

NOTICE OF MEETING

MEETING	LICENSING COMMITTEE
DATE:	MONDAY 29 NOVEMBER 2010
TIME:	7.00 pm
VENUE:	BOURGES/VIERSEN ROOMS - TOWN HALL
CONTACT:	Gemma George, Senior Governance Officer Telephone: 01733 452268 e-mail address: gemma.george@peterborough.gov.uk
<i>Despatch date:</i>	<i>19 November 2010</i>

AGENDA

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Committee Members:

Councillors: Allen (Chairman), Thacker (Vice-Chairman), Dobbs, Peach, Nawaz, Todd, Winslade, Swift, Saltmarsh and Khan

Substitutes: Councillors Stokes, Harrington and Hussain

Further information about this meeting can be obtained from Gemma George on telephone 01733 452268 or by email – gemma.george@peterborough.gov.uk

**MINUTES OF A MEETING OF THE LICENSING COMMITTEE
HELD AT THE TOWN HALL, PETERBOROUGH ON 22 JUNE 2010**

Present: Councillor Allen (Chair), Thacker (Vice Chair), Dobbs, Nawaz, Winslade, Stokes, Harrington and Khan

Officers in attendance: Darren Dolby, Regulatory Officer
Colin Miles, Lawyer
Gemma George, Senior Governance Officer

1. Apologies for Absence

Apologies for absence were received from Councillors Peach, Todd, Swift and Saltmarsh.

Councillors Stokes and Harrington attended as substitutes.

2. Declarations of Interest

There were no declarations of interest.

3. Minutes of the Meeting held on 13 April 2010

The minutes of the meeting held on 13 April 2010 were approved as a true and accurate record.

4. Exclusion of Press and Public

In accordance with Standing Orders, Members agreed that agenda item 6 contained exempt information as defined by paragraphs 1 and 2 of Schedule 12A of Part 1 of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information, therefore the press and public were excluded from the meeting for the duration of the item.

5. Appeal of Street Trading Consent – Mr SH

The Regulatory Officer addressed the Committee and advised that the application was for a static street trading consent, for the siting of a new catering trailer located outside of Armadillo Storage, on the minor road adjacent to Westfield Road, Ravensthorpe, Peterborough.

The report detailed the background to the application, including the issues raised and representation received. The Committee was advised that the applicant had submitted the application on 7 May 2010.

Discussions had taken place between the applicant and City Services with regards to the removal of an existing bollard, which protected the road, and the

installation of a replacement bollard which was required to meet the standards acceptable to City Services.

The Regulatory Officer advised Members that, had there not been representations received against the application, a street trading consent would have been issued for a three month trial period and the conditions, detailed in the committee report, which had been verbally agreed, would have been placed upon the consent. If there had been valid complaints against the consent, made within the three month trial period, and these complaints could not be resolved, then consideration would have been given to revoking the consent.

In response to a question from Members, the Regulatory Officer advised that the re-positioning of the bollard had been confirmed and Mr Hussain had verbally agreed to numerous conditions, as previously mentioned, one of which specifically related to the specifications of any new bollards.

In response to a further question from Members, the Regulatory Officer further advised of the specific location of the site and stated that Highways had looked at the application carefully and had agreed that there was sufficient area for a catering trailer unit to be located.

The applicant, Mr Hussain, addressed the Committee and stated that the replacement bollard had been purchased and it was ready to be fitted, but the fitment had been put on hold pending the outcome of the application being heard by the Licensing Committee. Mr Hussain further advised that Armadillo Storage had stated that they were happy for him to trade on the site as long as the entrance was kept clear at all times.

In response to further questions by Members of the Committee, Mr Hussain advised the following points:

- He was trying to stand on his own two feet and the granting of the street trading consent was extremely important to him
- He currently worked in the family business as a funeral director
- He did not see that litter would be a problem and Members were advised that bins would be provided on the site
- The area would be kept clean and tidy. Mr Hussain stated that he too lived in the area and he did not wish to see rubbish laying around
- The generator which had been purchased was a silent one and a box had also been purchased to go over the top of the generator, so this would aid in the reduction of any generator noise
- Noise coming from people using the facilities would be controlled at all times
- The main customer base would be casual passers-by
- A small survey had been conducted in the surrounding area as to the local feeling regarding the siting of the catering trailer. Overall, the feedback which had been received was positive
- With regards to the concerns about the amount of traffic going in and out of the site, Members were informed that there was already a large amount of traffic going in and out of the site due to Armadillo Storage, therefore the introduction of the catering trailer would not substantially increase the traffic flow
- There was not another food van located in the vicinity
- How would the introduction of a food van make the area bad?

The Chair addressed the Committee and stated that if any Member present had an interest in the item they should declare it. There were no declarations from any Member present.

The Regulatory Officer summed up the case for the Licensing Department and advised Members that Mr Hussain had liaised with all of the relevant departments and had gone out of his way to resolve all the issues which had been highlighted, such as the bollards and times of opening. Members were further advised that if there were any issues in the future then the licence could be revoked.

Mr Hussain then summed up his case for appealing against the refusal. Both parties then left the meeting room while the Committee deliberated.

RESOLVED: to grant the application for a three month trial period for a new static street trading consent, during the hours requested in the committee report, those being Monday to Sunday 06.00 to 23.00, subject to the verbally agreed conditions as set out in paragraph 3.3 of the committee report.

Reasons for the decision:

1. If there were subsequent issues with the licence, then it could be revoked at any time
2. The applicant had verbally agreed to numerous conditions which would be implemented
3. The applicant had gone out of his way to resolve all of the issues which had been highlighted against his application
4. The applicant was a professional, responsible person
5. The applicant deserved a chance to earn a living for himself

6. Appeal of Street Trading Consent – Mr UH

Mr UH had appealed against a refusal of his application for a street trading consent.

The Regulatory Officer addressed the Committee and advised Members of the main issues.

Mr UH addressed the Committee and highlighted his reasons for appealing against the refusal.

Questions were posed to both parties by Members and both parties responded and were given the opportunity to sum up their cases.

Both parties then left the meeting room while the Committee deliberated.

RESOLVED: to grant the application for a new mobile street trading consent, subject to any conditions imposed by the Licensing Authority.

Reasons for the decision:

In view of the evidence presented, the Committee did not consider Mr UH to be unfit to hold such a consent.

7.00pm – 8.25pm
Chairman

LICENSING COMMITTEE	AGENDA ITEM No. 4
29 NOVEMBER 2010	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Peter Hiller – Cabinet Member for Housing, Neighbourhoods and Planning	
Contact Officer(s):	Adrian Day, Licensing Manager Darren Dolby, Licensing Regulatory Officer	Tel. 454437 Tel. 453561

LICENSING OF SEXUAL ENTERTAINMENT VENUES

R E C O M M E N D A T I O N S
It is recommended:
<ol style="list-style-type: none"> 1. That the Committee recommends to Full Council to resolve to formally adopt the amendments to the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009. 2. If the Committee decides to adopt the amendment, that officers prepare a draft policy for consultation regarding the regulation of such establishments and report back to Committee prior to adoption of the licensing provisions. 3. That the Committee recommend to Full Council to approve the delegation of functions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to the Licensing Committee or the Executive Director of Operations as outlined in Appendix A.

1. ORIGIN OF REPORT

- 1.1 This report is submitted to Committee following changes in legislation brought about by Section 27 of the Policing and Crime Act 2009 which introduced a new category of sex establishment called 'sexual entertainment venue', which will allow local authorities to regulate lap dancing clubs and similar venues under Schedule 3 of the 1982 Act.
- 1.2 Section 27 gives local authorities more powers to control the number and location of lap dancing clubs and similar venues in their area. These powers are not mandatory and will only apply where they are adopted by local authorities. Where adopted, these provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the Licensing Act 2003 and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to advise members of changes to the law relating to sexual entertainment venues and seek their views on the adoption of the provisions in Peterborough.
- 2.2 This report is for the Committee to consider under its Terms of Reference No. 2.5.1.5 'To monitor and review policy relating to licensing matters and make recommendations to Cabinet or Council as appropriate in relation to any proposed changes'.

3. BACKGROUND

- 3.1 From April 2010 a change in the law was introduced by the Policing and Crime Act 2009. This change gives local communities a stronger say over the establishment and location of lap dancing clubs and similar establishments in their area. It also gives Local Authorities more power to reject applications for lap dancing clubs or impose conditions on the licenses. It brought the licensing of lap dancing clubs in line with other sex establishments such as sex shops and sex cinemas. This change in legislation is aimed at recognising that local people do have legitimate concerns about where lap dancing clubs are located.

Lap Dancing

- 3.2 Lap dancing premises are currently regulated under the Licensing Act 2003 (“the 2003 Act”) and require a Premises Licence under Section 1 of the 2003 Act. There are no special provisions made within the 2003 Act for lap dancing clubs and so applications are submitted in the same way as a pub or restaurant. If an application is submitted to the Licensing Authority for a Premises Licence the only mandatory conditions that apply relate to the sale of alcohol. It is only if relevant representations are made by either an interested party or responsible authority that the Authority can, following either mediation or a hearing, impose other conditions or reject the application. Even then it will only be able to do so where such a step is necessary to promote one of the four licensing objectives as set out in the 2003 Act (the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm).
- 3.3 The powers that are available to Local Authorities to control the establishment of lap dancing premises or impose conditions on their licences are therefore very limited. Following a Department of Culture, Media and Sport (DCMS) consultation with Local Authorities the majority of those that responded felt that their current powers to regulate lap-dancing clubs were inadequate and wanted the Government to intervene.
- 3.4 It has been documented in the media that under the pre-April 2010 law there has been an increase in the number of lap dancing venues and many communities felt powerless to object to the opening of a new lap-dancing club in their area.

From April 2010

- 3.5 Lap dancing venues will now be regulated under the Local Government (Miscellaneous Provisions) Act 1982 (the “1982 Act”). It is up to each Local Authority to decide whether the provisions of the 1982 Act should apply to their area, so it is possible that the new legislation will not necessarily apply all over England and Wales. However, those Local Authorities who resolve to adopt Schedule 3, as amended, will be able to impose a wider range of conditions on lap dancing clubs, e.g. opening hours, adverts and the visibility of the interior to passers by.
- 3.6 Whilst Peterborough City Council have already adopted Schedule 3 to the 1982 Act for the licensing of sex shops, a further resolution is necessary before the provisions introduced by section 27 will have effect in the local authority area.
- 3.7 If the local authority has not made a resolution to adopt the provisions introduced by Section 27 within one year of it coming into force (6th April 2010), it must as soon as is reasonably practicable to do so consult local people about whether they should make such a resolution.
- 3.8 The local authority may upon adoption of the legislation decide on the number of sex establishments or on the number of a particular kind of sex establishment they consider appropriate for the local authority area or a specified area e.g. city centre. The authority may decide nil being an appropriate number for sex establishments or sex establishments of a particular kind. There is no right of appeal against the authority’s decision to adopt the policy of nil establishments.

- 3.9 The local authority will have the ability to set the licence fee for a sexual entertainment venue as they currently do for sex shops, the licence fee is based on a cost recovery basis.
- 3.10 Local Authorities will be able to refuse to grant or renew a Licence on the grounds that such a club would be inappropriate having regard to the character of the area, the use of other premises in the area e.g. schools and churches and they may also have regard for the number of similar premises in the area, if the application is equal to or exceeds the number the Authority considers appropriate.
- 3.11 Similarly, local residents will be able to make written representations to the Local Authorities on these grounds, rather than being limited to make representations based on the four licensing objectives found in the Licensing Act 2003.
- 3.12 Under the new legislation, lap-dancing clubs will be defined as a type of sex establishment classed as “sexual entertainment venues”. “Relevant entertainment” is “any live performance or any live display of nudity provided solely or principally for the purpose of sexually stimulating any member of the audience.”
- 3.13 The legislation allows the local authority to decide what, in its opinion, should be included as relevant entertainment but it is suggested that the following should come under its control:
- Lap dancing
 - Pole dancing
 - Table dancing
 - Strip shows
 - Peep shows
 - Live sex shows
- (this list is not exhaustive)
- 3.14 With the new legislation, there will be no ‘grandfather rights’ for existing lap dancing clubs. If they wish to continue trading they will need to apply for a Licence under the new regime. A transitional period of 12 months will be given to existing lap dancing clubs to apply for a new Licence. However premises, which fail to apply for a new Licence within this period, will face closure.
- 3.15 Existing clubs or those wishing to operate new lap dancing premises will need to make an application for a new licence to the Local Authority and be required to give public notice of the application in a local newspaper and at the premises. Any persons wishing to object to the licensing of such premises must give written notice within a statutory 28 day consultation period stating the general grounds of their objection. Any contested application will be considered before the Authority’s appropriate committee or sub-committee.

4. REASONS FOR RECOMMENDATIONS

- 4.1 This is due to a change in the law regarding the licensing of sexual entertainment venues.

5. IMPLICATIONS

- 5.1 To not adopt the amendment and maintain the current status quo would allow prospective sexual entertainment venues to take advantage of a perceived loophole in the Licensing Act 2003.
- 5.2 To not adopt the amendment to the 1982 Act the authority will have no legal powers to enforce or charge a licence fee for sexual entertainment venues.

6. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

Policing and Crime Act 2009.

Home Office Guide

Local Govt MPA 82

LA 2003

ECHR Article 1 Protocol 1

APPENDIX A

Matter to be dealt with	Licensing Committee	Officers
Application for the grant of a Sex Establishment Licence	X	
Application for renewal of a Sex Establishment Licence		Where no representations have been received/representations have been withdrawn
Application of transfer of a Sex Establishment Licence		Where no representations have been received/representations have been withdrawn
Application for Variation of Sex Establishment Licence		In consultation with the Chair of the Licensing Committee
Imposing of conditions		X
Revocation of Sex Establishment Licence	X	

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