



NORWICH City Council

Committee name: Licensing

Committee date: 07/03/2023

Report title: Application for the renewal and 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 a sex establishment licence in respect of Lace, 75 Prince of Wales Road, Norwich, NR1 1DG for the period 2022 to 2023 including consideration of an objection received and the relevant locality.

Recommendation:

It is recommended that members consider the application for the renewal and variation of a 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. 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.
3. Since then, the sex establishment licence has become due for renewal. The applicant for the renewal application is POW Retail Ltd.
4. The application seeks renewal of the sex establishment licence allowing the premises to operate as a sexual entertainment venue and also seeks to vary the existing terms and conditions.
5. The application was received on 6 December 2022 prior to the expiry of the licence. A copy of the application form and other documents submitted by the applicant including a plan of the premises are attached at appendix A.
6. The in-force sex establishment licence with conditions is attached as Appendix B to this report.
7. An application for the renewal of the licence was also lodged for the period 2021 to 2022 but was not determined. This application relates to the 2022 to 2023 period.
8. As renewal applications were lodged prior to the expiry date of the licence, the licence is deemed to remain in force until the renewal application is withdrawn or is determined, by virtue of schedule 3 paragraph 11 of the Local Government (Miscellaneous Provisions) Act 1982.
9. 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.
10. A location map is attached as Appendix D.
11. Section 4 of the Norwich City Council Sex establishment policy statement [Licensing policies | Norwich City Council](#) acknowledges that a concentration of licensed premises in a particular area can result in a potential fear of crime, anti-social behaviour, noise pollution and other disturbance to residents. The policy details the characteristics of a locality the Authority will take into account.
12. The location of this application premises falls under the inner area designated in the policy statement. Via the policy statement, the Authority considers the maximum number of sex establishments in this area should be two but will

consider each application upon its individual merits.

13. There are three sex establishment licences for sexual entertainment venues in this inner area seeking to renew their existing licences including the premises that is the subject of this application.

14. Paragraph 12(3) of Schedule 3 of the act allow authorities to refuse applications on the following grounds:

- that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- 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 of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- that the grant or 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.

15. 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, including that if the application were granted then any maximum number of premises in a relevant locality would be exceeded (as detailed in section 4 of this policy), then the application will be referred to the Licensing Committee for a hearing and determination of the application.

16. The policy states that the Authority will, unless there are exceptional reasons, grant licences for the maximum duration of one year.

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 application as asked, with the same conditions, restrictions and terms;
- Modify the conditions, restrictions and terms of the licence by altering or omitting or adding to them;
- 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 give clear reasons for its decisions.

Consultation

21. The application process requires 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 are 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 has to 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	The policy requires the authority to consider the character of the relevant locality when considering an application and will particularly take account of the density and proximity of various types of premises including parks and children's play areas, educational establishments and youth clubs. 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	The policy requires the authority to consider the character of the relevant locality when considering an application and will particularly take account of the density and proximity of various types of premises including parks and children's play areas, educational establishments and youth clubs. 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 renewal application in line with legislation and local policy
Legal	To consider if renewal of 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	Consider relevant locality including types of premises. Conditions and operating procedures provide protection to performers, customers and people in the vicinity of the premises
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

Contact officer: Public protection (licensing) team leader

Name: Tiffany Bentley

Telephone number: 01603 989231

Email address: tiffanybentley@norwich.gov.uk



If you would like this agenda in an alternative format, such as a larger or smaller font, audio or Braille, or in a different language, please contact the committee officer above.