

LICENSING SUB-COMMITTEE



Report subject	Wiggle, 159 Old Christchurch Road, Bournemouth, BH1 1JS
Meeting date	5 June 2024
Status	Public Report
Executive summary	<p>Wellhot Limited have applied for the renewal of the Sexual Entertainment Venue Licence to permit relevant entertainment to continue for a further twelve-month period at the premises.</p> <p>The Licensing Authority has received 1 objection.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members are asked to decide whether to:-</p> <ul style="list-style-type: none"> a) Grant the application for renewal as made; or b) Refuse the application for renewal. <p>Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak.</p> <p>Members must give full reasons for their decision.</p>
Reason for recommendations	<p>The Council has adopted the Local Government (Miscellaneous Provisions) Act 1982, as amended; therefore, subject to limited exceptions and exemptions, or in the absence of a waiver, premises offering relevant entertainment require a SEV licence to operate in the BCP Council area.</p> <p>There is a presumption in the legislation that applications for a licence will be granted unless there is a statutory ground for refusal. Some refusal grounds require the Council to refuse an application (mandatory grounds for refusal) and some grounds enable the Council to refuse an application but do not require the Council to refuse (discretionary grounds for refusal).</p> <p>Any decision to refuse the renewal of the licence must be relevant to one or more of the following grounds:-</p> <p><u>Mandatory Grounds of Refusal</u></p> <p>A licence shall not be granted:</p> <ul style="list-style-type: none"> a) to a person under the age of 18; or

- b) to a person who is disqualified by reason of prior revocation of a licence;
- c) to a person, other than a body corporate, who is not resident in an EEA state or was not so resident throughout the period of six months immediately preceding the 4 July 2011;
- d) to a body corporate which is not incorporated in an EEA state, or
- e) to a person who had, 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.

Having considered the information provided through the application process, the senior licensing officer advises that none of the mandatory grounds for refusal appear to apply in this case.

Members should focus their considerations on whether one or more of the four discretionary grounds for refusal set out in paragraph 12(2)(a) arise in respect of this application.

Grounds (a) and (b)

(a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(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;

The application process requires applicants to provide comprehensive information about any convictions and a range of other information that may be relevant to consideration of grounds (a) and (b). In regard to this applicant there is no evidence of convictions deemed to be unspent under the Rehabilitation of Offenders Act, cautions, discrimination cases or pending allegations at the date the application was made that would cast any doubt on the suitability of the applicant to hold the licence by reason of having been convicted of an offence or for any other reason.

Ground (c)

(c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;

BCP Council do not currently have a Sex Establishment Policy which sets or limits the number of sex establishments thought appropriate in the BCP area.

	<p><u>Ground (d)</u></p> <p>(d) that the grant or renewal of the licence would be inappropriate, having regard—</p> <p>(i) to the character of the relevant locality; or</p> <p>(ii) to the use to which any premises in the vicinity are put; or</p> <p>(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.</p> <p>BCP Council do not currently have a policy which sets out locations or vicinities which would be considered appropriate or inappropriate for sex establishments. This premises has been operating as a lap dancing club in this town centre location since 2006.</p> <p>Where objections have been received and the concerns have not been resolved through mediation between all parties, the Scheme of Delegation set out in the Council's Constitution states that these applications should be dealt with by the Licensing Sub-Committee.</p>
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Portfolio Holder(s):	Councillor Kieron Wilson – Housing & Regulatory Services
Corporate Director	Jillian Kay – Wellbeing
Report Authors	Sarah Rogers – Principal Licensing Officer
Wards	Bournemouth Central
Classification	For Decision

Background

1. An application for the renewal of a Sexual Entertainment Venue (SEV) Licence was made on 28 February 2024 to permit the premises to continue providing relevant entertainment for a further twelve-month period. A copy of the application is attached at Appendix 1.
2. A map attached at Appendix 2 shows the location of the premises.
3. The premises have operated as a lap dancing club since 2006. This has consistently been with the same premises operator. A copy of the current SEV licence is attached at Appendix 3.
4. The renewal application for the SEV Licence is required to be able to provide the adult entertainment at the premises which is referred to as “relevant entertainment” in the legislation.
5. Relevant entertainment is defined as “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)”.
6. In the case of a woman “display of nudity” means the display of her nipples, pubic area, genitals or anus and, in the case of a man; it means exposure of his pubic area, genitals or anus.

Consultation

7. Applicants must give notice of the application by publishing an advertisement in the local newspaper together with notice displayed on the premises for a period of 21 days.
8. In considering this application the Council must have regard to any observations submitted to them by Dorset Police and any objections of which notice has been sent to them under Schedule 3, paragraph 10(15) of the 1982 Act, which provides that any objections must be made in writing within 28 days of the application. Objections must be relevant and should not be based on moral grounds or values.
9. At the time of writing no comments have been received from Dorset Police but 1 objection to the renewal have been received, which is attached at Appendix 4 with further correspondence.
10. The applicant has responded to the objector and a copy of their submission is attached at Appendix 5.

11. As the renewal application had been submitted, before the current licence expired, the premises have been permitted to continue to operate under the terms of its current licence until determination of this renewal application.

Options Appraisal

12. Before making a decision, Members are asked to consider the following matters:
- The submissions made by or on behalf of the applicant.
 - The objection received.
 - Section 27 of the Policing and Crime Act 2009, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and appropriate Regulations.

Summary of financial implications

13. There are no financial implications.

Summary of legal implications

14. If the application for renewal is refused the applicant may appeal the decision to the Magistrates' Court, unless the application was refused under discretionary grounds (c) or (d) above at "Reasons for Recommendation", in which case the applicant can only challenge the refusal by way of judicial review.
15. It should be noted that BCP Council's Sex Establishments Licensing Policy was quashed by way of a Judicial Review in February 2022. Essentially the Court were of the view that some consultation responses had been considered by the Council as based purely on moral views and not equality. No decision has yet been taken whether a new policy is to be developed by the new Licensing Committee.
16. Local Authorities are not bound to have a Sex Establishment Policy and the existence of a policy does not prevent an application being considered on its merits and in accordance with the legislation.

Summary of human resources implications

17. There are no human resource implications.

Summary of sustainability impact

18. There are no sustainability impact implications.

Summary of public health implications

19. There are no public health implications.

Summary of equality implications

20. The Council is under a duty in section 149 of the Equality Act 2010 to have due regard to the matters set out in relation to equalities when exercising the function of determining this renewal application (Public Sector Equalities Duty). Accordingly, Members must promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
21. Each Member must therefore, have due regard to the need to -

eliminate discrimination, harassment, victimisation and any other conduct prohibited in relevant equalities legislation;

advance equality 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 characteristic and persons who do not share it.

22. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –

- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
- (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Summary of risk assessment

23. There is no risk assessment implication.

Background papers

Home Office Guidance –

<https://webarchive.nationalarchives.gov.uk/ukgwa/20100413151441/http://www.crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

Appendices

- 1 – Copy Application
- 2 – Location Plan
- 3 – Current SEV Licence
- 4 – Copy Objection
- 5 – Applicant's Submission