

Appendices

- A. 2019 Variation App
- B. Current SEV Licence
- C. LA03 Licence
- D. 2011 App & Conditions
- E. 2011 Report
- F. 2011 Minutes



TAXI & GENERAL LICENSING COMMITTEE REPORT

Report Title	Application for the Variation of a Sexual Entertainment Venue
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AGENDA STATUS: PUBLIC

Committee Meeting Date:	10 th December 2019
Policy Document:	Sex Entertainment Venue Licensing
Directorate:	Customers & Communities

1. Purpose

1.1 Application for the Variation of a Sexual Entertainment Venue Licence – Urban Tiger, 32-34 Wellingborough Road, Northampton, NN1 4AA.

2. Recommendations

2.1 That the Committee consider and determine the variation application.

3. Issues and Choices

3.1 Report Background

3.2 On 4th October 2019, an application was received from Urban Crown Ltd to request the variation to the existing sex entertainment venue licence SEV0001 for the premises at Urban Tiger, Abington Square, Northampton. A copy of the application is detailed in **Appendix A**.

3.3 The variation application is requesting an extension to the trading hours as shown in the tables below and there are no other proposed changes to the style of operation.

SEV0001 Existing trading hours	
Monday to Sunday	8:00pm to 04:00am

SEV0001 Proposed trading hours	
Monday to Wednesday	10:00am to 04:30am
Thursday to Saturday	10:00am to 06:00am
Sunday	12 midday to 02:30am
Any day prior to a public bank holiday	10:00am to 06:00am

- 3.4 Regulations can be made by the Council prescribing standard conditions which have general application, unless excluded or varied on the grant of a licence (see 3.17 below). The Council may also attach specific conditions when granting a licence. The conditions attached to this sex entertainment venue are detailed in the current Licence in **Appendix B**.
- 3.5 The Policing and Crime Act 2009 Act amends the Licensing Act 2003 ('the 2003 Act') to state that premises for which a sexual entertainment venue licence is required or held do not also require a premises licence, club premises certificate or temporary events notice in order to provide relevant sexual entertainment. This is because sexual entertainment is expressly excluded from the definition of regulated entertainment found in the 2003 Act.
- 3.6 However, if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant sexual entertainment), they are required to obtain the appropriate licence or authorisation in accordance with the 2003 Act, for those other activities, subject to any exceptions contained in that Act.
- 3.7 As Urban Tiger is also carrying on other licensable activities that fall within the scope of the 2003 Act, a parallel application was also received to request a variation of the premises licence, number PL0286, to extend the trading hours of the premises.
- 3.8 The 2003 Act variation application was publicised, and a copy of the application was duly served upon the responsible authorities in accordance with the requirements of that legislation.
- 3.9 As no representations were received in respect of the application to vary the premises licence during the 28-day consultation period the Council had to grant the application in accordance with the 2003 Act. A copy of the varied premises licence issued under the 2003 Act is detailed in **Appendix C**.

Licensing Act 2003 PL0286 Granted Opening Hours	
Monday to Wednesday	10:00am to 04:30am
Thursday to Saturday	10:00am to 06:00am
Sunday	12 midday to 02:30am
Any day prior to a public bank holiday	Until 06:00am

Licensing Act 2003 PL0286 Granted Licensable Activities Hours - sale of alcohol	
Monday to Wednesday	10:00am to 04:00am
Thursday to Saturday	10:00am to 05:45am
Sunday	12 midday to 02:00am
Any day prior to a public bank holiday	Until 05:45am

Licensing Act 2003 PL0286 Granted Licensable Activities Hours - regulated entertainment	
Monday to Wednesday	10:00am to 04:00am
Thursday to Saturday	10:00am to 06:00am
Sunday	12 midday to 02:00am
Any day prior to a public bank holiday	Until 06:00am

3.10 The premises licence PL0286 also includes the following condition

There will be no admission/readmission of customers to the premises after 04:00

3.11 Issues

3.12 As indicated above, the application made requests a variation to the hours that the premises may open and provide sexual entertainment, whilst leaving all other activities under the licence as they currently are, including the conditions attached by the Council when the licence was granted. This means those conditions would continue to apply.

3.13 The 1982 Act sets out a clear procedure for making applications for the grant of a sexual entertainment venue licence, renewal of such a licence and transfer of such a licence to another person. These include:

- the content of applications;
- giving notice to the Chief Officer of Police

- advertising applications;
- the right of those who live or carry on a business in the vicinity to object;
- the right of the applicant to be heard by the Council's Licensing Committee; and,
- the requirement that the Council has regard to any objections and/or any representations made by the Chief Officer of Police when determining an application.

3.14 The 1982 Act also states that a person may apply to vary the terms, conditions or restrictions on which a licence is held however, it does not specify that any part of the procedure set out in paragraph 3.13 applies to such an application although it does state that a fee is payable for such an application.

3.15 The Council may establish its own procedure for determining applications to vary a licence however, to date, the Council has not done so. The power to determine such applications is delegated to the Taxi and General Licensing Committee.

3.16 The 1982 Act allows the Council to make regulations prescribing standard conditions which apply to sexual entertainment venues including but not limited to:

- the hours of opening and closing of sex establishments;
- displays or advertisements on or in such establishments;
- the visibility of the interior of sex establishments to passers-by;
- any change from one kind of sex establishment to another kind of sex establishment.

3.17 At present the Council has not made any regulations, however the application made in March 2011 included the applicant's proposed conditions and trading hours. The conditions and trading hours were added to the licence following consideration by the Licensing Committee on the 1 March 2011. Copies of the application, report and minutes from the Licensing Committee meeting are detailed in **Appendices D, E & F**.

3.3 Choices (Options)

3.3.1 To grant the variation application;

3.3.2 To refuse the application; or

3.3.3 To vary the licence in such way as it thinks fit.

4. Implications (including financial implications)

4.1 Policy

- 4.2 On 25 May 2010 the Council passed a resolution to adopt the amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to apply in its area.
- 4.3 The amendments to the 1982 Act came into force on 1st July 2010 and, for that reason, the Council's resolution also took effect on that date.
- 4.4 When dealing with an application for a sex establishment licence, the members of the committee are not acting as the licensing committee under the 2003 Act and are instead exercising their functions under Schedule 3 of the 1982 Act.
- 4.5 In May 2010 the Council also amended its existing 'Sex Establishment' Policy (approved by the Licensing Committee on 28th May 1998) to include the words 'Sex Entertainment Venues' and to place a restriction on both location and numbers in the following terms:
- "That the appropriate number of Sex Establishments and Sexual Entertainment Venues in the Borough of Northampton be restricted to the following localities:
- a) The area bounded by and including the Wellingborough Rd, Kettering Rd and Abington Ave to be limited to three sex establishments and
 - b) The area of Regent Square to be restricted to a single "sex establishment".
- 4.6 There are currently three sex shops in the Wellingborough Rd and Regent Square area, and one sex entertainment venue in the Wellingborough Rd area.
- 4.7 Following the Council's adoption of the amended provisions of the 1982 Act it is able to impose a wider variety of conditions on lap dancing clubs e.g. relating to opening hours, advertisements and the visibility of the interior to passers-by.
- 4.8 The Council is also able to refuse to grant or renew a Licence on the grounds that such a club would be inappropriate having regard to the character of the area, the use of other premises in the area (e.g. local schools) and can also have regard to the number of similar premises in the area, if granting the application would exceed the number of such establishments the Authority considers appropriate. This is not however, relevant to the current application, as a licence has already been granted, nor is there any information in the application which suggests that there are grounds for the Council to use the power in the 1982 Act in relation to revocation of licences.
- 4.9 Similarly, local residents may make written representations to the Council on those grounds in relation to applications to grant, renew or transfer a sexual entertainment venue licence, although the Act does not expressly state that they may do so in relation to an application to vary such a licence.

4.10 Resources and Risk

4.10.1 None Identified

4.11 Legal

4.11.1 When considering an application for the grant, renewal or transfer of a licence the Council must have regard to any observations submitted by the Chief Officer of Police and any objections that they have received from anyone else within 28 days of the application.

4.11.2 Schedule 3 of the 1982 Act sets out the grounds for refusing an application for the grant, renewal or transfer of a licence which can be summarised as:

- the applicant is unsuitable;
- the application is on behalf of someone who, if they applied, would be unsuitable;
- If the licence were granted this would exceed the number determined by the Council as being appropriate;
- granting it would be inappropriate due to the character of the locality, the use of premises in the vicinity or the layout, character or condition of the premises.

4.11.3 The Act allows an application to be made to vary the terms, conditions or restrictions on or subject to which a licence is held. The terms, conditions or restrictions include the opening hours of the premises and, therefore, these may be changed when an application is made to vary the licence.

4.11.4 The Act sets out no procedural requirements for an application to vary a licence meaning that, in the absence of any procedure established by the Council, applications can be made without any public notification and the Act suggests they could be granted or refused without giving the applicant the opportunity of a hearing or taking account of the views of any persons who might be affected by the application. It is however, a requirement of natural justice that an applicant is given an opportunity to be heard in relation to such an application. If the Council considers that a more detailed variation procedure is necessary, it should establish such a procedure.

4.11.5 The Council may either grant the application as requested, refuse it or make such other variations as it considers fit based on the information in the application. Whichever of these decisions is made it will be necessary to clearly state the reasons for doing so and identify the evidence which justifies the decision.

4.11.6 If the Council imposes any term, condition or restriction other than that set out in the variation application, the decision does not take effect until the time for bringing an appeal has expired and, if an appeal is brought, until the determination or abandonment of that appeal.

4.12 Equality

4.12.4 None Identified

4.13 Consultees (Internal and External)

4.13.1 A copy of the variation application was served onto Northamptonshire Police for consideration on the 8 October 2019. There have been no representations in response to the application.

4.14 Environmental Implications (including climate change issues)

4.14.1 N/A

4.15 Other Implications

4.15.1 N/A

5. Background Papers

- 5.1 Local Government (Miscellaneous Provisions) Act 1982
- 5.2 Licensing Act 2003
- 5.3 Home Office Guidance Sex Entertainment Venues
- 5.4 The Council Policy on Sex Establishments. (As amended 25 May 2010).

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