

Body: General Licensing Sub Committee
Date: 9th July 2018
Subject: Application For a Sexual Entertainment Venue Licence,
Above Embassy, 2a-2b Pevensey Road, Eastbourne, BN21
3HJ
Report Of: Danielle Ball, Specialist Advisor (Licensing).
Ward(s) Devonshire Ward
Purpose To determine an application for a Sexual Entertainment
Venue Licence.
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1.0 **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 has had regard to the Home Office Sexual Entertainment Venues Guidance for England and Wales (March 2010) ("the Guidance"), included as **Appendix 1**.
- 1.2 There is currently one sex shop operating in the Borough of Eastbourne but no sexual entertainment venue.
- 1.3 Eastbourne Borough Council adopted its initial Sex Establishment and Encounter Policy ("the Policy") on the 23rd February 2011 and its current version on the 9th December 2015. This is included at **Appendix 2**.
- 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
- 1.5 Prior to the application being submitted Sussex Police and Eastbourne Borough Council Licensing Specialist undertook a site visit of the proposed location.

2.0 The Application

2.1 An application has been received by Eastbourne Borough Council the 'Appropriate Authority', for a Sexual Entertainment Venue Licence. A valid application was accepted on the 18th May 2018. 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 hours that have now been applied for the performance of exotic dancing are;

Monday to Saturday 22:00-04:00

Sunday 22:00- 03:00

3.0 Consultation Process

3.1 The Local Government (Miscellaneous Provisions) Act 1982 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 the public have 28 days to make a representation against the application in writing. This has been complied with.

3.2 A copy of the application has to be served on the Chief Officer of the Police within 7 days of making the application, this was done. The Authority must have regard to any observations made by the Police. Sussex Police did make a representation concerning this application but the applicant and Police spent some time rewording the conditions. Both parties are now content with the new conditions and these are included at **Appendix 4**. The Police's objection has now been withdrawn provided all the agreed conditions are contained within the licence, if the licence is granted.

3.3 Eastbourne Borough Councils Noise Specialist and the Fire Authority were consulted as part of the application process. No comments were made.

3.4 As a result of the consultation process, one representation has been received within the 28 day consultation period on behalf of the Town Centre Neighbourhood Panel. The valid part of representation concerns the location of the premises. The representation is included at **Appendix 5**.

3.5 **Appendix 6** is a google map to show the proximity between the premises and the shopping centre.

4.0 Considerations

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

5.0 Options available to Members

5.1 Members may:

Grant the licence subject to such terms and conditions, and restrictions as may be specified, or

Refuse the licence.

Any licence that is granted, unless cancelled or revoked, shall remain in force for one year or such shorter period as the Members see fit. If the application is refused the applicant shall be provided with written reasons for the refusal.

6.0 Appeals

6.1 On refusal of an application there is a restricted appeal process. Any applicant who is refused a licence may within 21 days of being notified of the refusal appeal to the Magistrates. However, the right of appeal does not apply where the licence is refused on the grounds that the number of sexual entertainment venues in the area equals or exceeds the number the authority considers appropriate for that locality, or if the grant of the licence would be inappropriate having regard to the character of the area, the nature of other premises in the area, or the layout, character or condition of the premises themselves.

7.0 Legal Considerations

7.1 In determining the application Members must have regard to the grounds set out in the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 paragraph 12, as reflected in section 5 of the Policy.

7.2 The Council's Legal Section considered the contents of this Report on 28 June 2018 (IKEN 7412-MW).

8.0 Human Rights

8.1 Human Rights considerations must be taken into account in considering a licence application, in particular Articles 8 (respect for private and family life, home and correspondence) and 10 (freedom of expression) of the European Convention on Human Rights. As these are qualified rights any interference may be justified if the action is in accordance with the law, is intended to pursue a legitimate purpose for example the prevention of crime and disorder, and is necessary and proportionate.

APPENDICES

1. Home Office Sexual Entertainment Venues Guidance for England and Wales

(March 2010)

2. Sex Establishment and Encounter Policy 2015
- 3: Application for the Sexual Entertainment Venue licence
- 4: The amended conditions as agreed by the Police and the applicant.
- 5: Representation from Town Centre Neighbourhood Panel.
- 6: Street maps showing proximity between Above Embassy and the shopping centre