
Report of the Head of Elections, Licensing, and Registration

Report to the Licensing Sub Committee

Date: 25th April 2017

Subject: Application for the Renewal of a Sex Establishment Licence for Nice N Naughty, 164 Briggate, Leeds LS1 6LY

Are specific electoral Wards affected? City and Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of Main Issues

Members are requested to consider the renewal of a sex establishment licence for a sex shop.

This application is made by Nice N Naughty Leisurewear Ltd, 127-129 Brook Street, Chester, CH1 3DU.

Recommendations

1. Members are asked to consider the application to renew a sex establishment licence for premises at 164 Briggate, Leeds, LS1 6LY.
2. In considering the application Members attention is drawn to the objections received which are attached at **appendix D**.

1.0 Purpose of this Report

- 1.1 To advise Members of an application made under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for the renewal of a sex establishment licence for the premises known as Nice N Naughty, 164 Briggate, Leeds, LS1 6LY.

2.0 Background Information

- 2.1 In September 1982 the council resolved to adopt the provisions of the Local Government (Miscellaneous Provisions) Act 1982 which made it an offence to operate a sex establishment without a licence. From 1st January 1983 all sex establishments (sex shops and sex cinemas) had to be licensed.
- 2.2 In 2010 the Government introduced a new category of sex establishment called a "sexual entertainment venue". This reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues. The intention was to give local people greater say over the number and location of lap dancing clubs in their area.
- 2.3 In January 2011 the Council made a resolution to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act as amended by the Policing and Crime Act 2009, effective from 1st October 2011. The Council adopted its first Statement of Licensing Policy for Sex Establishments in September 2011.
- 2.4 A review of the Statement of Licensing Policy took place in 2012 and a new policy was approved before Executive Board on the 17th July 2013, coming into effect on the 1st September 2013.

3.0 History of these Premises

- 3.1 These premises have been licensed as a sex shop for many years. Previously the premises was known as Clone Zone and were transferred to Nice N Naughty in February 2009.
- 3.2 Each year in February Nice N Naughty have successfully renewed their licence without objection.

4.0 The Application

- 4.1 Members are required to consider this application for the renewal of a sex establishment licence to authorise a premises used for a business consisting to a significant degree the activity of selling, hiring, exchanging, lending, displaying or demonstrating relevant sex articles unless an exemption applies, due to the receipt of an objection.
- 4.2 The application is made by Nice N Naughty Leisurewear Ltd of 127 – 129 Brook Street, Chester, CH1 3DU.

- 4.3 The applicant seeks to renew their existing sex establishment licence at this premises.
- 4.4 A partial copy of the application may be found at **appendix A** to this report.
- 4.5 Members will also find attached to this report at **appendix B** additional documents supplied with the application, which includes:
- Signage Measurements
 - Photographs of the front elevation
 - Photograph of the opening hours sign
 - Photograph of the warning notices as required by conditions
- 4.6 A map of the location of the premises can be found at **appendix C**.
- 4.7 The West Yorkshire Police and all ward members have been notified of this application.
- 4.8 A public notice advertising the application has been displayed at the premises for a period of 21 days and published in the local press as required by the legislation.
- 5.0 Objections**
- 5.1 In considering any application for the grant of a licence the authority shall have regard to any observations submitted by the chief officer of police and any other objections received.
- 5.2 Any objections must be provided in writing to the authority, stating in general terms the grounds, and this should be provided no later than 28 days after the date of the application.
- 5.3 The Act imposes no pre-qualifications on who may object to an application nor is there any constraint on the grounds upon which objections can be made. Objections may be set out in general terms.
- 5.4 However, the relevant grounds on which the authority may refuse an application are that 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
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made
- 5.5 The full options available to Members are set out at paragraph 8.1 of this report.
- 5.6 Members should note that objections may be accepted following the 28 day notice period. This is as a result of a case (*Miss Behavin' Ltd v Belfast City Council*) where the House of Lords held that while the Act required an authority to take account of objections lodged in time, it did have discretion to take into account late

objections if these brought significant relevant information. At the time of writing this report all objections had been received within the notice period.

5.7 Parties will not be permitted to raise new matters in evidence at the hearing without the consent of all other parties.

5.8 The authority is in receipt of 1 objection in opposition to this application, which can be found at **appendix D**.

5.9 No observations have been received from West Yorkshire Police concerning this application.

6.0 Statement of Licensing Policy

6.1 The current Statement of Licensing Policy for Sex Establishments ("the Policy") was approved by Executive Board on the 17th July 2013 and came in to force on the 1st September 2013.

6.2 The Policy provides information regarding the location and numbers of sexual entertainment venues. However the policy does not seek to restrict the location and number of sex shops and sex cinemas.

6.3 The Policy includes standard conditions to be applied to all licences. Members may decide on a case by case basis whether any of the conditions may be dispensed with, added to or modified.

6.4 The standard conditions as set out in the current policy may be found at **appendix E**.

7.0 Other Matters Relevant to the Application

7.1 A sex establishment licence will remain in force for up to one year, or for a shorter period should the licensing authority think fit.

8.0 Options Available to Members

8.1 The licensing sub-committee in considering the application under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 may take any of the following steps it considers necessary:

- Grant the renewal application as requested attaching the standard conditions.
- Grant the application whilst imposing additional conditions and/or altering the standard conditions (or altering in any way the proposed application).
- Refuse the application on the following mandatory grounds;
 - if the applicant is under the age of 18,
 - if the applicant has a disqualification following the revocation of their licence

- if the applicant is not-resident in an EEA state,
 - if the applicant is a company not incorporated in an EEA state,
 - if the applicant 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 applicant is made, unless the refusal has been reversed on appeal.
- Refuse the application on one or more of the following discretionary grounds:
 - That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
 - 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;
 - That the number or sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - That the grant of renewal of the licence would be inappropriate, having regard:
 - To the character of the relevant locality; or
 - To the use to which any premises in the vicinity are put; or
 - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

8.2 In paragraph 9.1 “the relevant locality” means:

- In relation to premises, the locality where they are situated; and
- In relation to a vehicle, vessel or stall, any locality where it is desirable to use it as a sex establishment

9.0 Recommendation

9.1 Members are asked to consider the application for a sex establishment licence for premises at 164 Briggate, Leeds LS1 6LY.

9.2 In considering the application Members attention is drawn to the objections received which are attached at **appendix D**.

10.0 Background Papers

None