

AGENDA



For a meeting of the
LICENSING COMMITTEE
to be held on
FRIDAY, 3 DECEMBER 2010
at
10.00 AM
in the
COUNCIL CHAMBER, COUNCIL OFFICES, ST. PETER'S HILL, GRANTHAM
Beverly Agass, Chief Executive

Committee Members:	Councillor Pam Bosworth (Chairman), Councillor Christine Brough, Councillor Robert Broughton, Councillor George Chivers, Councillor Mike Exton, Councillor Reginald Howard, Councillor Mrs Margery Radley, Councillor Bob Russell, Councillor Frank Turner (Vice-Chairman), Councillor Graham Wheat and Councillor Mike Williams
Support Officer:	Lucy Bonshor 01476 40 61 20 l.bonshor@southkesteven.gov.uk

Members of the Committee are invited to attend the above meeting to consider the items of business listed below.

- 1. APOLOGIES**
- 2. DECLARATIONS OF INTEREST**
Members are asked to declare an interest in matters for consideration at the meeting.
- 3. MINUTES OF THE MEETING HELD ON 5TH NOVEMBER 2010**
(Enclosure)
- 4. ADOPTION OF SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED BY SECTION 27 OF THE POLICING AND CRIME ACT 2009**
Report ENV508 Community Safety and Licensing Service Manager
(Enclosure)
- 5. ANY OTHER BUSINESS WHICH THE CHAIRMAN, BY REASON OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT.**

MINUTES

LICENSING COMMITTEE
FRIDAY, 5 NOVEMBER 2010



COMMITTEE MEMBERS PRESENT

Councillor Pam Bosworth (Chairman)
Councillor Christine Brough
Councillor Robert Broughton
Councillor George Chivers
Councillor Mike Exton
Councillor Reginald Howard

Councillor Mrs Margery Radley
Councillor Bob Russell
Councillor Frank Turner (Vice-Chairman)
Councillor Graham Wheat
Councillor Mike Williams

OFFICERS

Solicitor (Paul Rushworth)
Licensing Officers (Richard Etherton and Pam Robinson)
Democratic Officer (Lucy Bonshor)

17. DECLARATIONS OF INTEREST

None declared.

18. MINUTES OF THE MEETING HELD 24TH AUGUST 2010

The minutes of the meeting held on 24th August were agreed as a record of the decisions taken.

EXCLUSION OF THE PUBLIC

In accordance with Section 100A(4) of the Local Government Act 1972, it was resolved that the public be excluded because of the likelihood in view of the nature of business to be transacted that if members of the public were present there would be disclosure to them of exempt information as defined in paragraphs 1 and 2 of Schedule 12A of the Act.

19. APPLICATION FOR A HACKNEY CARRIAGE DRIVER'S LICENCE

Decision:-

To refuse the application for a Hackney Carriage Licence, as having regard to the applicant's previous convictions and his failure to notify the

convictions promptly to the Licensing Authority, the Committee do not feel that the applicant is a fit and proper person to hold such a licence, pursuant to Section 59 of the Local Government Miscellaneous Provisions Act 1976.

The Licensing Officer, Mr Etherton introduced exempt report number ENV504 to Members and provided a background to the application and a summary of offences for which the driver had been convicted. He informed the committee that they had two options either to grant the hackney carriage license or reject the application as the applicant was not a “fit and proper” person to hold a license under Section 59 of the Local Government Miscellaneous Provisions Act 1976. He also referred Members to the guidance relating to convictions found in Department of Transport Circular 2/92 and Home Office Circular 13/92 which had been circulated with the report.

The applicant then presented his case.

Members then asked the Licensing Officer points of clarification following which the Licensing Officer asked the applicant questions pertaining to the offences committed.

The applicant and Licensing Officers then left the meeting.

Members considered the report and legal advice relating to the ‘fit and proper person’ test. It was proposed and seconded that the application be refused. On being put to a vote, this was unanimously carried.

The Licensing Officers and the applicant returned to the meeting and were advised of the decision, as noted above. The Solicitor advised that the decision was appealable to the Magistrates’ Court within twenty-one days from the date of the written decision.

The applicant then left the meeting.

A short discussion then followed about the procedures in place for receiving items from hackney carriage and private hire drivers at area offices and the Grantham office. The Licensing Officers advised the committee that this was something that was raised on a regular basis as problems had been encountered in the past. Members agreed that the issue needed to be addressed at an operational level and they suggested that the Head of Service for Licensing approach the Portfolio Holder responsible for Licensing (Councillor Auger) to see what could be done to address the situation.

20. CLOSE OF MEETING

The meeting closed at 10.45am.

REPORT TO LICENSING COMMITTEE

REPORT OF: Community Safety & Licensing Manager

REPORT NO: ENV 508

DATE: 3 December 2010

TITLE:	REGULATION OF SEXUAL ENTERTAINMENT VENUES	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Adoption of statutory provision	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	CLLR RAY AUGER – ACCESS & ENGAGEMENT	
CONTACT OFFICER:	PAM ROBINSON – 01476 406138 p.robinson@southkesteven.gov.uk	
INITIAL IMPACT ASSESSMENT:	N/A	Full impact assessment Required:
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Local Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Policing and Crime Act 2009 Local Government (Miscellaneous Provisions) Act 1982 Licensing Act 2003	

1. RECOMMENDATIONS

1.1	That the Licensing Committee recommends to Full Council to resolve to formally adopt the amendments to the provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009, and
1.2	That where a resolution is made to adopt the new provisions, the statutory notice of the resolution is published with the specified time periods as outlined within this report, and
1.3	That the date for the new provision to take effect should be at least one month from the date of the formal resolution of the adoption.

2. PURPOSE OF THE REPORT/DECISION REQUIRED

2.1	The purpose of this report is to assist the Committee in their decision whether or not to recommend to Council to adopt the amendments to the provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by Section 27 of the Policing and Crime Act 2009 concerning 'Sexual Entertainment Venues'.
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3. DETAILS OF REPORT (SUMMARY – USE APPENDICES FOR DETAILED INFORMATION)

3.1 On 1 February 1983, the Council adopted the provision of Part II Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 relating to the Control of Sex Establishments.

3.2 The Licensing Act 2003 introduced Premises Licences and Club Premises Certificates that superseded the Public Entertainment Licences and were capable of regulating 'adult entertainment' by means of compliance with the four licensing objectives.

3.3 On 6 April 2010, the provisions contained in section 27 of the Policing & Crime Act 2009 relating to sexual entertainment venues came into effect.

3.4 These provisions amend Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 by introducing a new category of sex establishment called a 'sexual entertainment venue' into the existing legislation. These venues are defined to include:

- a Lap dancing
- b Pole dancing
- c Table dancing
- d Strip shows
- e Peep shows
- f Live sex shows

A licence will be required under this legislation for these specific activities. These provisions will apply to new venues and to existing venues that are currently licensed for these particular activities under the Licensing Act 2003.

3.5 The wider powers available under the 1982 Act include the power to impose conditions e.g. relating to opening hours, adverts and the visibility of interiors to passers by. Councils will also be able to refuse to grant or renew a licence on the grounds that such an establishment would be inappropriate having regard to the character of the area, the use of other premises in the area (e.g. local schools).

3.6 We currently have one premise that would be captured under the new provisions.

3.7 The grounds for objecting to a licence under the new legislation are wider than currently applies under the Licensing Act 2003.

3.8 If it is decided to adopt the amendments, the local authority must pass a resolution specifying that the amendments made by Section 27 to Schedule 3, shall apply to their area and the day on which it shall take effect in the local authority area.

The specified date must be at least one month after the day on which the resolution was passed.

3.9 The local authority will be required to publish a statutory notice that a resolution has been passed which explains the effect of the amendments to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, in a local newspaper circulating in their area in two consecutive publications.

3.10 There is no statutory duty to consult on the adoption of the amendments made by Section 27 to Schedule 3.

3.11 Premises that provide relevant entertainment on an infrequent basis are not classed as sexual entertainment venues. These are defined as:

a No relevant entertainment has been provided on more than 11 occasions within a 12 month period;

b no such occasion has begun within a period of one month beginning with the end of the previous occasions; and

c no such occasion has lasted longer than 24 hours.

3.12 Timescale

A resolution adopting the amended 1982 Act provisions must state the date when it comes into effect, which must be at least one month after the resolution. It would be possible for the Council to pass the appropriate resolution at the meeting on 3 March 2011. The resolution must be advertised in a local newspaper for two consecutive weeks, with the first advertisement being published at least 28 days before commencement. To facilitate this advertising, it would be recommended that the resolution has effect from 8 April 2011.

4. OTHER OPTIONS CONSIDERED

4.1 NOT TO ADOPT

If the Council does not adopt the amendments made by Section 27 to Schedule 3, the local authority would not have as much power to control the number and location of lap dancing clubs and similar venues in their area. Where adopted, the provisions will allow local authorities to refuse an application on potentially wider grounds than is permitted under the 2003 Act and will give local people a greater say over the regulation of lap dancing clubs and similar venues in their area.

5. RESOURCE IMPLICATIONS

5.1 The adoption of the provision would need to be advertised in local newspapers.

5.2 The costs involved would be met from existing resources.

6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)

None

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

N/A

8. CRIME AND DISORDER IMPLICATIONS

None

9. COMMENTS OF SECTION 151 OFFICER

I have no specific financial comments to make in respect of this report.

10. COMMENTS OF MONITORING OFFICER

The amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as introduced by Policing and Crime Act 2009 has the effect of extending the types of venues covered by the 1982 Act. Should the Council decide to adopt the provisions introduced by the 2009 Act, such venues must be regulated by licence by the District Council. Council delegates licensing functions to the Licensing Committee. The adoption of the provisions of the legislation must be considered by and can only be effected by full Council.

11. COMMENTS OF OTHER RELEVANT SERVICE MANAGER

Health & Safety – No comments

Planning – No comments received so far

12. APPENDICES:

None