

Report to the Licensing Committee



Date of meeting: 5 April 2011

**Epping Forest
District Council**

**Subject: Local Government (Miscellaneous Provisions) Act 1982 –
Application for Grant of a
Sex Establishment Licence – Shop 72 Borders Lane, Loughton,
Essex, IG10 3QX**

Responsible Officer: Kim Tuckey (01992 564034)

Democratic Services Officer: Adrian Hendry (01992 56 4246)

Decision Required:

To ask members to determine an application for the grant of a Sex Establishment Licence.

Report:

Application for Grant of Sex Establishment Licence

1. The District Council has received an application from Deborah Flack for the grant of a Sex Establishment Licence in respect of the shop premises at 72 Borders Lane, Loughton.
2. A copy of the application is attached together with a plan showing the location of the premises.

Consultation

3. The 1982 Act requires the applicant for the grant of a Sex Establishment to:-
 - (a) give public notice of the application by publishing an advertisement in a local newspaper and by displaying a notice on or near the premises for a period of 21 days; and
 - (b) send a copy of the application to the Chief Officer of Police.
4. In considering an application for the grant of a licence the Sub-committee must have regards to any observations submitted by the police and any validly submitted objections.
5. Any objections to the application must be in writing and received by the Council not later than 28 days after the date of application. The Council has received objections from:
 - Simon Fisher on behalf of Essex Police
 - Councillor Jennie Hart, District Councillor
 - Councillor S Murray, District Councillor and Loughton Town Councillor
 - Loughton Town Council
 - 60 letters of objections and emails community groups, church groups, schools and

residents

- Objections from those persons who did not give consent to their names and addresses being revealed

Copies of the objections received are attached to this report.

There were other objections submitted after the consultation period had closed.

Grounds for Refusal

6. The Act sets out the grounds upon which an application for the grant of a licence **must** be refused and upon which a grant application **may** be refused.

7. A licence **must** not be granted:

- (a) to a person under 18; or
- (b) to a person who has been disqualified from holding a licence; or
- (c) to a person not a resident of the United Kingdom or was not so resident throughout the period of six months immediately preceding the application ; or
- (d) to a Company not incorporated in the United Kingdom; or
- (e) to a person who has been refused a licence within the last 12 months a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal..

8. An application for the grant of a licence **may** be refused on the following grounds:

- (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason; or
- (b) that if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- (c) that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
- (d) that the grant or renewal of the licence would be inappropriate, having regard –
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

9. The Act specifically provides that for the purposes of (c) above **nil** may be an appropriate number.

Relevant Locality

10. In relation to grounds (c) and (d) above, the Act defines the “relevant locality” as the locality where the premises are situated.

Comments on the Application

11. Insofar as officers are aware, none of the mandatory grounds for refusal set out in paragraph 7 above are applicable in respect of this application.

Conditions

12. Deborah Flack has stated in her application that she wishes to open between 10 am and 6pm on Monday to Saturday. The Act provides that the licence shall remain in force for one year or such shorter period as the authority may decide unless previously or cancelled or revoked.

13. The Council can impose terms and conditions and impose restrictions on the licence.

Appeals

14. If the application is refused based upon the discretionary grounds 12 (3) (a) and (b) of The Act (set out in paragraph 8 (a) and (b) of this report) the applicant may appeal within 21 days to the Magistrates Court.

15. The Act provides for no appeal against refusals under grounds 12 (3) (c) and (d) of the Act (set out in paragraph 8 (c) and (d) of the report) although decisions under these grounds have been challenged in the Courts by way of judicial review on the ground that the decision was not properly taken or that there was some procedural irregularity or breach of the rules of natural justice.

16. If members decide to refuse the application they shall, if required to do so by the applicant, give her a statement in writing of the reasons for the decision within 7 days of the request to do so.

Resource Implications:

None

Legal and Governance Implications:

None

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

Statutory consultation undertaken. The results have been set out above.

Background Papers:

Application for grant of licence for a sex establishment
Plan of the surrounding area
Letters of objection