

<b>DECISION-MAKER:</b>	Licensing (General) Sub - Committee		
<b>SUBJECT:</b>	Application for Variation of a Sexual Entertainment Venue (SEV) Licence - Wiggle, 188 Above Bar Street Southampton, SO14 7DW.		
<b>DATE OF DECISION:</b>	Thursday 12 <sup>th</sup> October 2017 – 1800 hours		
<b>REPORT OF:</b>	SERVICE DIRECTOR - TRANSACTIONS AND UNIVERSAL SERVICES		
<b><u>CONTACT DETAILS</u></b>			
<b>AUTHOR:</b>	<b>Name:</b>	Ian McGuinness	<b>Tel:</b> 023 8083 4231
	<b>E-mail:</b>	ian.mcguinness@southampton.gov.uk	
<b>Director</b>	<b>Name:</b>	Mitch Sanders	<b>Tel:</b> 023 8083 3613
	<b>E-mail:</b>	mitch.sanders@southampton.gov.uk	

#### STATEMENT OF CONFIDENTIALITY

#### BRIEF SUMMARY

The Sub-Committee is requested to determine the application for the variation of a Sexual Entertainment Venue (SEV) Licence from Sylvan Glade Limited in respect of Wiggle, 188 Above Bar Street, Southampton, SO14 7DW.

#### RECOMMENDATIONS:

- |    |     |  |
|----|-----|--|
| 1. | (i) | For the Sub-Committee to consider and determine the application for the variation of the Sexual Entertainment 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

- |    |      |
|----|------|
| 1. | None |
|----|------|

#### DETAIL (Including consultation carried out)

- |    |  |
|----|--|
| 1. | Southampton City Council first adopted the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1982 with effect from 16 <sup>th</sup> March 1983.   |
| 2. | Following High Court challenges to 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. The Council resolved the adoption of 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. |

3.	<p>Sylvan Glade Limited has held a sexual entertainment venue (SEV) licence in Southampton since 2<sup>nd</sup> January 2016 following a transfer application issued with delegated powers, with the licence to be renewed annually. This licence was varied and granted on 20<sup>th</sup> January 2016. The variation granted was to extend permitted hours until 0600 hours and to amend the layout of the premises.</p> <p>Sylvan Glade Limited operate other Sexual Entertainment Venues at 1-3 Surrey Street, Portsmouth, 159 Old Christchurch Road, Bournemouth and 1 Granada Road, Portsmouth.</p>
4.	<p>On 21<sup>st</sup> August 2017 an application was made by Sylvan Glade Limited to vary the Sexual Entertainment Venue licence in respect of 188 Above Bar Street. The application submitted is a request for alteration to form a new stage on the 1<sup>st</sup> floor and to form new VIP booths on the ground floor level. A copy of the application is attached as <b>Appendix 1</b>.</p>
5.	<p>In summary, the applicant has requested to make the following changes;</p> <ol style="list-style-type: none"> <li>1. For alteration to form a new stage on the 1<sup>st</sup> floor.</li> <li>2. For alteration to form new VIP booths on the ground floor level.</li> </ol> <p>A copy of the current licence is attached as <b>Appendix 2</b>.</p>
6.	<p>The applicant has submitted a plan of the proposed changes, with the current layout of the venue. This is attached to this report as <b>Appendix 3</b>.</p>
7.	<p>There is no requirement under the Act to advertise a variation of the licence in a newspaper. A notice was displayed at the premises throughout the consultation period. There is no formal mechanism of consultation for this process, although a copy of the proposed variation was served on Hampshire Constabulary Force Licensing Team.</p>
8.	<p>The Hampshire Constabulary Force Licensing Team have advised that they have no objection to this application having been advised that all booths will be covered by CCTV cameras and monitored from the 1<sup>st</sup> floor and the ground floor. A supervisor will be on duty during any performance. A copy of this correspondence is attached as <b>Appendix 4</b>.</p>
9.	<p>The premises does currently benefit from a premises licence issued under the Licensing Act 2003. This licence was varied and granted on 30<sup>th</sup> December 2015. The variation granted was to extend regulated entertainment until 0600 hours and provision of late night refreshment and the supply by retail of alcohol until 0500 hours. A copy of the current licence is attached as <b>Appendix 5</b>.</p>
10.	<p>Paragraph 18 of the Local Government (Miscellaneous Provisions) Act 1982 provides that the holder of a sexual entertainment venue (SEV) licence may at any time apply for any variation of the terms, conditions or restrictions on or subject to which the licence is held.</p>
11.	<p>The authority may;</p> <ul style="list-style-type: none"> <li>• Make the variation specified in the application; or</li> <li>• Make such variations as they think fit; or</li> <li>• Refuse the application.</li> </ul>
12.	<p>Any person objecting to an application for the variation of a Sexual Entertainment Venue (SEV) licence is required to give notice of their objection in writing to the local authority, not later than 28 days after the date of the application.</p> <p>No objections were received in relation to this application within the 28 day consultation period.</p>
13.	<p>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 appeal within twenty-one days of the giving of written notice of the grounds of the refusal, to the Magistrates' Court.</p>

14.	A note of the procedure that the Sub-Committee has adopted for consideration of applications of this kind is attached as <b>Appendix 6</b> .
<b>RESOURCE IMPLICATIONS</b>	
<b><u>Capital/Revenue</u></b>	
1.	There are no financial implications.
<b><u>Property/Other</u></b>	
1.	Not applicable.
<b>LEGAL IMPLICATIONS</b>	
<b><u>Statutory power to undertake proposals in the report:</u></b>	
1.	<p>Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.</p> <p>A licence must not be granted:</p> <p>(a) to a person under the age of 18;</p> <p>(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;</p> <p>(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 date when the application was made; or</p> <p>(d) to a body corporate which is not incorporated in an EEA State; or</p> <p>(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.</p>
2.	<p>If the Sub-Committee determines to grant a variation application, 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. Examples of the matters that standard conditions may address can include, but are not restricted to:</p> <ul style="list-style-type: none"> <li>• The hours of opening and closing</li> <li>• Displays and advertisements on or in sex establishments</li> <li>• The visibility of the interior of a sex establishment to passers-by</li> <li>• Any change of use from one kind of sex establishment to another.</li> </ul> <p>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.</p>
<b><u>Other Legal Implications:</u></b>	
1.	<p><b>CRIME AND DISORDER ACT 1998</b></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>
2.	<p><b>HUMAN RIGHTS ACT 1998</b></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</p>

	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.
--	---

**POLICY FRAMEWORK IMPLICATIONS**

1.	The decision to determine the application in the manner set out in this report is not contrary to the council's policy framework.
----	---

<b>KEY DECISION?</b>	No
----------------------	----

<b>WARDS/COMMUNITIES AFFECTED:</b>	
------------------------------------	--

--

**SUPPORTING DOCUMENTATION**

**Appendices**

1.	Application for the variation of SEV licence made in respect of Wiggle, 188 Above Bar Street.
2.	A copy of the current Sexual Entertainment licence.
3.	A copy of the proposed / existing plan.
4.	A copy of correspondence from Hampshire Constabulary.
5.	A copy of the Licensing Act 2003 premises licence.
6.	Procedure for hearing the application.

**Documents In Members' Rooms**

1.	None
----	------

**Equality Impact Assessment**

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

**Privacy Impact Assessment**

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

**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)
1.	None