

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT & NEIGHBOURHOOD SERVICES

TO:	LICENSING APPLICATIONS SUB-COMMITTEE 3		
DATE:	28 AUGUST 2019	AGENDA ITEM:	4
TITLE:	APPLICATION FOR THE VARIATION OF A SEXUAL ENTERTAINMENT VENUE LICENCE -LGL ENTERTAINMENT LIMITED, 108 FRIAR STREET, READING, RG1 1EP		
LEAD COUNCILLOR:	COUNCILLOR JAMES		
SERVICE:	PLANNING DEVELOPMENT & REGULATORY SERVICES	WARDS:	ABBEY
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JOB TITLE:	SENIOR LICENSING AND ENFORCEMENT OFFICER	E-MAIL:	licensing@reading.gov.uk

1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To allow you to consider an application for the variation of a Sexual Entertainment Venue Licence (SEV) made by LGL Entertainment Ltd on 18 June 2019. The operating hours stated within the application are 2100hrs until 0500hrs the following day - 7 days a week. The application should be considered in line with the representations received; the Council's SEV policy and any matters that the committee may deem as relevant as well as in accordance with Schedule 3 of the Local Government Miscellaneous Provisions Act 1982.

2. RECOMMENDATION

- 2.1 That you consider the application as detailed in the report in line with the representations received; the Council's licensing policy in respect of SEV's and any other relevant matters. The application should be considered in accordance with the relevant legislation which, in this instance, is Schedule 3 of the Local Government Miscellaneous Provisions Act 1982.
- 2.2 That when determining this application, a full statement of reasons is given explaining the decision and that any decision taken has due regard to the Public Sector Equality Duty as specified within Section 149 of the Equality Act 2010.

2.3 That the requested extension to permitted hours only take effect when all other permission have been granted.

3. POLICY CONTEXT

- 3.1** Reading Borough Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, which came into effect on the 1 April 1983. This permitted the Council to regulate the number, location, operating terms and conditions for sex establishments (sex shops & sex cinemas).
- 3.2** Reading Borough Council has also adopted the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 which came into force on the 1 September 2010. This permits the Council to regulate the number, location, operating terms and conditions for Sexual Entertainment Venues. This resolution was passed at the Full Council meeting of 29th June 2010 and is attached at **Appendix JC-1** of this report.
- 3.3** On the 27 October 2010, Reading Borough Council approved the policy, terms, fees and conditions for Sexual Entertainment Venues. A copy of the Sexual Entertainment Venue Policy is attached as **Appendix JC-2** to this report.
- 3.4** The Local Authorities (Functions and responsibilities)(England) Regulations 2000 does not confer power to an Authority's Executive to licence Sex Shops and Sex Establishments under Section 2 and schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. As set out in Section 3 of Part 3 of the Council's constitution, the Council has delegated this function to the Licensing Applications Committee, and that Committee has in turn delegated it to the Head of Planning, Development and Regulatory Services. The Council has empowered the licensing sub-committee to determine such matters as stated in its terms of reference.

4. BACKGROUND

- 4.1** Section 27 of the Policing and Crime Act 2009 amended Schedule 3 to the Local Government (Miscellaneous Provisions) 1982 to allow the Licensing Authority to licence "Sexual Entertainment Venues", where "relevant entertainment" is provided before a live audience, for the financial gain of the organiser or the entertainer. "Relevant entertainment" is defined as "any live performance or any live display of nudity" provided solely or principally for the purpose of stimulating any member of the audience.
- 4.2** Prior to the introduction of this new legislation, the only control over sexual entertainment venues was the requirement to obtain a Premises Licence under the Licensing Act 2003, in the same way that a pub or nightclub must be licensed to sell alcohol and provide entertainment. No special provisions were made in the 2003 Act for Sexual Entertainment Venues.
- 4.3** The new legislative controls available to the Licensing Authority strengthen the role that local communities can play in deciding whether a Sexual Entertainment Venue is inappropriate for the locality.

4.4 The legislation brings the licensing of Sexual Entertainment Venues in line with other “Sex Establishments” such as “Sex Shops” and “Sex Cinemas” and recognises that local people have legitimate concerns about where such premises are located.

5. THE PROPOSAL

5.1 LGL Entertainment Limited have applied for the variation of a Sexual Entertainment Venue Licence to permit lap dancing at 108 Friar Street, Reading. They seek to extend their hours to:

Monday to Sunday 2100hrs until 0500hrs. The premises currently has a licence for a sex establish, pursuant to the Local Government(Miscellaneous Provisions) Act 1982 see **Appendix JC3** The premises currently has a licence pursuant to the Licensing Act 2003 which permits regulated entertainment and the sale of alcohol from 1100hrs until 0300hrs with a closing time of 0400hrs.

5.2 A copy of the application form and operating policies are attached as **Appendix JC-4**.

5.3 Consultations have been carried out on the application and a number of representations/comments have been received from:

- (i) Reading Borough Council planning team - **Appendix JC-5**
- (ii) Thames valley Police - **Appendix JC-6**

NB: Paragraph 10 (17) of Schedule 3 of the LGMPA 1982 states that the authority shall not - without the consent of the objector - reveal his/her name to the applicant.

5.4 Options available to the Committee

- (i) That the Licensing Committee approves the application to vary with the Councils standard terms and conditions - **Appendix JC-7**
- (ii) That the Licensing Committee approve the application and may vary the applications operating times and impose additional terms and conditions.
- (iii) That the Licensing Committee refuse the application (see paragraph 8 Legal Implications)

6. CONTRIBUTION TO STRATEGIC AIMS

6.1. Community Safety Implications

6.1.1 The Local Government (Miscellaneous provisions) Act 1982 permits the Authority to control the location of premises that require a Sex Establishment Licence and impose terms, and conditions. When considering applications, the Authority can take into consideration matters such as:

- (i) The suitability of the applicant;
- (ii) The location of the proposed premises;
- (iii) The number and character of premises in a locality;

- (iv) The layout of the proposed premises;
- (v) Any other matter that it deems relevant.

6.2 Sustainability

- 6.2.1 Persons may apply for Sexual Entertainment Venue Licences as such premises do serve a section of the community. However, it is vital that mechanisms are available to allow control of such venues, in order to protect the public; maintain the use of the amenities in the locality and to sustain and promote business in the vicinity.

7. COMMUNITY ENGAGEMENT AND INFORMATION

- 7.1 Community engagement in respect of licensing matters occurs on an ongoing basis through the Neighbourhood Actions Groups, Notice in a local paper, Notice on the premises, Antisocial Behaviour Action Groups and the Reading Borough Council website.

8. LEGAL IMPLICATIONS

- 8.1 Local Authorities have the ability to control the licensing of Sexual Entertainment by adopting Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982. Reading Borough Council has adopted Schedule 3 and has been licensing Sex Shops for some considerable time.
- 8.2 Paragraph 8 of Schedule 3 to the Act provides that a Local Authority may grant or renew a licence for a Sexual Entertainment Venue on such terms and conditions and subject to such restrictions as may be specified.
- 8.3 Paragraph 13 of Schedule 3 to the Act enables a Local Authority to attach standard conditions to a licence for sexual entertainment venues.
 - 8.3.1 Paragraph 18
 - (1) of Schedule 3 permits the holder of a licence under this schedule to apply to the appropriate Authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.
 - (2) the appropriate authority
 - (a) may make the variations specified in the application ; or
 - (b) may make such variations as they think fit; or
 - (c) may refuse the application.
 - (3) The variation that an authority may make by virtue of sub-paragraph (2)(b) above include, without prejudice to the generality of the sub paragraph, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.

9. FINANCIAL IMPLICATIONS

- 9.1 The costs associated with application process will be covered by the application fee and annual fee.
- 9.2 Any appeal against a refusal to grant or any imposed conditions could result in the council having to bear the legal costs to defend its action.

10. EQUALITY IMPACT ASSESSMENT

10.1 Under the Equality Act 2010 (section 149), a public authority must, in the exercise of its functions, have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- Advance quality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11 Licensing Officer comments.

11.1 The application requests an extension in permitted hours, the planning department have indicate that the required permissions to trade are not in place for the hours requested, the existing premises licence issued under the licensing Act 2003 permit's the sale of alcohol until 0300hours and members of the public off the premises by 0400hours, if the committee are minded to grant the application to vary the SEV licence, a condition should be a placed on the licence requiring that all the required permissions are in place before the hours granted can be used.