

# APPLICATION FOR A SEX ESTABLISHMENT LICENCE – SEXUAL ENTERTAINMENT VENUE

**Committee**

Licensing Sub-Committee

**Officer Contact**

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**Papers with report**

Appendix 1 – Application documents  
Appendix 2 – Premises licence  
Appendix 3 – Objections  
Appendix 4 – Letter from Metropolitan Police  
Appendix 5 – Standard Conditions for Sex Establishment Licences  
Appendix 6 – Photographs of the exterior of the premises

**Ward(s) affected**

Northwood Hills

## SUMMARY

To consider objections from residents and/or interested parties against the grant of an application for a Sex Establishment Licence to allow relevant entertainment at the premises known as The Olde Northwood Public House, 142 Pinner Road, Northwood, HA6 1BP

## RECOMMENDATION

**That the Licensing Sub-Committee determine the application.**

**Either;**

- A) Grant the licence as applied for; or**
- B) Grant the licence with amended/additional conditions or amended times of operation; or**
- C) Refuse the application**

## INFORMATION

### Background

1. The Sex Establishment Provisions under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) were adopted by Hillingdon Council on 12<sup>th</sup> May 2011.
2. All premises offering 'relevant entertainment' had to make applications by 22<sup>nd</sup> December 2011 for a new sex establishment licence to authorise activities that were previously unregulated.

## The Application

3. A Sex Establishment Licence application for the Olde Northwood Public House was applied for by Mr Steven Reg Pantling on 20<sup>th</sup> December 2011.
4. The application is for sexual entertainment including striptease, pole dancing and one to one personal dances.
5. The proposed timings of the entertainment are between 14.00 and 22.00 hours each day.
6. The applicant has explained the existing policies in regard to proof of age, protection and conduct of performers, security, crime & disorder and the external appearance of the premises.
7. The applicant has advertised the application in the local press and also by displaying a poster at the premises for a period of 21 days.
8. The applicant also sent a copy of the application to the Metropolitan Police Licensing Sergeant.

A copy of the application and Dancers Rules are attached to the report as **Appendix 1**.

## The Premises

9. The premises is a traditional public house located on the corner of Pinner Road and High Street, Northwood. The applicant has traded at the premises providing adult entertainment venue since 2000.
10. The premises has the benefit of a premises licence under the Licensing Act 2003 which authorises alcohol sales and regulated entertainment.

A photo of the premises is attached to the report as **Appendix 6**.

A copy of the premises licence is attached to the report as **Appendix 2**.

## Objections

11. The consultation period for making objections started on 19<sup>th</sup> December 2011 and finished on 16<sup>th</sup> January 2012.
12. During the consultation period, the Licensing Service received 19 individual letters of objection and 1 petition.
13. Copies of the objections and petition are attached to the report as **Appendix 3**.
14. The Metropolitan Police Service has not objected to the grant of a sex establishment licence but has recommended that the Dancers Rules be amended to introduce a 'no touch' rule. The applicant has agreed this suggestion and amended the rules.
15. A copy of the Metropolitan Police letter is attached as **Appendix 4**.

16.No objections have been received from the Ward Councillors.

### **Conditions**

17.Any Sex Establishment Licence granted will be subject to the Councils standard conditions for Sexual Entertainment Venues.

18.A copy of these conditions is attached as **Appendix 5**.

### **FINANCIAL IMPLICATIONS**

Members should be aware that the Planning, Environment, Education and Community Services directorate does not have a budget provision for costs, should the applicant be successful in appealing to the Court(s) against a decision of the Council. In the event that a Court was to uphold an appeal, officers would need to identify how the costs would be funded before action could be taken in order to comply with Council financial policy.

### **LEGAL IMPLICATIONS**

#### **Procedure and Determination**

The powers of local authorities in determining licence applications in relation to sex establishments are found in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') as amended.

This report indicates that the applicant has complied with the procedural requirements for advertising the applications and giving notification to the police.

The Act provides that before refusing to grant a licence, the local authority must give the applicant the opportunity of appearing before and being heard by a committee/sub-committee.

There is also discretion on the part of the committee as to whether or not they choose to hear from objectors at the hearing. All objections must be notified to the applicant before the application is considered by the Council.

As the Act gives local authorities wide discretion in how they conduct hearings, decisions with regards to procedure should take account of Hillingdon's Sex Establishment Licensing Policy. It is important that the hearing is conducted in a way that is procedurally fair.

#### **Grounds for Refusal**

The Act provides mandatory and discretionary grounds for refusal of a licence. If any of the mandatory grounds are shown, the local authority *must* refuse the application. If any of the discretionary grounds are shown, the local authority *may* refuse the application. If neither mandatory nor discretionary grounds are shown, the local authority must approve the application.

The **mandatory** grounds for refusal of an application are that the applicant:

1. is under the age of 18;
2. is disqualified from holding a sex establishment licence;
3. is an individual who has not been resident in an European Economic Area (EEA) state for six months immediately preceding the date of the application;
4. is a corporate entity that is not incorporated in an EEA state;
5. has in the 12 months immediately preceding the date of the application been refused the grant or renewal of a licence for the premises in respect of which the application is made (unless the refusal has been reversed on appeal).

The Council may also refuse to grant a licence on one or more of the **discretionary** grounds:

1. that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
2. that if the licence were to be granted 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 of a licence if he made the application himself;
3. that the number of sex establishments in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality;
4. that the grant of the licence would be inappropriate, having regard to:
  - (i) the character of the locality where the premises are situated;
  - (ii) the use to which any premises in the vicinity are put;
  - (ii) the layout, character or condition of the premises in respect of which the application is made.

The local authority has a wide discretion within the above discretionary grounds, however there is a limitation in the fact that a licence cannot be refused purely on moral grounds (*R v Newcastle Upon Tyne City Council, ex p The Christian Institute [2001] LGR165*).

The factors mentioned in Hillingdon Council's Sex Establishment Licensing Policy are relevant in making a determination on the discretionary grounds and should be taken into account.

Where an applicant has been convicted of an offence, the mere presence of a conviction does not make an applicant unsuitable. The local authority must consider whether and why the particular conviction makes the applicant unsuitable. Then it must consider whether that unsuitability requires the use of its discretion to refuse the licence. The applicant must be given the opportunity to address any concerns that are raised in this regard.

There is a duty to give reasons to the applicant, through a written statement, where a licence is refused.

### Conditions

The local authority has the option of granting the licence subject to conditions. Hillingdon has standard conditions for sex establishment licences, however the local authority has a wide discretion in attaching conditions, including the discretion to vary its own standard conditions to meet the individual requirements of the premises. Any conditions must be necessary, non-discriminatory and proportionate. In practice this means that conditions should be directed at attaining the objectives of public policy, public security, public health or the protection of the environment. Conditions should go no further than is necessary to achieve such objectives.

## **BACKGROUND DOCUMENTS**

The Local Government (Miscellaneous Provisions) Act 1982

The Policing and Crime Act 2009

London Borough of Hillingdon Sex Establishment Licensing Policy