

Report to: Licensing Sub Committee

Date: 23rd January 2020

Title: Application for the renewal 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 renewal application of a Sexual Entertainment Venue Licence.

Officer recommendation(s): That the Licensing Sub Committee considers the renewal application and relevant representation.

Reasons for recommendations: The Council is responsible for considering representations against the application to renew a Sexual Entertainment Venue Licences.

Contact Officer(s): Name: Danielle Ball
Post title: Specialist Advisor
E-mail: danielle.ball@lewes-eastbourne.gov.uk
Telephone number: 01323 415333

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 ran from 6th December 2018 to the 5th December 2019. As the application to renew the licence was made before the expiry of the one year licence it is deemed to remain in force notwithstanding that the date has passed, until the withdrawal of the application or its determination. It is currently not operating as a sexual entertainment venue. The premises applied to vary the SEV licence and this was approved by the Licensing Sub-committee on the 26th September 2019.

- 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', to renew the Sexual Entertainment Venue Licence. A valid application was received on the 6th November 2019. It was from F. Forte Developments Ltd, in relation to LUX, for the performance of exotic dancers by male and female dancers (not mixed). The premises to trade seven days a week between 22:00hrs to 04:00hrs. 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 A copy of the current licence is included at **Appendix 4.**

3 Consultation process

- 3.1 The Act requires applicants to advertise both on the premises, and in a local newspaper in order to inform the public of the application. The site notice is required to be on display for 21 days and any one making objections has 28 days to do so. 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 renewal application.
- 3.3 As a result of the consultation process, 1 representation has been made against this application. In line with 6.3 of the Policy any representations that are received against a renewal are referred to be heard by the Licensing Sub-Committee. A copy of the representation is included at **Appendix 5.**

4 Considerations

4.1 The Policy and the Guidance attached to this Report outlines the matters that the Authority should consider when determining the renewal application and these are listed in sections 5 and 6 of the Policy, of particular relevance are sections 5.7 to 5.10 and also 6.2. However, each application will be considered on its own merits.

5 Options available to Members

5.1 Members may:

- Grant the application as requested
- Grant the application to renew with additional or varied terms, conditions or restrictions
- Refuse the application

6 Appeal

6.1 Any applicant who is refused the renewal of the licence or a holder of any such licence who is aggrieved by any term, condition or restriction on the licence may within 21 days of being notified of the decision appeal to the Magistrates' Court. However, this is a restricted right of appeal. Appeals only lie against a mandatory refusal on the basis that the mandatory ground does not apply. Further, the right of appeal does not apply if the licence renewal is refused on the grounds that the number of sexual entertainment venues in the locality equals or exceeds the number the authority considers appropriate, or if the renewal of the licence would be inappropriate having regard to the character of the locality, the use to which any other premises in the locality are put, or the layout, character or condition of the premises themselves. There is no statutory right of appeal to the Magistrates' Court for any objectors. Where an application for renewal is refused the licence shall be deemed to remain in force until the time for bringing the appeal has expired and if such an appeal is brought until the determination or abandonment of the appeal. Where the appeal relates to the imposition of a term, condition or restriction the licence shall be free of it until the determination or abandonment of the appeal.

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 13 January 2020 (IKEN 8883-EBC-MW).

9 Risk management implications

9.1 There are no risks associated with the content of this report.

10 Equalities & Fairness Screening

10.1 An Equality & Fairness Analysis has been produced and is included at **Appendix 6.**

The Committee are reminded of the Public Sector Equality Duty, and in particular the three equality aims, being to:

1. Eliminate discrimination, harassment and victimisation
2. Advance equality of opportunity between people who share a characteristic and those who do not share it;
3. Foster good relations between people who share a characteristic and those who do not share it.

11 Sustainability and/or carbon reduction implications

11.1 There are no sustainability and/or carbon reduction implications associated with this report.

12 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- Renewal application for the Sexual Entertainment Venue licence
- Appendix 4- Current licence
- Appendix 5- Representation
- Appendix 6- Equality and Fairness Analysis

13 Background Papers

None