No Touching' condition was an easier and clearer cut rule to enforce, which was why other Councils had removed this clause. It was still important to remove the 1 metre distance rule as fewer conditions was best practice and it left the potential for a £20k fine. Mr Rankin confirmed that the 'No Touching' rule would be clearly displayed at the entrance and around inside the premises, including on the tables, and also from staff, including door staff and CCTV.

The Chair invited the Applicant and Mr Rankin to make any closing remarks (maximum 2 minutes). Mr Rankin declared they had covered all the points in their earlier address.

The Sub Committee members retired at 6.42pm to consider and determine the application. Michele Wilkinson as Legal Adviser was in attendance to assist with any legal queries.

Having taken into account all the relevant considerations, the Sub Committee returned to the meeting at 7:12pm and announced the decision as follows:

**RESOLVED:** That the application to vary the licence be approved, as set out in the attached Decision Notice document (Minutes Appendix 1).

The meeting ended at 7.15 pm

Councillor Robin Maxted (Chair)

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## Appendix 1.



### **Decision of Licensing Sub Committee Hearing, 26 September 2019**

#### **Application for the variation of a Sexual Entertainment Venue Licence by F Forte Developments Ltd at LUX , 2a-2b Pevensey Road, Eastbourne, BN21 3HJ.**

The hearing concerned the application for a variation of the Sexual Entertainment Venue Licence by F Forte Developments Ltd at LUX, 2a-2b Pevensey Road, Eastbourne, BN21 3HJ.

The applicant applied, amongst other things, (as outlined in full in the Report at para 2.3) to remove the conditions on the licence which related to full nudity not being permitted and the requirement that there be a minimum distance of one meter between the dancer and the seated customers at all times.

In discharging its functions the Sub Committee considered the relevant legislation, the relevant Home Office guidance, the Council's Sex Establishment and Encounter Policy, and the rules of natural justice.

The Sub Committee noted that no objections had been received to the application.

The Sub Committee considered the application and the oral representations made by the applicant's representative, Mr Rankin, at the hearing. Those representations are outlined in the minutes of the hearing.

In its deliberations the Sub Committee considered what decision would be appropriate from the options outlined in paragraph 5.1 of the Report.

#### **Decision**

The Sub Committee's decision was to make the variations specified in the application and as set out in paragraph 2.3 of the Report.

#### **Reasons for decision**

The Sub Committee accepted the arguments made by the applicant's representative about the potential problems of enforceability in relation to the minimum 1 metre distance between the dancer and the seated customers (current condition 10) and noted that the conditions about no touching (current conditions 8 and 14) would remain. Further the Sub Committee were content with the applicant's arguments made regarding removing the condition which did not allow full nudity (current condition 7).

At the hearing the Chair confirmed that the Sub Committee agreed to make all the variations applied for.

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