

AD-HOC LICENSING SUB-COMMITTEE

FRIDAY, 6 APRIL 2018

PRESENT: - Councillors Derique Montaut (Chair), Alan Bishop, Vera Tomlinson, Nick Martin, Derique Montaut, Caryl Sydney-Smith and Peter Watts.

An apology for absence was received from Councillor Carol Shelley.

1. Appointment of Chair for the Municipal Year 2017/18

Resolved – That Councillor Derique Montaut be Chair of the Sub-Committee for the Municipal Year, 2017/18.

(Councillor Montaut took the Chair.)

2. Appointment of Vice-Chair for the Municipal Year 2017/18

Resolved – That Councillor Vera Tomlinson be Vice-Chair of the Sub-Committee for the Municipal Year 2017/18.

3. Minutes

Resolved – That the minutes of the meeting held on 31st July 2013 be confirmed and signed.

4. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

5. Public Question Time

No public questions were received during the meeting.

6. Application for the Grant of a Sexual Entertainment Venue Licence in respect of Foxies, 3-4 Victoria Road, Swindon, Sn1 3 AJ

The Sub-Committee considered (a) a report of the Council's Licensing Manager setting out an application received for the grant of a Sexual Entertainment Venue Licence in respect of Foxies, 3-4 Victoria Road, Swindon, (b) a site visit to the premises, (c) oral submissions in support of the application and the applicant and their solicitor Robert Sutherland, (d) four public objections opposing the grant of a licence, (e) oral submissions by an objector in supporting her objection, (f) questions to the applicant and objector and answers received, (g) the Council's policy in respect of Sexual Entertainment Venues, and (h) Home Office Guidance for England and Wales in respect of Sexual Entertainment Venues.

The Council's Licensing Manager introduced the report highlighting:

- That the application had been received on 26th January 2018.
- The application was attached as Appendix B to the report.

- There had been no reported issues with the club's operation under its Premises Licence.
- The Licensee had a good working relationship with the Licensing Authority.
- If granted the premises would hold a Sexual Entertainment Venue Licence and a Premises Licence (for the sale and consumption of alcohol).
- The application was for 12:00 noon to 06:00 (the following morning) each day of the week.
- If granted the Premises Licence would need to be amended to reflect the different hours (it was currently Monday to Saturday 11:00 to 06:00 (the following morning and Sunday 11:00 to 02:00 (the following morning)).
- The application had been submitted and advertised in accordance with the appropriate regulations.
- The options available to the Sub-Committee in determining the application.

Objections to the grant of the Licence can be broadly summarised as:

- The location of the premises being inappropriate in an area integral to the town centre.
- Noise nuisance and litter in residential areas arising from patrons leaving the premises.
- That the premises do not promote the correct image of Swindon.
- That the premises are in an area heavily frequented by children and families.
- The potential for trouble arising at the premises.
- That the premises might harm the regeneration of the town centre area.
- The detrimental effect of the night-time economy on local residents.
- A detailed written response to the standard conditions imposed on Sexual Entertainment Venues, including oral clarification of the points raised including:
 - The need for SIA trained staff to operate CCTV within the premises.
 - Training and qualifications for dancers and current dance practices within the venue.
 - The emotional and physical affects felt by dancers at this type of venue.
 - Identification for floor supervisors.
 - The monitoring of patrons within the premises and the recording of this information.
 - Areas of permitted entertainment within the establishments.
 - The dress code for performers, changing facilities and security of changing facilities.
 - The number of SIA Doorstaff and other staff on duty during opening hours.
 - The role of SIA Doorstaff and floor supervisor during dancer performances.
 - The safeguarding of performers within the premises and upon leaving after shifts.
 - The type of performance permitted and the level of interaction between dancers and members of the public.
 - That "grinding" had been witnessed during a visit to the premises by an objector.

Questions to the objectors and answers received can be broadly summarised as:

- That the objection received from the objector present at the hearing was made to protect the safety and well-being of performers.
- The objector had previously worked as a performer in a Sexual Entertainment Venue and her submission was based upon experience.
- That she had not been paid to make her submission and was doing so on a voluntary basis following contact with current performers.
- The witnessing of “grinding” at the premises was on 31st August 2017.

Submissions in support of the grant of the Licence can be broadly summarised as:

- That much of the evidence presented to the Sub-Committee objecting to the Sub-Committee was based on personal opinion and not expertise.
- That no dancers from Foxies had given permission to any objector to act directly on their behalf.
- No complaints had been made to the management of Foxies, or the Licensing Authority, in respect of the management of the premises or performances undertaken during the application period.
- Although the application was for a new licence the premises had been operating in its current location and for a period in Theatre Square since 2005 under a Premises Licence.
- When operating under a Premises Licence it had been subject to an annual renewal process but had never been subject to a review.
- That the Council’s policy was that applications “shall not normally be refused”.
- The conditions proposed under the application before the Sub-Committee.
- The extensive CCTV monitoring already in place at the premises and the applicants’ willingness to accept a proposed condition amended to read “or the area is covered by CCTV” rather than “No Performer shall perform nude or semi-nude dancing of any description unless in an approved area and with floor supervisor present within five metres of the Performer”.
- That the premises management did not agree with the 15(d) which read “Performers do not sit next to, or on, or straddle the customer” because of the lay out of the premises and relaxed atmosphere where dancers would sit next to customers in in the lounge or VIP section. It was proposed that “next to or” be removed from this wording.

Questions to the applicant and responses received can be broadly summarised as:

- That the conditions with the exception of the two suggested modifications were the extent of changes requested and went to the heart of the operation of the premises and the experience it offers to customers.
- That due to the layout of the building the floor supervisor could maintain security through CCTV monitoring at his desk on the first floor.
- The use of timers when customers “log-in” at the desk on the first floor.

Resolved – That after considering: -

1. The application for the grant of a Sexual Entertainment Venue Licence; and
2. Representations and material put forward on behalf of the Objectors;

3. Submissions made in support of the application by the applicant's solicitor;

And taking into account: -

1. Home Office Guidance on Sexual Entertainment Venues;
2. The Licensing Authority's Sex Establishment Policy;

The Sub-Committee determined that the application be granted for the opening times applied for subject to the Council's standard conditions as modified below:

1. Condition 13 be amended to read: "No performer shall perform nude or semi-nude dancing of any description unless in an approved area and with a floor supervisor present and the area is covered by operational CCTV.
2. Condition 15(d) be amended to read "Performers do not sit on or straddle the customer".
3. An additional condition to allow for Stag Party Performances as follows:
"Stag Party performances shall only take place subject to the following:
 - (a) The "stag" shall be seated in a chair on the stage fully clothed during the entire performance.
 - (b) The performer or performers (a maximum of two) shall perform any dance on stage for the stag.
 - (c) Neither the performers nor the stag may remove any of the stag's clothing.
 - (d) The performers may only touch the stag on the upper torso.
 - (e) The performers shall remain fully clothed unless consent from the stag has first been obtained for the removal of their upper clothing.

The Chair reminded the applicant that they had the right of appeal against this determination. Any such appeal should be made within 21 days of the receipt of the written decision including reasons.

7. Application for the Grant of a Sexual Entertainment Venue Licence in respect of Dream Lounge, 8-9 Victoria Road, Swindon, Sn1 3 AJ

The Sub-Committee considered (a) a report of the Council's Licensing Manager setting out an application received for the grant of a Sexual Entertainment Venue Licence in respect of Dream Lounge 8-9 Victoria Road, Swindon, (b) a site visit to the premises, (c) oral submissions in support of the application, (d) four public objections opposing the grant of a licence, (e) oral submissions by an objector in supporting her objection, (f) questions to the applicant and objector and answers received, (g) the Council's policy in respect of Sexual Entertainment Venues, and (h) Home Office Guidance for England and Wales in respect of Sexual Entertainment Venues.

The Council's Licensing Manager introduced the report highlighting:

- That the application had been received on 26th January 2018.
- The application was attached as Appendix B to the report.
- There had been no reported issues with the club's operation under its Premises Licence.
- The Licensee had a good working relationship with the Licensing Authority.
- If granted the premises would hold a Sexual Entertainment Venue Licence and a Premises Licence (for the sale and consumption of alcohol).
- The application was for 12:00 noon to 06:00 (the following morning) each day of the week.
- If granted the Premises Licence would need to be amended to reflect the different hours (it was currently Monday to Saturday 11:00 to 06:00 (the following morning and Sunday 11:00 to 02:00 (the following morning).
- The application had been submitted and advertised in accordance with the appropriate regulations.
- The options available to the Sub-Committee in determining the application.

Objections to the grant of the Licence can be broadly summarised as:

- The location of the premises being inappropriate in an area integral to the town centre.
- Noise nuisance and litter in residential areas arising from patrons leaving the premises.
- That the premises do not promote the correct image of Swindon.
- That the premises are in an area heavily frequented by children and families.
- The potential for trouble arising at the premises.
- That the premises might harm the regeneration of the town centre area.
- The detrimental effect of the night-time economy on local residents.
- A detailed written response to the standard conditions imposed on Sexual Entertainment Venues, including oral clarification of the points raised including:
 - The need for SIA trained staff to operate CCTV within the premises.
 - Training and qualifications for dancers and current dance practices within the venue.
 - The emotional and physical affects felt by dancers at this type of venue.
 - Identification for floor supervisors.
 - The monitoring of patrons within the premises and the recording of this information.
 - Areas of permitted entertainment within the establishments.
 - The dress code for performers, changing facilities and security of changing facilities.
 - The number of SIA Doorstaff and other staff on duty during opening hours.
 - The role of SIA Doorstaff and floor supervisor during dancer performances.
 - The safeguarding of performers within the premises and upon leaving after shifts.

- The type of performance permitted and the level of interaction between dancers and members of the public.
- That she had received verbal abuse from one of the door staff working at the premises.
- That the signage on the front of the premises was inappropriate.

(The Sub-Committee noted the objector's confirmation that her objection and comments pertaining to her earlier submission on Foxies was equally relevant to the Dream Lounge).

Comments in support of the application can be broadly summarised as:

- That a lot of the comments received opposing the application were subjective.
- Support was provided to performers by management and appropriate safety precautions were undertaken.
- The club was currently operating without trouble under a Premises Licence.
- Access to and egress from the club was strictly monitored.
- The issue before the Sub-Committee was the operation of the business and not morality issues with a lawful business.
- Staff constantly patrolled the premises to ensure compliance with the Premises Licence requirements.
- All Door Staff were SIA trained and additional staff were employed if required for any given event.
- That condition 15(c) and (d) needed to reflect that the premises was a lap dancing club.
- The club employed up to 45 full or part-time employees.
- Patrons to the club were varied and included married couples and were sometimes provided with a social and emotional interaction that they would not receive elsewhere.
- Appropriate contact, for instance touching a customer's arm, was sometimes important to obtain a level of intimacy and to reduce objectification.

Responses to questions to the applicants can be broadly summarised as:

- That all performers were aware of guidelines on customer proposition.
- That the club offered its dancers a well-paid and safe environment to work in.
- That the floor supervisor spent the majority of their time on the first floor.

Resolved – That after considering: -

1. The application for the grant of a Sexual Entertainment Venue Licence; and
2. Representations and material put forward on behalf of the Objectors;
3. Submissions made in support of the application by the applicant's solicitor;

And taking into account: -

1. Home Office Guidance on Sexual Entertainment Venues;

2. The Licensing Authority's Sex Establishment Policy:

The Sub-Committee determined that the application be granted for the opening times applied for subject to the Council's standard conditions as modified below:

1. Condition 13 be amended to read: "No performer shall perform nude or semi-nude dancing of any description unless in an approved area and the area is covered by operational CCTV which is constantly monitored.
2. Condition 15(d) be amended to read "Performers do not sit on or straddle the customer".
3. Condition 16 be amended to read: Performers may touch a customer during a performance provided that the customer is fully clothed, remains seated at all times and that any touching shall not be sexual in nature.

The Chair reminded the applicant that they had the right of appeal against this determination. Any such appeal should be made within 21 days of the receipt of the written decision including reasons.