

## **Report to the Licensing Committee**



**Date of meeting:** 5<sup>th</sup> July 2011

**Epping Forest  
District Council**

**Subject:** Local Government (Miscellaneous Provisions) Act 1982 –  
Application for Grant of a Sex Establishment Licence – Unit E11,  
The Seedbed Centre, Langston Road, Essex

**Responsible Officer:** Kim Tuckey (01992 564034)

**Democratic Services Officer:** Adrian Hendry (01992 564246)

### **Decision Required:**

**To determine an application for the grant of a Sex Establishment Licence.**

### **Report:**

#### **Application for Grant of Sex Establishment Licence**

1. On 16<sup>th</sup> May 2011 the District Council received an application from Ms Debbie Flack for the grant of a Sex Establishment Licence in respect of premises at Unit E11 The Seebad Centre, Langston Road, Essex.
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.
6. A public notice was displayed at the premises and an advert was posted in the local paper
7. There have been no objections to the application.

## Grounds for Refusal

8. 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.

9. 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.

10. 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.

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

## Relevant Locality

12. 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

13. Insofar as officers are aware, none of the mandatory grounds for refusal set out in paragraph 9 above are applicable in respect of this application.

## **Conditions**

14. 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.

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

16. The Applicant is aware that the Licensing Committee has recently approved a new policy and conditions that are to be attached to a licence but that these have not yet been adopted by the Council. She has agreed that these conditions could be attached to her licence if the sub-committee requires.

## **Appeals**

17. If the application is refused based upon the discretionary grounds 12 (3) (a) and (b) of the Act (set out in paragraph 10 (a) and (b) of this report) the applicant may appeal within 21 days to the Magistrates Court.

18. The Act provides for no appeal against refusals under grounds 12 (3) (c) and (d) of the Act (set out in paragraph 10 (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.

19. 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:**

- **Local Government (Miscellaneous Provisions) Act 1982**
- **Epping Forest's Sexual Entertainment Venue and Sex Establishment Licensing Policy**

### **Attached Documents**

- **Application for grant of licence for a sex establishment**
- **Plan of the surrounding area**
- **Draft Licensing Policy**