

Report to: Licensing Sub Committee

Date: 26th September 2019

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

Report of: Director of Service Delivery

Ward(s): Devonshire Ward

Purpose of report: To determine a variation application of a Sexual Entertainment Venue Licence.

Officer recommendation(s): (1) That the Licensing Sub Committee considers the variation application.

Reasons for recommendations: The Council is responsible for considering variations to Sexual Entertainment Venue Licences.

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1 Introduction & Background

- 1.1 The Scheme for the control of sex establishments by the way of a licensing regime is contained in the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. The Council as the Appropriate Authority is encouraged to have regard to the Home Office Sexual Entertainment Venues Guidance for England and Wales (March 2010) (“the Guidance”), included as **Appendix 1**.
- 1.2 In addition Eastbourne Borough Council adopted its Sexual Establishment and Encounter Policy (“the Policy”) on the 23rd February 2011 and its current version on the 9th December 2015, to which Members should have regard. This is included at **Appendix 2**.
- 1.3 There is currently this one sexual entertainment venue in the Borough of Eastbourne. The licence was initially granted in July 2018, due to the delay in issuing the licence it runs from 6th December 2018 to the 5th December 2019. It is currently not operating as a sexual entertainment venue. Each licence is only valid for a maximum of one year.
- 1.4 This premises has a valid premises licence under the Licensing Act 2003 that

covers:

Recorded music Monday to Saturday 18:00- 04:00
Sunday 18:00- 03:00

Performance of Dance Monday to Saturday 18:00-04:00
Sunday 18:00- 03:00

Supply of Alcohol Monday to Saturday 18:00- 03:30
Sunday 18:00- 02:30

2 The Application

2.1 An application has been received by Eastbourne Borough Council the 'Appropriate Authority', for a variation to a Sexual Entertainment Venue Licence. A valid application was received on the 31st July 2019. A copy of the application is included at **Appendix 3**.

2.2 Sexual Entertainment Venue is defined as any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Relevant Entertainment means:

Any live performance or

Any live display of nudity

Which is of such a nature that, ignoring financial gain, it must be reasonable to 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.)

2.3 The variation application is for the removal/rewording of specific conditions held within the current licence.

Remove condition 7: The only form of entertainment which is approved and may be provided at the premises is striptease entertainment in the form of pole dancing by club dancers only in the following format:

Full nudity is not permitted. The dancer/performers should at all times, wear a G-string or similar piece of clothing which is not transparent, on the appropriate part of the body in order to cover the groin/genital area.

Replace with - The only form of entertainment which is approved and may be provided at the premises is striptease entertainment in the form of pole dancing.

Remove condition 10 - There will be a minimum distance of one meter between the dancer and the seated customers at all times.

Remove condition 15 (as duplicates Condition 8) - There shall be no physical contact between the customer and the dancer before, during or after the performance when the performance is complete. All monetary transactions will

take place at the reception/entrance area and shall be lieu of a ticket, covering the cost of the performance of pole dancing only. Notices outlining this shall be clearly displayed at every table and be on display at the entrance of the premises and in each bar area.

Remove from Performers Code of Conduct condition 26 - Full nudity is not permitted. The dancer/performers should at all times, wear a G-string or similar piece of clothing which is not transparent, on the appropriate part of the body in order to cover the groin/genital area.

Under definitions for both customers and performers:

Remove- Pole dancing- private dancing will not require the placement of a physical pole, but the 1m minimum distance applies

Replace with- Pole dancing- private dancing will not require the placement of a physical pole.

A copy of the current licence is included at **Appendix 4**.

3 Consultation process

- 3.1 As part of the Policy at paragraph 9.1, applications are required to be advertised both on the premises, and in a local newspaper in order to inform the public of the application to vary the licence. The site notice is required to be on display for 21 days and the public have 28 days to make a representation against the application in writing. These requirements have been complied with.
- 3.2 A copy of the application was served on the Chief Officer of the Police. Sussex Police have not made a representation concerning this variation application.
- 3.3 As a result of the consultation process, no representations have been made against this application.
- 3.4 However within the Policy at paragraph 9.3 it is stated that 'All variation applications for sex establishment licences must be referred to the Councils Licensing Sub-Committee for a decision.

4 Considerations

- 4.1 The Policy and the Guidance attached to this report outlines the matters that the Authority should consider when determining the variation. Of particular interest is the 'Special Conditions' section of the Policy condition 25, condition reads:

Full nudity is not permitted. The dancer/performers should at all times wear a G-string or similar piece of clothing which is not transparent on the appropriate part of the body in order to cover the groin/genital area.

Condition 31 reads:

There will be a minimum distance of one meter between the dancer and the seated customers at all times.

5 Options available to Members

5.1 Members may:

- Make the variations specified in the application
- Make such variations as Members think fit
- Refuse the application

6 Appeal

6.1 An applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may appeal within 21 days of being notified of the refusal to the Magistrates Court.

7 Financial appraisal

7.1 The cost of delivering the licensing function is fully covered by the Licensing fees.

8 Legal implications

8.1 The Legal Section considered this Report on 5 September 2019 (IKEN-8542-EBC- MW)

9 Appendices

- Appendix 1 - Home Office Sexual Entertainment Venues Guidance for England and Wales (March 2010)
- Appendix 2 - Sex Establishment and Encounter Policy 2015
- Appendix 3 - Variation application for the Sexual Entertainment Venue licence
- Appendix 4 - Current licence

10 Background Papers

None