

Report to the Licensing Sub Committee



Report reference:

Date of meeting: **17th October 2013**

**Epping Forest
District Council**

Subject: **Local Government (Miscellaneous Provisions) Act 1982 –
Application for Transfer of a Sex Establishment Licence – Shop**

Responsible Officer: **Nuala Clark (01992 564340)**

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

Decision Required:

To determine an application for a transfer of a Sex shop licence.

Report:

Application for Grant of Sex Establishment Licence

1. The District Council has received an application from Mr David Bales of 105 Epping New Road Limited for the grant of a Transfer of a Sex Shop Licence in respect of the premises at 105 Epping New Road Buckhurst Hill Essex IG9 5TQ.
2. The consultation period began on the 23rd August 2013 and ended on 12th September 2013.

A copy of the application is attached together with a copy of the public notice.

3. The authority did receive responses from Essex Police and Children's Safeguarding Service, who stated that they also had no representations to make, 2 other objections were received from local residents, all are attached to this report.

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.

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.

The Authority’s policy provides that there is a general presumption against the granting of licences for premises which are:

- Adjacent to, or in the vicinity of places of worship; or
- Adjacent to, or in the vicinity of schools, nurseries or other educational establishments; or
- Adjacent to, or in the vicinity of public buildings or community facilities; or
- Adjacent to, or in the vicinity of family residential areas; or
- Adjacent to, or in the vicinity of a family leisure or shopping areas; or
- Adjacent to, or in the vicinity of public buildings or community facilities; or
- In an area earmarked for regeneration of a particular kind;

and access routes to and from the same.

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. The Act provides that the licence shall remain in force for one year or such shorter period as the authority may decide unless previously cancelled or revoked.

13. The Council can impose terms and conditions and/or 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:

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

Attached Documents

- **Current Sex Shop Licence**
- **Application for transfer existing licence for a sex shop establishment**
- **Copy of Newspaper advert**
- **Letters from Essex Police and the Children's Safeguarding Service confirming no objection to the application.**
- **Letter of objection from Mr & Mrs Levene local residents.**
- **Letter of objection from Mr F Solarz local resident**
- **Plan of the surrounding area**