

	
Meeting of Gambling, Licensing & Regulatory Committee	27 January 2014
Report of the Assistant Director – Communities & Neighbourhoods	

**Local Government (Miscellaneous Provisions) Act 1982
Schedule 3 as amended by Policing and Crime Act 2009
Renewal of Sex Establishment Licence for
Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ**

Summary

1. This report seeks Members determination of an application for the renewal of a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.
2. Name of applicant: Upstairs VIP Limited
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows: This is a renewal of a pre-existing Sex Establishment Licence which authorised hours of opening Monday to Sunday 21:00 hrs to 03:00 hrs, and 18:00 hrs to 04:30 hours on York Race Days only. A copy of this licence is attached at Annex 2.
4. A sex establishment licence is valid for 12 months, the licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sexual entertainment venue.

Background

5. On 6 April 2010, section 27 of the Policing and Crime Act 2009 was introduced. This legislation reclassified lap dancing clubs and other similar venues as 'sexual entertainment venues'; a sex establishment under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allowed Local Authorities who adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops.
6. Sexual entertainment venues are defined as 'any premises at which relevant entertainment is provided for a live audience for the financial gain of the organiser or the entertainer'. The meaning of relevant entertainment is 'any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)'.
7. This Authority adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council. A copy of City of York Council's Policy for the Determination of Applications for Sexual Entertainment Venues is attached at Annex 6.
8. The Licensing Authority has received no complaints about these premises since first opening.
9. Standard conditions for the licensed sex shops were amended to include sexual entertainment venues and were approved by full Council. The lack of problems from existing licensed premises would indicate that these conditions provide sufficient safeguards. A copy of the conditions is attached at Annex 7.

Consultation

10. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application to be considered valid.
11. As a result of the consultation an objection was received from representatives of the York Feminist Network. A copy of the objection is attached at Annex 3. The objection was accompanied by a petition, a copy of which is attached at Annex 4 (confidential). There are 2 parts to the petition, the first part shows the results of a website petition containing 182 electronic signatures (this total reflects a deduction for duplicate entries). Of these 182 entries, 26 gave no name of the petitioner and 24 were from outside the United Kingdom. The second part of the petition contains 64 names and addresses of petitioners, 3 of the entries were not signed. Eight out of the 64 petitioners were from the City of York Council area.
12. Schedule 3, paragraph 10(17) of the 1982 Act (as amended) states "The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant." Appropriate consent has been received to disclose the name of the organisation that made the objection.
13. A map showing the location of Upstairs, 53-55 Micklegate in relation to all premises/organisations referred to in the objection is attached at Annex 5 and a key to the map is attached at Annex 5A.

Other Relevant Information

14. There are no planning implications in relation to this application.

Options

15. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
16. Option 1: Renew the licence.
17. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
18. Option 3: Reject the application.

Analysis

19. The following could be the result of any decision made by this Committee:
20. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application.
21. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
22. Option 3: This decision could be appealed at Magistrates Court by the licence applicant.

Council Plan

23. The approved City of York Council Standard Conditions Applicable to Licences issued to Sex Establishments will support the Council's priority to protect vulnerable people and create jobs and grow the economy.

Implications

24.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A

- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the objectors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

25. All Members are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
26. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

27. Members grant the application for renewal of the licence in the terms applied for.

Reason: This premise has operated as lap dancing venue since September 2006 without any reported incidents.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager Tel: 01904 551515	Steve Waddington Assistant Director Housing & Public Protection Tel 01904 554016		
	Report Approved	√	Date 08/01/14

Wards Affected: Micklegate

Annexes

- Annex 1** - Copy of application
- Annex 2** - Copy of current Sexual Entertainment Licence
- Annex 3** - Copy of the objection letter
- Annex 4** - Copy of petition (confidential)
- Annex 5** - Map of area indicating premises highlighted in Objection
- Annex 5A** - Key to map

Background Papers

- Annex 6** - Copy of CYC Policy for the Determination of Applications for Sexual Entertainment Venues
- Annex 7** - Copy of Standard Conditions Applicable to Licences issued to Sex Establishments
- Annex 8** - Legislation and Policy Considerations