

Equality Impact Assessment Report – Sex Establishment Licence for Sexual Entertainment Venue at Jessop House, 30 Cambray Place, Cheltenham, GL50 1JP.

Eroticats SEV Renewal	Application for a Sexual Entertainment Licence and Equality Impact Assessment
Application: Eroticats Sexual Entertainment Venue (“SEV”)Licence Renewal with variation to standard conditions and special conditions	This is an application for the renewal of an existing SEV Licence pursuant to the provisions of the Local Government (Miscellaneous Provisions) Act 1982. The applicant was first granted an SEV licence for these premises in 2022. This was renewed in 2023. Prior to 2022 the applicant has operated focused SEV events to coincide with Cheltenham Race Days since 2012. The applicant has previously relied on the exemption provisions (see Cheltenham BC, Licensing Policy Statement, December 2020, paras 6.35 – paras 6.38). The SEV renewal provides for limited and focused operation to coincide with Cheltenham Race Days. SEV led venues address the venue diversity policy (see Cheltenham BC, Licensing Policy Statement, December 2020, paras 6.6 – 6.7). <u>Event Limited SEV Occasions (Cheltenham Race Days)</u> The SEV renewal is for no more than 16 occasions in the year. These are for two days (Friday and Saturday) in October; two days in November (Friday and Saturday); two days in December (Friday and Saturday); two days in January (New Years Day and one Saturday); six days in March (the Cheltenham Festival); two days in April (Wednesday and Thursday) and one day in May (Friday). The application is therefore limited in scope, just exceeding the permitted exempt occasions by five days. <u>Variation of Conditions</u>

	The SEV has been previously granted with amendments to the standard conditions (see Cheltenham Borough Council SEV Policy) concerning advertisement and external displays and the conduct of the SEV performance. Additionally, the renewal seeks an amendment to a special condition concerning an external advertising banner. The proposed amendments are made following discussion with the Licensing Authority and the Police. The purpose of the amendments is (i) to facilitate the transportation of clients to and from the venue and for staff to be able to give out flyers for the courtesy bus; (ii) to better regulate the nature of the performance and (iii) to allow the premises sufficient time to ensure proper set up and take down of signage. The courtesy bus is also independently used by performers before and after the operation of the premises. The bus is not used by performers and customers at the same time. The Council recognises that sex establishments are lawful and a legitimate part of the retail and leisure industries (see Committee Report, page 12, para 4.3).
Authors & Contributors to this EIA Report	• Imogen Moss, Solicitor, Poppleston Allen • Steve Burrows, Director, Red Apple Associates The purpose of this EIA Report is: • to conscientiously assess the diversity, inclusivity and equalities operation of the premises; • to conscientiously consider the representations made in respect of the application; and • to assist members in the determination of the application. It is acknowledged that the PSED must be “exercised in substance, with rigour, and with an open mind” by the decision-maker personally and may not be delegated (see summary in <i>R (Bracking & Ors) v Secretary of State for work & Pensions</i> [2013] EWCA Civ 1345 at [73]).
Context:	On 1st October 2014, Cheltenham Borough Council approved the adoption of the amended provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act to take effect in the borough on 1st December 2014.

The Cheltenham Borough Council SEV Policy	For fuller discussion of the legislative regime see the Committee Report, pages 11 – 17). The Policy provides the following important statement: “The Council does not take any moral stand in adopting this policy. The Council recognises that Parliament has made it lawful to operate Sexual Entertainment Venues, and that such businesses are a legitimate part of the retail and leisure industries. It is this Council’s role as the Licensing Authority to administer the licensing regime in accordance with the law.” Para 12.3 states that “Objections should not be made on moral grounds or values.” The Policy states (1.3) that “Each application to be determined will be done so on its own merits.” This is described as the “overriding principle” (4.3) (see also 11.2). The premises is located within the designated permitted area as defined in the policy (see Committee Report, page 14). See also Cheltenham BC, Licensing Policy Statement (December 2020) and the current version of the Licensing Act 2003, s 182 Guidance. It is accepted that sex equality-based concerns are relevant to the due regard of the PSED in the context of an application for a sex establishment under the 1982 Act (see <i>R (oao CDE) v Bournemouth, Christchurch & Poole Council</i> [2023] EWHC 194 (Admin). The Consultation on the SEV policy (2019): The Police advised that they had not identified any correlation between SEV’s and an increase in disorder and Crime. Members noted during discussion with the Police that there was inevitably a spike in crime rates during race week due to the increased number of people coming into the town who were intoxicated and there was no evidence to suggest that SEVs contributed to an increase in crime. The Police summary states that ‘From research there is no connection between SEVs and prostitution...’ The 2019 EIA acknowledges that there are strong opinions on the provisions set out in the policy from both sides of the argument. There is strong opposition to sexual entertainment in Cheltenham and the council’s role
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	as licensing authority in this. There is equal recognition that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries.
Who is affected by the SEV application?	The application will need to be determined on its own merits, giving due weight and regard to relevant evidence. See also Committee Report, page 17, para 6.7.
Public Sector Equality Duty (PSED)	The Council has a legal duty under the Equality Act 2010 to have due regard due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics in the discharge of its licensing functions. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. See Committee Report at pages 17 – 18. See Cheltenham Borough Council SEV Policy (1.23); see also Cheltenham SEV Policy, para 18.3:” When making such decisions, local authorities must take into account any rights the existing operators have under Article 1, Protocol 1 of the European Convention on Human Rights (which entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression).” Parliament has made it lawful to operate a sex establishment. The Council recognises that sex establishments are lawful and a legitimate part of the retail and leisure industries (see Committee Report, page 12, para 4.3). Some or all of the equality issues may be addressed through appropriate conditions and enforcement by the council. The PSED is not “<i>a duty to achieve results</i>” but a duty “<i>to have due regard to the need to achieve the goals identified in paras (a) to (c) of section 149(1)</i>” (<i>Hotak v Southwark London Borough Council</i> [2015] 2 WLR 1341 at para 73). For its part the applicant adopts policies in respect of customer and performer safety through the adoption of internal guidelines, internal and external training and on-going engagement with the relevant authorities.

	Careful regard is had to the external appearance and operation of the premises during the very limited days and hours of its operation. See witness statement of Steve Burrows, Director, Red Apple Associates Ltd.		
Potential Sources of Information:	Representations received:		
		FOR	AGAINST
	NUMBER OF REPS	55	44
	The Objections include: • General concerns and general principled objections to SEVs per se. For example that strip clubs are outdated, exploit women, debase women, exploit weak minds and that the existing regime ought to be reformed by parliament. • Regard to the Cheltenham Safety of Women at Night Survey (see below). • No demand for the venue as no permanent SEV in Cheltenham. The Representations in favour include comments from (former and current) employees and customers who have worked for the applicant or have attended the venue. These comments demonstrate that customers are both male and female and hold the premises in high regard. The customers and employees recognise that the applicant is a responsible operator who provides a safe and welcoming environment. Cheltenham Borough Council – Safety of Women at Night Survey https://democracy.cheltenham.gov.uk/documents/s38549/2021_10_18_COU_Safety_Women_At_Night.pdf		

	Cheltenham Borough Profile https://www.cheltenham.gov.uk/info/63/equality_and_diversity/1801/key_demographic_information/22 House of Lords: Tackling Violence against women and girls. Tackling violence against women and girls in the UK - House of Lords Library National Papers on Sexual Entertainment Venues The Regulatory Dance :Sexual Consumption in the Night Time Economy The research concluded that lap dancing continued to be a popular mean of employment for some women motivated by future mobility, but that income remained precarious. Women reported feeling safe in work but almost half reported frequent verbal harassment and unwanted touching by customers. The research did not find evidence of forced labour or trafficking. RegulatingStrip-BasedEntertainment-SexualEntertainmentVenuePolicyandtheExInclusionofDancersPerspectivesandNeeds.pdf Research findings include one in four lap dancers has a degree. Those dancers with degrees had not chosen dancing in place of a career in their chosen subjects after university but instead were combining it with other forms of employment or education. One third of women interviewed were using dancing to fund new forms of education or training. No evidence or anecdotes of forced labour or trafficking of women. Centre for Crime and Justice Studies: License to cause harm? Findings raised concerns that women's sense of safety and well being in public spaces is compromised by the widespread use of sexualised imagery of women and girls in public spaces and by the growth of Sexual Entertainment Venues.
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Protected Characteristics from the Equality Act 2010.	
<i>Age</i>	The legislation prohibits persons under the age of 18 being admitted to or employed on licensed premises. The premises does not otherwise seek to discriminate based on age in respect of customers or performers. The typical age of customers is over 25. The age of performers varies considerably from 20 – 55. The premises has robust policies in place regarding age verification for performers to be 18 or over. The premises has an appropriate age verification policy in place (Challenge 25) to prevent underage entry and staff are trained on acceptable forms of photographic/Pass ID that can be accepted. Cheltenham Borough Profile https://www.cheltenham.gov.uk/info/63/equality_and_diversity/1801/key_demographic_information/22 118,836 people live in Cheltenham borough. People aged 0-19 make up 21.7% of the population. The largest age group is 20-64 at 59% of the population. Those aged 65+ are 19.3% of the population. <u>The Regulatory Dance: Sexual Consumption in the Night Time Economy</u> 60% of dancers were aged between 22 and 29. The age range spanned from 18 -53 years. Save for compliance with the age limit the premises does not impose any limits on the age of customers or performers.
<i>Disability</i>	Cheltenham Borough Profile https://www.cheltenham.gov.uk/info/63/equality_and_diversity/1801/key_demographic_information/22

	Disability under Equality Act – excerpt from the Cheltenham Borough profile: 84.1% of the not considered disabled 15.9% considered disabled There is no specific information on the proportion of disabled users of sexual entertainment venues (that the authors and contributors to this report could find). Disability encompasses a wide range of factors as set out in the Equality Act 2010 definitions. Premises seeks to promote accessibility and inclusion. No complaints have been received by the operator about access to the premises or working conditions.
<i>Gender Reassignment</i>	No details available from Cheltenham Borough Profile. The premises does not discriminate on the grounds of gender reassignment. There is no barrier to performers or customers in the premises in respect of gender identity.
<i>Pregnancy and maternity</i>	No details available from Cheltenham Borough Profile. <u>The Regulatory Dance: Sexual Consumption in the Night Time Economy</u> Only 13.5% of dancers had children. The premises does not discriminate on the grounds of pregnancy and maternity.
<i>Race</i>	Excerpt from the Cheltenham Borough profile: <i>Ethnic group</i> English, Welsh, Scottish, Northern Irish, British: 83.3% Other White: 7% Asian, Asian British or Asian Welsh: 4.1% Mixed or multiple ethnic groups: 2.5%

	Irish: 0.9% Other ethnic group: 1% Black, Black British, Black Welsh, Caribbean, African: 1% Roma: 0.1% Gypsy or Irish traveller: 0.1% There is no specific information on the proportion of users of SEVs. The premises does not discriminate on the grounds of race/ethnicity; all races and ethnicities are equally welcome either as customers or performers.
<i>Religion or belief</i>	Excerpt from the Cheltenham Borough profile: Religion No religion: 44.4% Christian: 45.5% Not answered: 6.3% Muslim: 1.5% Hindu: 1% Buddhist: 0.5% Other religion: 0.5% Jewish: 0.2% Sikh: 0.2% There is no specific information on the religion of users of SEVs. The premises does not discriminate on the grounds of religion or belief; persons of all beliefs and none are welcome as customers or performers.
Sex	Excerpt from the Cheltenham Borough profile: Sex 48.9% are male 51.1% are female

	Cheltenham Borough Council – Safety of Women at Night Survey https://democracy.cheltenham.gov.uk/documents/s38549/2021 10 18 COU Safety Women At Night.pdf 638 responses – 95% of which were female. 72% of respondents told us that that they don't feel safe at night, rising to 75% not feeling safe during race week. The 3% rise during race week, taking into consideration the number of people coming into Cheltenham, has to be considered in view of the night time economy as a whole. The SEV at Jessop House is only operational during specific times of the year. The Consultation on the Cheltenham SEV policy (2019): The Police advised that they had not identified any correlation between SEV's and an increase in disorder and Crime. Members noted during discussion with the Police that there was inevitably a spike in crime rates during race week due to the increased number of people coming into the town who were intoxicated and there was no evidence to suggest that SEVs contributed to an increase in crime. The Police summary states that 'From research there is no connection between SEVs and prostitution...' The 2019 EIA acknowledges that there are strong opinions on the provisions set out in the policy from both sides of the argument. There is strong opposition to sexual entertainment in Cheltenham and the council's role as licensing authority in this. There is equal recognition that Parliament has made it lawful to operate a sex establishment and that such businesses are a legitimate part of the retail and leisure industries. The Regulatory Dance: Sexual Consumption in the Night Time Economy This report considered reasons for dancing citing advantages such as flexibility and independence. The premises has strict rules to follow in respect of the standard conditions and their own policies and procedures limiting physical contact, where a performance can take place and the nature of the performance.
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	Operator is conscious of concerns raised by objectors in relation to women's safety. The operator has taken a proactive approach to addressing these concerns including all members of management attending a course on vulnerability, anti-sexual harassment and bystander training which was organised by Cheltenham Borough Council. The course was endorsed and funded by the Police and Crime Commissioner. Course date was 13 July 2023 and was a 2-hour session. All staff who work within Cheltenham providing leaflets for the courtesy bus are trained in bystander intervention which adds another layer of assistance and visible persons within the town during busy race week / events. Premises have worked with GRASAC who have provided additional literature to the performers welfare folder. Robust conditions via the SEV licence which aid in assisting concerns raised in respect of performer welfare and customer safety.
<i>Sexual orientation</i>	Excerpt from the Cheltenham Borough profile: No data available. Some people may feel less safe depending on their sexual orientation. The premises does not discriminate on the grounds of sexual orientation and prides itself on being a welcoming venue. Persons of all sexual orientations are welcomed on the premises either as customers or performers.
Conclusion	The applicant is aware of diversity, inclusion and equality impacts. The sensitivities to the nature of the lawful entertainment on the premises is acknowledged and the applicant works with the relevant responsible authorities to ensure regulatory compliance by way of on-going consultation and engagement. The number of representations provide a snap shot broadly in favour of the continued limited and focused operation of the premises.

