

REPORT TO ALCOHOL, ENTERTAINMENT AND LATE NIGHT REFRESHMENT COMMITTEE

REPORT OF: Mark Jones, Community Safety & Licensing Manager

REPORT NO: CSL007

DATE: 27 April 2012

TITLE:	Application for a Sexual Entertainment Venue Licence Taboo Gentlemen's Club, 99 Westgate, Grantham	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Councillor Paul Carpenter, Engagement and Corporate Services Portfolio holder.	
CONTACT OFFICER:	Pam Robinson, Senior Licensing Officer p.robinson@southkesteven.gov.uk Tel: 01476 406138	
INITIAL IMPACT ASSESSMENT:	Carried out and Referred to in paragraph (7) below N/A	Full impact assessment Required: N/A
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	SKDC – SEX ESTABLISHMENTS PROCEDURES (Appendix 1)	

1. RECOMMENDATIONS

- 1.1 That the Committee decide whether to approve the application for a Sexual Entertainment Venue Licence in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009)
- 1.2 When determining the application the Committee shall have regard to:
 - i The authority's sex establishment procedures.
 - ii The Human Rights Act.
 - iii SKDC's regulations prescribing standard conditions. **Appendix 2**
 - iv Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.
 - v Representations from interested parties.

1.3 The options open to the Committee are:

- To grant the application as applied for.
- To grant the application with modifications and/or additional conditions.
- Refuse the application. If, having considered the application the committee decides to refuse it, it must provide the applicant with the reasons for the decision in writing.

2. PURPOSE OF THE REPORT

2.1 To assist the Committee in determining the outcome of the application for a sexual entertainment venue licence for Taboo Gentlemen's Club, 99 Westgate, Grantham

3. DETAILS OF REPORT

Background

3.1 The Policing and Crime Act 2009 amends Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to permit the Licensing Authority to license "sexual entertainment venues" (SEVs), where "relevant entertainment" is provided before a live audience for the financial gain of the organiser or the entertainer.

3.2 Sexual entertainment had been classed as regulated entertainment for the purposes of the Licensing Act 2003 since its introduction in November 2005. In instances where sexual entertainment will take place on more than 11 occasions in any year, it is now included in the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

3.3 The Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 with regard to Sexual Entertainment Venues at the meeting held on 3 March 2011.

3.4 Any existing operators who, immediately before 8 April 2011, held a premises licence or club premises certificate under which it was lawful to provide relevant entertainment under the Licensing Act, and who lawfully used the premises as an SEV under that licence, (or were undertaking preparatory work to use the venue in that way), are allowed to continue to provide relevant entertainment until 8 April 2012 or the determination of any application they have submitted before that time (including any appeal against the refusal to grant a licence), whichever is later. This applicant is an existing operator.

3.5 Each application will be determined on its own merits. However, applications may only be refused on certain defined mandatory or discretionary grounds. These are:

Mandatory grounds

The Council must refuse an application if:-

- the applicant is under 18 years of age; or

- the applicant is for the time being disqualified from holding a licence under Schedule 3 Paragraph 17 (3) of the Act following revocation of a previous licence; or
- the person applying is not resident in the United Kingdom, or was not so resident during period of six months immediately preceding the date when the application was made; or
- where a body corporate is the applicant - it is not incorporated in the United Kingdom; or
- the applicant has been refused the grant or renewal of a licence for the same premises within a period of 12 months immediately preceding the date when the application was made, unless the refusal has been reversed on appeal.

Discretionary grounds

The Council may refuse an application for the grant or renewal of a licence if:-

- the applicant is unsuitable to hold the licence by reason of conviction of an offence or for any other reason;
- the business 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 number of sex establishments or sex establishments of a particular type in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality;
- “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
(ii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.”

Present

- 3.1.1 The applicant has run a lap dancing club under the permissions of the Licensing Act 2003 from January 2010 and up until 30 March 2012, no complaints about these premises had been received by this authority from responsible authorities, members of the public or nearby businesses.
- 3.2.2 On 12 March 2012 we received the application for Taboo Gentlemen’s Club to hold a Sexual Entertainment Venue Licence. **Appendix 3**. This will run in conjunction with the Premises licence issued under the Licensing Act 2003.
- 3.3.3 The basic approach in the Policing and Crime Act 2009 is that if premises are licensed or licensable for sexual entertainment, then neither the entertainment nor incidental music or facilities are licensable under the Licensing Act 2003. This was achieved through the insertion of a new provision under Sch. 1 para 11a of the Licensing Act 2003.
- 3.4.4 The current days and times for sale of alcohol and late night refreshment on the existing premises licence are:

Sale of alcohol

1100 – 2300 Monday and Tuesday

1100 – 0200 Wednesdays

1100 – 0300 Thursday, Friday and Saturday

1200 – 0030 Sunday

Late Night Refreshment

2300 – 0200 Wednesday

2300 – 0300 Thursday, Friday and Saturday

2300 – 0030 Sunday

3.5.5 The applicant has applied to for a licence to hold sexual entertainment:

Monday – Sunday, 2100 – 0600.

3.6.6 If the days and times are agreed by the committee, the applicant will not be able sell alcohol or late night refreshment outside the existing hours on the premises licence unless they apply to vary the premises licence.

3.7.7 On 30 March 2012 we received a complaint via email from a person who wishes to remain anonymous alleging solicitation, drug use, drinking after time, counterfeit alcohol and full contact dancing is taking place at the premises. This complaint was followed up by a further complaint by the same person on 4 April 2012 alleging the person running the premises has sexual liaisons with one of the dancers in the stock room during opening hours. This person has not objected to the issue of the licence but felt it necessary to complain. Both complaints were forwarded to the police for them to investigate.

3.8.8 Two representations were received on 3 April 2012 from members of the public. Briefly they relate to the character of the area being unsuitable, hours requested being unreasonable, noise and disturbance from the premises, location of the establishment and the alleged behaviour of the staff. **Appendix 4** details the full representations.

3.9.9 On 5 April 2012, the police submitted representations regarding the extension of the hours sought, drug use at the premises and, as yet, unsubstantiated complaints of illegal sexual activities and services taking place. The police fundamentally object to the application being granted but if the committee are minded to grant the licence they ask that they delay this decision until the problems surrounding CCTV and drug use are resolved. **Appendix 5** details the full representation.

4. OTHER OPTIONS CONSIDERED

N/A

5. RESOURCE IMPLICATIONS

5.1 The cost of a sex establishment licence at the time of application was £1,380.00 this has since increased to £1,420.00 from 1 April 2012. The cost of renewal is the same as application but this is under review.

6. RISK AND MITIGATION

N/A

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

N/A

8. CRIME AND DISORDER IMPLICATIONS

Risk of Crime and Disorder occurring

9. COMMENTS OF FINANCIAL SERVICES

If a licence is granted the appropriate licence fee as outlined in the report will need to be levied upon the establishment. There are no other financial implications associated with this report.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

The grant, renewal and transfer of licences for sex establishments are governed by the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing & Crime Act 2009. The Committee should consider any representations from the Chief Officer of Police or any other person who objects to the application and has submitted a representation in writing. The proper grounds for considering the application are found within the body of the report. The decision to grant or refuse the licence must be reasonable and proportionate and made in accordance with the attached sex establishment procedures. Any refusal must be supported by evidence that the statutory grounds for refusal are met and full reasons must be given to the applicant.

11. COMMENTS OF OTHER RELEVANT SERVICES

None received.

12. APPENDICES:

Appendix 1 – SKDC sex establishments procedures

Appendix 2 – SKDC regulations

Appendix 3 – Application form

Appendix 4 – Residents representations

Appendix 5 – Police representation