



NORWICH City Council

Committee name: Licensing

Committee date: 30/03/2023

Report title: Application for the variation of a sex establishment licence at Lace, 75 Prince of Wales Road, Norwich, NR1 1DG

Portfolio: Councillor Jones, Cabinet member for safe, strong and inclusive neighbourhoods

Report from: Head of planning and regulatory services

Wards: All wards

OPEN PUBLIC ITEM

Purpose

To determine the application for the variation of the sex establishment licence at Lace, 75 Prince of Wales Road, Norwich, NR1 1DG following receipt of an objection.

Recommendation:

It is recommended that members consider the variation application for the sex establishment licence at Lace, 75 Prince of Wales Road, Norwich, NR1 1DG in accordance with the delegation of licensing functions contained in the Norwich City Council Sex Establishment Policy statement and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Policy framework

The council has five corporate priorities, which are:

- People live independently and well in a diverse and safe city.
- Norwich is a sustainable and healthy city.
- Norwich has the infrastructure and housing it needs to be a successful city.
- The city has an inclusive economy in which residents have equal opportunity to flourish.
- Norwich City Council is in good shape to serve the city.

This report meets the 'People live independently and well in a diverse and safe city' and 'The city has an inclusive economy in which residents have equal opportunity to flourish' corporate priorities.

Report details

1. Local authorities licence sex establishments via the Local Government (Miscellaneous Provisions) Act 1982. Since 2010, when the Policing and Crime Act 2009 came into force, sex establishments include sexual entertainment venues. These are premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer. Relevant entertainment means any live performance or any live display of nudity as defined in the legislation.
2. Norwich City Council's Sex establishment policy statement [Licensing policies | Norwich City Council](#) contains standard licence conditions which apply to all sex establishment licences unless expressly excluded or varied.
3. A licence holder may apply to amend the terms, conditions or restrictions of a licence via a variation application.
4. Local Government (Miscellaneous Provisions) Act 1982 Schedule 3, section 18 provides:
 - (1) The holder of a licence under this Schedule may at any time apply to the appropriate authority for any such variation of the terms, conditions or restrictions on or subject to which the licence is held as may be specified in the application.
 - (2) Subject to sub-paragraph (4) below, the appropriate 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.
 - (3) The variations that an authority may make by virtue of sub-paragraph (2)(b) above include, without prejudice to the generality of that sub-paragraph, variations involving the imposition of terms, conditions or restrictions other than those specified in the application.
 - 4) No variation is to be made under this paragraph in so far as it relates to any matter in relation to which requirements or prohibitions are or could be imposed by or under the Regulatory Reform (Fire Safety) Order 2005.
5. At a meeting on 14 November 2022, the licensing committee revoked the sex establishment licence at this premises for breaches of licence conditions and concerns over the management of the premises. An appeal against that decision has been lodged by the licence holder with the Magistrates Court. The premises can continue to operate until that appeal is determined or withdrawn.
6. This variation application was originally submitted in conjunction with a renewal application as they share the same form.
7. The renewal application has been withdrawn pending the outcome of the appeal against the revocation of the licence but the variation application still

requires determination.

8. The variation application was received on 6 December 2022. A copy of the application form and other documents submitted by the applicant including a plan of the premises are attached at appendix A.
9. There has been a change to the company directors detailed in the application received on 6 December 2022, with the addition of Jade Skinner to the existing named directors.
10. The variation application was before the licensing committee on 7 March 2023 where members adjourned the meeting to allow further discussion between officers and the applicant on the proposed conditions.
11. The licence holder is seeking to vary several conditions of the licence and to update the plan of the premises. These are detailed in the application form and the final version of the proposed conditions are to follow.
12. In summary, the proposed changes seek to clarify the conditions and to have parity with the conditions on the licences of other similar sexual entertainment venues located nearby.
13. The current sex establishment licence with current conditions is attached as Appendix B to this report.
14. There has been one objection to this application made by Norfolk Constabulary. This is attached as Appendix C and raises concerns about breaches of licence conditions and a lack of control by the licence holders due to third party involvement.
15. A location map is attached as Appendix D.
16. In line with the policy, in cases where objections have been received; or if there are concerns regarding the characteristics of the locality; or any other discretionary ground of refusal exists then the application will be referred to the Licensing Committee for a hearing and determination of the application.
17. In determining the application the committee may take such of the following steps as it considers appropriate in accordance with the above matters:
 - Grant the variation application as applied for, with the same conditions, restrictions and terms;

Modify the conditions, restrictions and terms of the licence by altering or omitting or adding to them (including matters not included in the application).
 - Reject the whole or part of the application.
18. The committee is asked to note that it may not determine the application on moral grounds.
19. There is a right of appeal to the Magistrates Court against the committee's decision which must be lodged within 21 days of the date of notification of the decision. If an appeal is lodged any decision will not come into effect until that

appeal is withdrawn or determined.

20. The Authority will provide clear, written reasons for its decisions.

Consultation

21. As part of the (now withdrawn) renewal process, there was advertisement of the application at the premises, in the local newspaper and on the council website. Norfolk Constabulary and Norwich City Council's Public protection (compliance) team were also consulted.

Implications

Financial and resources

22. Any decision to reduce or increase resources or alternatively increase income must be made within the context of the council's stated priorities, as set out in its Corporate Plan 2022-26 and budget.

23. There are no proposals in this report that would reduce or increase resources.

Legal

24. [Local Government \(Miscellaneous Provisions\) Act 1982 \(legislation.gov.uk\)](#)

25. [Policing and Crime Act 2009 \(legislation.gov.uk\)](#)

26. [Human Rights Act 1998 \(legislation.gov.uk\)](#)

- Legislation must be read and given effect to in a way which is compatible with specified rights under the European Convention on Human Rights (ECHR) section 3 of the HRA 1998); and
- It is unlawful for a public body to act in a way that is incompatible with a Convention right.
- Members must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights

27. Members must give due regard to the Public Sector Equality Duty as required under s.149 of the [Equality Act 2010 \(legislation.gov.uk\)](#) which sets out a general duty requiring the council, when making decisions, to have regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation.
- advance equality of opportunity between different groups and foster good relations between different groups.

28. S17 [Crime and Disorder Act 1998 \(legislation.gov.uk\)](#) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies 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 (including anti-social and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in its area, and re-offending in its area, and serious violence in its area.

Statutory considerations

Consideration	Details of any implications and proposed measures to address:
Equality and diversity	Conditions and operating procedures provide protection to performers, customers and people in the vicinity of the premises. Public consultation has taken place. No further measures proposed
Health, social and economic impact	None identified, no measures proposed
Crime and disorder	Norfolk Constabulary have been consulted on this application. No further measures proposed
Children and adults safeguarding	Conditions and operating procedures provide protection to performers, customers and people in the vicinity of the premises. Public consultation has taken place. No further measures proposed
Environmental impact	None identified, no measures proposed

Risk management

Risk	Consequence	Controls required
Compliance	Need to ensure compliance with legislation to prevent offences and ensure public are protected.	Consideration of application in line with legislation and local policy
Legal	To consider if varying the licence is the appropriate course of action when considering matters including legislation and policy. Risk of challenge of decision made. Members need to ensure the avoidance of illegality, irrationality and procedural impropriety.	Provision of legal advice for members at committee
Public safety	Risk of significant harm to employees and for customers who may also be vulnerable.	Conditions and operating procedures provide protection to performers, customers and people in the vicinity of the premises.

Risk	Consequence	Controls required
Reputational risks to the council	Risk of reputational damage if bad decision made	Consideration of legislation and local policy. Provision of legal advice for members at committee

Reasons for the decision/recommendation

29. To ensure compliance and public protection

Background papers: None

Appendices:

A – application documentation

B – sex establishment licence and conditions

C – Objection


D - location map

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