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| DECISION-MAKER: | Licensing (General) Sub-Committee | | |
| SUBJECT: | Application for Variation of a Sexual Entertainment Venue Licence – Wiggle, 188 Above Bar Street, Southampton SO14 7DW | | |
| DATE OF DECISION: | 20 January 2016 | | |
| REPORT OF: | Head of Legal and Democratic Services | | |
| <u>CONTACT DETAILS</u> | | | |
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| STATEMENT OF CONFIDENTIALITY | |
| None. | |
| BRIEF SUMMARY | |
| The Sub-Committee is requested to determine the application for the Variation of a Sexual Entertainment Venue (SEV) licence from Sylvan Glade Ltd in respect of Wiggle, 188 Above Bar Street, Southampton SO14 7DW, pursuant to paragraph 18 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982. | |
| RECOMMENDATION: | |
| To consider and determine the application for the Variation of a Sexual Entertainment Venue (SEV) licence in respect of 188 Above Bar Street, Southampton. | |
| REASONS FOR REPORT RECOMMENDATIONS | |
| 1. | The determination of applications for Variation of Sexual Entertainment Licences is not delegated to officers, therefore it is for the Sub-Committee to consider and determine the application. |
| ALTERNATIVE OPTIONS CONSIDERED AND REJECTED | |
| 2. | None. |
| DETAIL (Including consultation carried out) | |
| 3. | Southampton City Council, as licensing authority, first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16 March 1983. |
| 4. | Following High Court challenges to technical aspects of other local authorities' adoption of the legislation, the City Council was advised by Counsel in 1995 that it would be appropriate to readopt the provisions. Council resolved to re-adopt Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 on 10 April 1995, with the provisions coming into effect from 3 July 1995. Notices setting out the effect of the provisions were published in the Southern Daily Echo on 5 and 12 May 1995. |
| 5. | Sylvan Glade Ltd has held a Sexual Entertainment Venue (SEV) licence in Southampton since 2 January 2016 following a transfer application, granted |

| | under delegated powers, without objection. The licence is renewable annually. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------|---|------------------------------|-------------------------------|------------------------------|-------------------------------|--------|-------|-------|-------|---------|-------|-------|-------|-----------|-------|-------|-------|----------|-------|-------|-------|--------|-------|-------|-------|----------|-------|-------|-------|--------|-------|-------|-------|
| 6. | Sylvan Glade Ltd also operates other premises under SEV licences at 159 Old Christchurch Road, Bournemouth, 1 Granada Road, Portsmouth and 1-3 Surrey Street, Portsmouth. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7. | <p>On 3 December 2015, an application was made by Sylvan Glade Ltd to vary the existing SEV licence in respect of 188 Above Bar Street. The application submitted is a request to extend the permitted hours and to amend the internal layout of the premises.</p> <p>A copy of the application is attached as Appendix 1 and a copy of the current licence is attached as Appendix 2</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8. | In summary, the application is to vary the licence as follows: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | <p>(a) Extend the permitted hours as follows:</p> <table border="1"> <thead> <tr> <th><i>Day</i></th> <th><i>Start</i></th> <th><i>Current terminal hour</i></th> <th><i>Proposed terminal hour</i></th> </tr> </thead> <tbody> <tr> <td>Monday</td> <td>10:00</td> <td>02:30</td> <td>06:00</td> </tr> <tr> <td>Tuesday</td> <td>10:00</td> <td>02:30</td> <td>06:00</td> </tr> <tr> <td>Wednesday</td> <td>10:00</td> <td>02:30</td> <td>06:00</td> </tr> <tr> <td>Thursday</td> <td>10:00</td> <td>02:30</td> <td>06:00</td> </tr> <tr> <td>Friday</td> <td>10:00</td> <td>02:30</td> <td>06:00</td> </tr> <tr> <td>Saturday</td> <td>10:00</td> <td>02:30</td> <td>06:00</td> </tr> <tr> <td>Sunday</td> <td>10:00</td> <td>01:00</td> <td>06:00</td> </tr> </tbody> </table> | <i>Day</i> | <i>Start</i> | <i>Current terminal hour</i> | <i>Proposed terminal hour</i> | Monday | 10:00 | 02:30 | 06:00 | Tuesday | 10:00 | 02:30 | 06:00 | Wednesday | 10:00 | 02:30 | 06:00 | Thursday | 10:00 | 02:30 | 06:00 | Friday | 10:00 | 02:30 | 06:00 | Saturday | 10:00 | 02:30 | 06:00 | Sunday | 10:00 | 01:00 | 06:00 |
| <i>Day</i> | <i>Start</i> | <i>Current terminal hour</i> | <i>Proposed terminal hour</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Monday | 10:00 | 02:30 | 06:00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Sunday | 10:00 | 01:00 | 06:00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | (b) To amend the current layout of the premises – proposed plan submitted by the applicant is attached as Appendix 3 . | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9. | A photograph of the appearance of the frontage of the venue has also been supplied by the applicant and is attached as Appendix 4 . | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10. | The legislation requires advertisement of application for, renewal or transfer of a sex establishment licence, but not its variation. However, the applicant did advertise in the Daily Echo on the 8 December 2015. The legislation does not provide a formal mechanism for consultation on such applications, but a copy of the proposed variation was served on Hampshire Constabulary. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11. | Hampshire Constabulary's Force Licensing Team has advised that it has no objection to this application. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12. | The premises currently benefits from a premises licence under the Licensing Act 2003. This licence was varied on 30 December 2015 without objection. The variation granted was to extend regulated entertainment until 06:00 and provision of late night refreshment and the supply by retail of alcohol until 05:00. A copy of the premises licence is attached as Appendix 5 . | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13. | Any person objecting to an application for the variation of an SEV licence is required to give notice of in writing to the local authority, not later than 28 days after the date of the application. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14. | No objections were received in relation to this application within the 28 day consultation period. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15. | An applicant for the variation of the terms, conditions or restrictions on or subject to which any such licence is held whose application is refused may | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| | appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court. |
| 16. | A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as Appendix 6 . |
| RESOURCE IMPLICATIONS | |
| <u>Capital/Revenue</u> | |
| 17. | There are no financial implications for either capital or revenue. The fees for applications for sex establishment licences are regularly reviewed so as to ensure that the costs of administering applications and ensuring compliance by licence holders are met from the proceeds of licence fees. |
| <u>Property/Other</u> | |
| 18. | Not applicable. |
| LEGAL IMPLICATIONS | |
| <u>Statutory power to undertake proposals in the report:</u> | |
| 19. | Paragraph 12 of Schedule 3 to the Act sets out the grounds for refusing an application for the grant, renewal or transfer of a licence. A licence must not be granted: |
| | (a) to a person under the age of 18; |
| | (b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months; |
| | (c) to a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or |
| | (d) to a body corporate which is not incorporated in an EEA State; or |
| | (e) to 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. |
| 20. | Paragraph 18 of schedule 3 to Act provides that the holder of an sex establishment licence may, at any time, apply for any variation of the terms, conditions or restrictions on or subject to which the licence is held. |
| 21. | The authority: |
| | (a) may make the variation specified in the application; or |
| | (b) may make such variations as they think fit; or |
| | (c) may refuse the application. |
| 22. | If the Sub-Committee determines to grant an application for variation, it has power to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual premises concerned or standard conditions applicable to all sex establishments, or particular types of sex establishments. |

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| 23. | Examples of the matters that standard conditions may address can include, but are not restricted to: |
| 24. | (a) the hours of opening and closing |
| 25. | (b) displays and advertisements on or in sex establishments |
| 26. | (c) the visibility of the interior of a sex establishment to passers-by |
| 27. | (d) any change of use from one kind of sex establishment to another. |
| 28. | If such standard conditions are introduced by the local authority, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied. |

Other Legal Implications:

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| 29. | <p>Indecent Displays Control Act 1981</p> <p>The Act makes it an offence to publicly display any indecent matter (but not including an actual human body) so as to be visible from any public place, or in any place where the public have access without payment, unless persons under 18 are not permitted to enter and a prescribed warning notice is displayed.</p> |
| 30. | <p>Crime and Disorder Act 1998</p> <p>Section 17 of the Crime and Disorder Act 1998 places the Council under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.</p> |
| 31. | <p>Human Rights Act 1998</p> <p>The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the Council to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the Council that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the Council which affects another's rights must be no more onerous than is necessary in a democratic society. The matter set out in this report must be considered in light of the above obligations.</p> |

POLICY FRAMEWORK IMPLICATIONS

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| 32. | The decision to determine the application in the manner set out in this report is not contrary to the Council's policy framework. |
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| KEY DECISION? | No |
| WARDS/COMMUNITIES AFFECTED: | Not applicable |
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SUPPORTING DOCUMENTATION

Appendices

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| 1. | Application for the variation of SEV licence made in respect of Wiggle, 188 Above Bar Street. |
| 2. | Copy of the current SEV licence following transfer. |
| 3. | Copy of the proposed plan. |
| 4. | Photograph of the front of the premises |
| 5. | Copy of the premises licence under the Licensing Act 2003 |
| 6. | Procedure for hearing the application |

Documents In Members' Rooms

None

Equality Impact Assessment

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| Do the implications/subject of the report require an Equality and Safety Impact Assessments (ESIA) to be carried out? | No |
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Privacy Impact Assessment

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| Do the implications/subject of the report require a Privacy Impact Assessment (PIA) to be carried out? | No |
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

| Title of Background Paper(s) | Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable) |
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| 1. None, other than as attached as appendices | Not applicable |