

## EAST LINDSEY DISTRICT COUNCIL REPORT

**COMMITTEE:** GENERAL LICENSING COMMITTEE

**DATE:** 9 DECEMBER 2019

**SUBJECT:** APPLICATION FOR RENEWAL AND TRANSFER OF A SEXUAL ENTERTAINMENT VENUE LICENCE – LA SEDUCTION, GRAND PARADE LEISURE COMPLEX, SKEGNESS, PE25 2UN.

**Ward(s) affected:** SKEGNESS

### **Brief description of report content and the decision being asked for:**

#### **Summary:**

This Report provides information for Members about applications made for the transfer and renewal of a Sexual Entertainment Venue (SEV) licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009). The licence applications have been made by Asak Leisure Limited in respect of the premises known as La Seduction, Lower Ground Floor, Grand Parade, Leisure Complex, Skegness, PE25 2UN. The purpose of the Report is to assist the Committee in determining the outcome of the licence applications.

In considering the Sexual Entertainment Venue (SEV) licence applications the Committee may:

- Grant the transfer and licence renewal applications subject to this Authority's standard SEV licence conditions.
- Grant the applications subject to amendment of the standard SEV licence conditions.
- Reject the SEV licence applications.

The Council's licensing policy requires that SEV licence applications are determined by the General Licensing Committee rather than by Officers acting under delegated powers (whether or not valid objections have been received).

The La Seduction venue was first granted a SEV licence by this Authority in December 2018 and is situated on Grand Parade, Skegness. The premise provides pole and lap dancing entertainment and is within the busy night time economy area of Skegness.

#### **Recommendations:**

The Committee is asked to consider the transfer and licence renewal applications submitted by Asak Leisure Limited in respect of the SEV licence for La Seduction at the Grand Parade Leisure Complex, Skegness, PE25 2UN.

If the Committee is minded to grant the SEV licence applications then the Committee should then consider whether the licence is to be granted:

- For the statutory maximum period of one year, and
- Subject to this Authority's standard SEV licence conditions.

The Committee may amend the standard licence conditions and/or add licence conditions, on a case by case basis, where it considers it appropriate or necessary to do.

**This report has been prepared by:** Mr A Twiddy Tel: 01507 613011 – e-mail: adrian.twiddy@e-lindsey.gov.uk

**This report was prepared after consultation with:** Not Applicable

**This report is number 1 in a series of 1.**

**This report has been signed off by:** Mr Jon Challen (Service Manager – Public Protection)

**The following policies form a context to this report:**

The Council's policy in relation to the licensing of sex establishments.

**This report is not a key decision included in the Forward Plan.**

#### **LIST OF BACKGROUND PAPERS AS REQUIRED BY LAW**

(papers relied on to write the report but which are not published and do not contain exempt information)

1. Not Applicable

#### **OTHER HELPFUL PAPERS**

(papers which the report author considers might be helpful – this might include published material)

1. Not Applicable

#### **Local Government (Access to Information Act) 1985**

**Is the report Exempt – NO**

**Please contact the person who has written this report or Mr Jon Challen (Service Manager – Public Protection) Tel. No. 01507 613051 e-mail: jonathan.challen@e-lindsey.gov.uk, if you want more information about this report or the background papers.**

## **1.0. INTRODUCTION**

- 1.1. This Report outlines an application for the transfer and renewal of a licence for a Sexual Entertainment Venue (SEV) made by Asak Leisure Limited for La Seduction, Grand Parade Leisure Complex, Skegness, PE25 2UN. The Report summarises the SEV licensing process. It also refers to the Council's Policy on the licensing of SEVs and provides other pertinent information specific to this application. The Council's policy requires that SEV licence applications are determined by the Licensing Committee rather than by Officers acting under delegated powers (whether or not valid objections have been received). A SEV licence is required (subject to certain exemptions) by any premises providing lap and pole dancing entertainment.

**Name of Licence Applicant:** Asak Leisure Limited

**Current Officer(s) of the Company:** Mr Tajinder Singh (Director)

**Persons to be Involved in the Management of the SEV Premises:** Mr Tajinder Singh and Mr Craig Cresswell

**Licence Applicant's Representative:** Mr M Kheng of Kurnia Licensing Consultants.

- 1.2. A location plan showing the location of the La Seduction premises is attached at **Appendix A** of this Report. A plan showing the layout of the premises can be found at **Appendix B** of the Report. The premise provides pole and lap dancing entertainment and is within the busy night time economy area of Skegness.
- 1.3. The site has held a SEV licence since December 2018. The previous operator of the site was East Coast Resorts Limited – of which Mr Tajinder Singh is also the director. With this in mind it is important to note that the transfer application is for a change of company, but the management personnel of the venue (that is Mr Tajinder Singh and Mr Craig Cresswell) remain the same.
- 1.4. The SEV licence for the venue became due for renewal on 9 December 2019. The licence transfer application was submitted by Asak Leisure Limited on 10 October 2019. The licence renewal application was also submitted on 10 October 2019.

## **2.0. BACKGROUND**

- 2.1. This Authority has adopted specific licensing requirements for SEVs. These licensing requirements came into force in 2012. The general effect of adopting the SEV licensing provisions is that in order to operate as a lap and pole dancing venue premises must hold a SEV licence. The sale of alcohol and 'normal' music and dancing at the venue will continue to be authorised under the terms of a separate premises licence issued under the Licensing Act 2003.
- 2.2. When considering an application for a SEV licence the Licensing Authority must have regard to any observations submitted to it by the Chief Officer of Police. It will also have regard to any objections that have been received from anyone else within 21 days of the application. The closing date for objections (from other persons) in respect of the transfer and renewal licence applications has now passed – no objections or observations to the licence applications were received. Members may wish to note that purely moral objections or concerns cannot be taken into account as part of the SEV licensing process.
- 2.3. SEV licences may be granted for a period of up to one year.
- 2.4. Appeals against the refusal to grant a licence on specified statutory grounds, or against the imposition of licence conditions, are made to the Magistrates Court. There is no right of appeal where the refusal is based on the character of the locality at the time the application is made or the layout, character or condition of the proposed premises. The only way to challenge such a decision would be by judicial review if the decision were viewed as being made without regard to the normal principles of administrative decision-making.
- 2.5. The Council has the power to prescribe standard conditions for sex establishments. Conditions may relate to a number of matters including the following:
  - hours of opening and closing;
  - displays or advertisements;
  - visibility of the interior of the establishment to passers by;

If a licence is granted, it is presumed to be granted subject to the standard conditions unless any of these are expressly excluded or varied. A copy of this Council's standard conditions for SEVs can be found at **Appendix C** of this Report. Under the Council's rolling programme of licensing policy reviews the SEV standard licence conditions were reviewed by the Committee in early 2019 – for further information see Paragraphs 6.8 to 6.15 of this Report.

- 2.6. The Council's SEV licensing policy does not identify the character of the Grand Parade area of Skegness as being inappropriate for the locality of a sex establishment. Also, the policy does not set a maximum number of sex establishments for the Grand Parade locality or any other locality in the East Lindsey District. A copy of the current licensing policy can be found on the Council's website at:

[www.e-lindsey.gov.uk/article/9614/Sex-Establishments](http://www.e-lindsey.gov.uk/article/9614/Sex-Establishments)

### **3.0. SUBJECT INFORMATION AND ISSUES/FACTS AND FIGURES**

- 3.1. A full copy of the licence applications and any supporting evidence submitted by the applicant will be forwarded to the Members of the Committee under separate cover to this Report. This Council's SEV licence application form requires the applicant to show how he/she will operate the premises. In particular, the applicant is asked to detail:
- arrangements for the welfare of staff who are to work in the premises, particularly those involved in performances.
  - stewarding arrangements, including the means by which inappropriate physical contact between the audience and performers will be prevented.
  - the appearance and content of any advertising material outside and inside the premises.
  - the means by which potential customers will be made aware of the nature of the performance.

The applicant's response to the above will be detailed in the evidence pack that will be sent to Members under separate cover.

- 3.2. The application is for the provision of sexual entertainment 24 hours a day on all days. These are the same as the operating hours on the current SEV premises licence. The current alcohol premises licence for the site has no time restriction.
- 3.3. The Licensing Authority is not obliged to consult any parties with regard to applications for SEV licences. However, a copy of the SEV application must be given to Lincolnshire Police. The applicant must also inform other interested parties by way of a notice on site and in the local newspaper. The aforementioned requirements have been satisfied for this licence application.
- 3.4. No comments or objections to the licence application have been received from Lincolnshire Police or interested parties. In addition, the Licensing Team asked Lincolnshire Fire and Rescue for any relevant comments; the Fire Service have not made any comments.
- 3.5. A programmed compliance check will be undertaken at the premise by

the Council's Licensing Compliance Officer prior to the licensing hearing. The results of the check will be made known to Members at the licensing hearing. The Licensing Compliance Officer's report will also make comment on the venue's suitability for private booths (see Paragraph 6.6. of this Report).

#### **4.0. SUPPLEMENTARY FACTS**

- 4.1. The premise holds a premises licence under the Licensing Act 2003 which enables the business to sell alcohol and provide regulated entertainment (e.g. live and recorded music) and late night refreshment (i.e. the sale of hot food and drink after 2300 Hours).
- 4.2. The premises licence has no time restriction regarding the provision of licensable activities under the Licensing Act 2003. A copy of the non-mandatory conditions attached to the premises licence can be found at **Appendix D** of this Report.

#### **5.0. COUNCILLOR COMMENTS**

- 5.1. Not Applicable.

#### **6.0. DISCUSSION / CONSIDERATION – ISSUES / CONCLUSION**

- 6.1. **Suitability of Applicants:** The Council may refuse a SEV licence application if it considers that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
- 6.2. When determining whether the applicant is unsuitable, the Council may wish to give consideration to whether the applicant:
  - is honest;
  - has any relevant convictions;
  - has sufficient and appropriate experience of running a SEV;
  - understands the conditions that will be attached to the SEV licence;
  - is proposing a credible management structure and operating plan that will ensure compliance with all conditions and legal requirements;
  - can be relied upon to act in the best interests of performers, (e.g. in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored);
  - can be relied upon to protect the public, (e.g. transparent charging, freedom from solicitation);
  - can show a track record of management of compliant premises, or that he/she will employ individuals who have such a track record.

- 6.3. In determining the above the Committee should base their judgement on information on the application form, the evidence pack submitted with the application, any written representations received and information provided at the licensing hearing. There is also the possibility of additional interviews with the applicant or enquiries of third parties if such enquiries are appropriate to the case at hand.
- 6.4. **Location of Premises and Character of the Area:** A separate lap and pole dancing venue has previously operated in this area of Skegness for over 10 years and nothing has changed in the character of the locality, and the general area, over that period of time. Officers, therefore, suggest that this is an appropriate area for a SEV, particularly given that this area of Skegness is long associated with the night time economy.
- 6.5. **Layout of Premises:** Members should give consideration to the layout of the premises, and how this may impact on the way the business will be run if a SEV licence is granted. The plan (shown at **Appendix B** of this Report) will give Members assistance in this regard. This Authority requires the plan of the premises to show a number of matters including:
- The area where the entertainers will perform.
  - The means of access and egress to and from the performance area.
  - The performers' dressing room.
  - The seating layout for the customers.
  - The cloakroom.
  - The bar or bars.
- 6.6. **Private Booths:** The Council's standard licence conditions state that there will be no private booths or private performing areas provided on the premises (unless specifically permitted in writing by the Council). This Authority's SEV licensing policy states the following:
- There will be a presumption against granting consent for private booths or private performing areas on the premises, unless the Council are satisfied that the relevant risk assessments have been undertaken and adequate safety measures and assurances are in place.*
- This application is seeking consent for private booths or private performing areas – in seeking such consent the applicant will need to persuade the Committee why he feels it is appropriate in this case for such consent to be granted. The premise was granted consent for private booths / private performing areas on the 2018/19 licence. The Committee will need to consider whether it still wishes to permit the provision of private performing areas at the venue.
- 6.7. **Licence Conditions:** The Council's licensing policy states that standard conditions will apply to all licences for SEVs. The current standard conditions are set out in **Appendix C** of this Report. The Licensing

Committee may decide to impose additional conditions when it determines an individual licence application.

6.8. Early in 2019 the Committee undertook a review of this Council's standard SEV conditions. The review resulted in the following amendments being made to the standard conditions.

6.9. **Right to Work Checks and Log of Performers:** Condition 5 of the standard SEV licence conditions previously read as follows:

*Performers shall be aged not less than 18 years. The licensee must maintain adequate records of the names, addresses and dates of birth of performers including adequate identity checks.*

The condition was amended to include the following additional requirements:

*Right to work checks shall be conducted on all potential performers prior to their employment in this capacity at the venue. Checks shall be in accordance with the Home Office Code of Practice for employers as current at that time.*

*A daily log book shall be kept on the premises of every person employed on the premises as a performer. The record shall contain the following details:*

- *The performer's name;*
- *The time and date he/she commenced and concluded the working shift;*
- *The performer shall sign each entry.*

*The licence holder, manager of the premises or other duly authorised person shall also endorse each entry. Each record shall be available for inspection on reasonable request by an Authorised Officer of the Council or a Police Constable. Each entry shall be retained for a period of 24 months from date of completion.*

6.10. **Safety of Performers:** Condition 11 of the standard SEV licence conditions read as:

*The Licensee is to implement a policy to ensure the safety of the performers when they leave the premises after a period of work.*

The condition was amended to include the following additional requirements:

*A written copy of the policy must be deposited with the Licensing Authority and maintained at the premises at all times.*



6.11. **Physical Contact:** Condition 26 stated:

*The only time any physical contact will be allowed between a performer and a customer is when the performer introduces herself/himself with a handshake or when a gratuity or tip is placed in the garter or armband. Other than that, there shall be no contact.*

The condition was reworded to read as follows:

*During all performances (including performances usually termed 'private dances') there shall not be any deliberate contact, by the performer, with any patron or person within the audience except:*

- *Leading a patron by the hand to and from a chair or private room or designated dance area.*
- *Simple handshake greeting at the beginning and/or end of the performance.*
- *A customary ("peck on the cheek") kiss at the end of the performance.*
- *The placing of monetary notes or dance vouchers into the hand or garter worn by the performer.*

6.12. **House Rules:** Condition 26 of this Authority's standard SEV licence conditions required a SEV to provide each customer with a copy of the house rules on arrival. The conditions have been amended to allow the display of A3 sized copies of the house rules at a minimum of three separate locations within the premises; the location of the A3 sized copies to be agreed with the Licensing Authority. In such circumstances the handing of house rules to customers as they enter the venue would no longer be required.

6.13. **Birching or Whipping:** All SEV licences will now include the following licence condition:

*Acts of birching or whipping (or acts of a similar nature) may not take place at the premises.*

6.14. If the licence application is granted then the licence holder will need to ensure compliance with the above new licence conditions – unless of course the Committee decide to amend the conditions for this specific application.

6.15. **Safer Lincolnshire Partnership:** Whilst not part of the SEV licence conditions the Council's Sex Establishment Licensing Policy makes the following recommendation to licence applicants and licence holders:

*The Licensing Authority recommends that SEV licence applicants*

*and licence holders have regard to the SEV Safety Policy issued by the Safer Lincolnshire Partnership, when drafting licence applications and premises operating schedules and undertaking licensable activities. In addition, the Licensing Authority recommends that licence holders maintain, within the licensed premises, a copy of the current version of the Partnership's SEV Safety Policy and the document be made easily available for viewing by performers, employees and other interested parties.*

## **7.0. PERFORMANCE MONITORING**

<b>Subject</b>	<b>Deadline</b>	<b>Responsible Officer</b>
Not Applicable	Not Applicable	Not Applicable

## **8.0. RISK ASSESSMENT**

- 8.1. There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

## **9.0. FINANCIAL CONSIDERATIONS/IMPLICATIONS**

- 9.1. The current fee set by the Council in relation to the transfer of a sex establishment licence is £200.00. The SEV licence renewal fee is also currently £200.00. The fee for the grant of a licence is £1,200.00. The licence fee levels will be subject to review in 2020.
- 9.2. As with all licensing decisions it is possible that if a Licensing Committee decision is appealed to the Magistrates Court and the appeal is upheld, costs may be awarded against the Council. However, the judgement of the Courts is that costs should not normally be awarded against the Local Authority provided the Authority has acted properly and reasonably.

## **10.0. LEGAL CONSIDERATIONS/IMPLICATIONS**

- 10.1. Schedule 3 of the Local Government (Miscellaneous Provisions Act 1982) sets out the grounds for refusing an application for the grant, renewal or transfer of a sex establishment licence. A licence must not be granted:
- i.** To a person under the age of 18;
  - ii.** To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
  - iii.** To a person, other than a body corporate, who is not resident in a European Economic Area (EEA) State, or was not so resident throughout the period of six months immediately preceding the date when the application was made; or

**iv.** To a body corporate which is not incorporated in an EEA State; or  
**v.** To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

10.2 A licence may be refused where:

**vi.** The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

**vii.** 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;

**viii.** 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;

**ix.** 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.

10.3. There is no right of appeal against a refusal to grant a licence for the reasons identified in paragraphs (**viii**) or (**ix**) above.

10.4. Refusal on any other grounds can be appealed to the Magistrates Court within 21 days. A decision to refuse a licence must be relevant to one or more of the above grounds and the decision must be necessary and proportionate.

10.5. Any licence conditions that are imposed must also be non-discriminatory, necessary and proportionate.

<b>11.0. INCLUDE IF APPROPRIATE AND ONLY BRIEF EXPLANATION OF ISSUE</b>
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11.1. **Environmental issues** – Not Applicable.

11.2. **Human Resources** – Not Applicable.

11.3. **Section 17** – Well run and crime free SEV premises has clear implications in helping the Authority fulfil its Section 17 duties.

- 11.4. **FOI/Human Rights/Data Protection** – Human Rights: The Licensing Authority must ensure that its decisions can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve, or, colloquially does the end justify the means.
- 11.5. **Equality and Diversity** – Not Applicable.

**12.0. HOW DO THE ACTIONS/RECOMMENDATIONS CONTAINED IN THIS REPORT DELIVER OUR COMMUNITY AND CORPORATE STRATEGIES?**

- 12.1. The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the District's residents, visitors and business community.

**APPENDIX A** – Location plan of La Seduction, Lower Ground Floor, Grand Parade, Leisure Complex, Skegness, PE25 2UN.

**APPENDIX B** – Site plan of La Seduction, Lower Ground Floor, Grand Parade, Leisure Complex, Skegness, PE25 2UN.

**APPENDIX C** – Extract from the Council's sex establishment licensing policy showing the standard conditions in relation to SEV premises licences.

**APPENDIX D** - Non-mandatory conditions attached to the alcohol premises licence for La Seduction, Lower Ground Floor, Grand Parade, Leisure Complex, Skegness, PE25 2UN.