

Licensing Committee

Friday, 7th February, 2014

1.00 - 4.30 pm

Attendees	
Councillors:	Garth Barnes (Chair), Diggory Seacome (Vice-Chair), Andrew Chard, Anne Regan, Malcolm Stennett, Charles Stewart, Pat Thornton, Roger Whyborn and Helena McCloskey (Reserve)
Also in attendance:	Councillor Penny Hall

Minutes

1. APOLOGIES

Councillors Reid and Walklett gave their apologies.

Councillor McCloskey attended as a substitute for Councillor Reid.

2. DECLARATIONS OF INTEREST

Councillor Barnes declared an interest in agenda item 6 as he had publicly declared his objection against this application and would not sit on Committee for this item.

Councillor Barnes declared an interest in agenda item 7 as he had had discussions with the applicant and was therefore compromised. Councillor Barnes said he would not sit on Committee for this item.

3. PUBLIC QUESTIONS

None

4. MINUTES OF MEETING HELD ON 10 JANUARY 2014

Resolved that the minutes of the meeting held on 10 January 2014 be agreed and signed as a true record.

5. MINUTES OF SUB COMMITTEE MEETINGS

Resolved that the minutes of the sub committee meeting held on 20 December 2013 be amended to include Councillor McCloskey's attendance and be signed as a true record.

Resolved that the minutes of the sub committee meetings held on 3 January 2014 and 9 January 2014 be agreed and signed as a true record.

6. APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE

Louis Krog, Licensing and Business Support Team Leader, introduced the report as circulated with the agenda. Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009, allows applicants to apply for a Sexual Entertainment Venue (SEV) licence where they wish to offer "relevant entertainment" (as defined at paragraph 2.5 of the report) on a frequent basis (as defined at paragraph 2.4 of the report).

An application for a SEV licence was made on 13 December 2013 by Bath Road Property Limited in respect of Diamond Gentlemen's Club at 12-14 Bath Road, Cheltenham, GL53 7HA.

The applicant has applied to offer relevant entertainment at the premises every day from 20:00 to 04:00.

The Officer referred Members to point 1.3.2 of the report which outlined the proposed variation of the standard condition; "During any performance there must be no physical contact between the performer and any member of the viewing public. A safe distance of 90cms (36 inches) should be maintained between performers and customers during all performances" so to remove the 36 inch rule so that the condition reads; "During any performance there must be no physical contact between the performer and any member of the viewing public";

The Officer also referred Members to 1.3.3 of the report which states; for the following non-standard timings "Operating hours from 1100 until 0400 on all Cheltenham race days. At the start of British Summertime, the terminal hours of the operation shall be extended by one hour".

Appendix A of the report provided a copy of the application form.
Appendix B of the report showed a copy of the premises layout.
Appendix C of the report detailed a location map of the premises.
Appendix D of the report listed the house rules of the premises.

The Officer advised Members that since the adoption of the amended provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, any premises that want to offer "relevant entertainment" on a frequent basis can only do so by obtaining a SEV licence.

The Officer confirmed that the applicant had correctly advertised the application.

The Officer advised Members that objections made on moral grounds or values should not be taken into account because these were not relevant to either the mandatory or discretionary grounds for refusal and the Council recognise that sexual entertainment is a legitimate form of entertainment. In determining the application, Members must have due regard to any observations made by the Chief Officer of the Police and any other comments made by anybody else.

Gloucestershire Constabulary did not object to the application but have requested that the conditions listed at 4.4.1, 4.4.2, 4.4.3, 4.4.4 and 4.4.5 of the report be incorporated in to the conditions of the licence.

The Officer confirmed that 193 representations had been submitted from other persons. These were shown in the background papers. A summary of the issues raised by objectors were listed at point 4.6.1 to 4.6.10 of the report.

The Officer referred Members to point 5.3 and 5.4 of the report which detailed the policy considerations and listed the mandatory and discretionary grounds for refusal of a SEV licence.

The Officer detailed the policy considerations with regard to the location of the premises at 5.6 of the report and referred Members to appendix E of the report which provided a copy of the pool of standard conditions.

The Officer referred to point 6 of the report which detailed the national guidance.

The probity in Licensing was listed at point 7 of the report.

The Officer confirmed that the Council has not adopted a policy of setting a limit on the number of SEVs it considers relevant for the relevant locality. Instead, each application will be determined on individual merits on a case to case basis. Point 8.1 to 8.5 listed the issues which had been raised by objectors that required clarification.

An additional document from the applicant had been circulated to Members prior to the meeting detailing background to the application. The document is attached as a supplement to the minutes for this agenda item.

The Chairman reminded Members of the Committee and members of the public in attendance that moral objections had to be put aside along with the four licensing objectives under the Licensing Act 2003. The guidance used for this type of application was a Central Government ruling. The Council's current SEV policy did not set a limit for SEVs and each application must be dealt with on its own merits.

The Chairman stated that the suitability of the applicant, the vicinity and the character of where the premise is would be considered when determining this application.

When asked about point 4.4.3 of the report, The Officer stated that Police conditions stipulated one SIA registered door staff shall be employed in the designated areas where sexual entertainment is taking place. Members could decide if they felt there should be two SIA registered door staff in place if they felt this would be more appropriate.

The Officer confirmed that point 1.3.3 of the report allowed the premises to extend the terminal hour at the start of British Summer time to benefit the premises the extra hour.

Andrew Woods Solicitor, Nigel Blair Director – Bath Road Properties, James Elias Bath Road Properties – Chairman of Night safe and John Anderson Ex Police Officer attended the Committee to speak in support of the application.

Andrew Woods stated that the application had been made for an activity that is lawful. The applicant is a well respected operator and is the Chairman of the Night safe scheme. The applicant has a good history with authorities throughout the county and this responsible approach would continue. The following points were also made.

- If the application was granted today customers would enter the premises using the Bath Road entrance, walk up the stairs and pay a fee on arrival. There is no visibility from the front door to inside the premises and there are no windows.
- All other facilities in the club were as a bar would be and CCTV would be in use. Any dances would take place in the semi circular sofas situated around the outside of the room. The customer would be seated with the dancer in front of them. The performance would last 3 minutes then the dancer would get dressed. The fee for the performance would be made to management prior to the dance taking place and money would not be carried by the performer.
- One SIA registered door supervisor would be in place whilst the performance took place. If Members felt two SIA registered door supervisors should be in place Andrew Woods confirmed the applicant would be happy to agree this. All other standard and Police conditions were agreed to.
- The premises held an existing premises licence allowing the sale of alcohol until 4am. This application sought sexual entertainment and when assessing the area and location of the venue had applied for this entertainment to start from 8pm and no earlier. The premises were situated on the first floor with no visibility into the venue externally. A smoking area for the performers was situated on the second floor with a separate smoking area for customers on the first floor.
- The venue would be called Diamond and would replace the existing Voodoo signage. No other advertisement relating to the type of premises would be displayed anywhere. There were no hidden or private rooms and every dance would be performed in a specified area. The application if granted is covered by a large number of conditions as shown on pages 55 to 59 of the report.
- Any inappropriate behaviour from customers would result in them being removed from the premises by the door staff. The applicant would liaise with the Police about the condition of having door staff in place up to 30 meters from the venue when customers left the premises.
- Appendix 1 of the report, on page 61 listed 5 separate additional conditions that would be attached to the licence if granted. All other additional Police conditions had been agreed.
- The rationale behind the application from Mr Blair had been demand for this type of venue and there is no other Sexual Entertainment venue in Cheltenham. The number of customers who would attend this sort of venue would be between 75-100, much less than those currently attending the premises as a nightclub. There would be a much higher spend per head for this application and that is why the business plan works.
- Point 2.4 of the report details infrequent sexual entertainment being provided on more than 11 occasions within a 12 month period. Under this part of the Act this premises provided sexual entertainment during

race week in 2013 without any issues. The applicant was confident that this would continue to be the case if the application was granted.

- This application had resulted in strong feeling from some residents which the applicant took on board. Grounds for refusal were listed at points 5.3 and 5.4 of the report on page 32. None of the mandatory grounds were relevant and the discretionary ones relating to the suitability of the applicants were relevant to this application.
- Point 5.6 of the report on page 33 detailed considerations to be made with regard to the location of the premises. This application sought sexual entertainment to start from 8pm. During race days the application sought sexual entertainment to start from 11am. On reading residents objections the applicant was happy to amend the start time to 5pm during race meetings but if Members felt 8pm was more appropriate the applicant would also be happy with this time.
- Representations made which were speculative, covered moral grounds, mentioned gender equality or listed the licensing objectives were not relevant to this application.
- The applicants do not accept any suggestion that this licence, if granted, would increase public nuisance or crime and disorder. These points are not supported and there is no evidence to suggest this would be the case. These comments were unsubstantiated. There will be a reduced number of customers at the premises resulting in less noise and alcohol fuelled behaviour. Comments made regarding sexually frustrated customers leaving the premises were not relevant and were speculative. The Police had raised no concerns with this application being made.
- The locality of the premises is in a core commercial area not within the main shopping area. There are some residential properties behind the premises but the premises are not located in a predominantly residential area. The Park and Salvation Army are within the commercial area and would not be impacted by this application as the entertainment would not start until 8pm. There are other late night venues alongside these premises and it is within an area of late night leisure trade. The premises Kukui is situated beneath Diamonds.
- A previous lap dancing premises was granted a SEV licence in a highly residential area with local Churches and community centres close by. This applications location was far more suitable.
- The applicant requested that the 36 inch rule condition is not imposed as it was very difficult to enforce. The club can run completely properly without the rule so long as the no touching condition remains. Nine other towns did not impose the 36 inch rule because it is difficult to enforce.
- A meeting with residents recently took place to listen to concerns. Residents would not be affected by this application if the licence is granted today. An email address would be available for residents to contact the premises with any concerns.

Members asked the following questions of Andrew Woods and in responding;

- Confirmed that with the premises operating as a SEV there would be between 75-100 customers and as a night club between 300 – 400 customers.
- Said that after concerns from residents the premises would be called Diamond rather than Diamond Gentleman's Club.

- A Member said they had grave concerns for residents in and around the Salvation Army area and to customers visiting the Theatre and felt members of the public would be put in an uncomfortable position.
- Stated that their experience of this type of venue showed that there would be fewer customers attending the premises as a SEV than if it were operating as a nightclub.
- Stated that the 36 inch rule not being enforced would make it easier for door staff to monitor and customers were not allowed to touch the performer.
- Said that no specific inspection requests had been asked for from the Police and they would welcome any type of inspection.
- Stated that it was not appropriate for payment of money to go to the performer. The fee for the dance is made to management prior to the performance taking place.
- Confirmed advertising would be done by word of mouth and on their website. Direct marketing would come from the existing night time economy.

When asked, the Officer confirmed if the applicants left the premises the SEV licence must be transferred to the new applicant and would be treated as a new application and be determined at this Licensing Committee.

The Officer advised the Committee that alcohol premises are subject to 3 to 6 monthly inspection and these would be incorporated with inspections for this premises if the licence was granted.

Members asked the following further questions of Andrew Woods and in responding;

- Stated that during race week last year the 36 inch rule was not enforced by the Police as they were in agreement as long as customers did not touch the performers.
- Confirmed that due to the layout of the premises it was very difficult to provide disabled access to the venue. Staff would be available to assist as necessary.
- Said he anticipated there would be very few customers attending the venue between 8pm and 10pm. There is a condition that prevents any hand bills being distributed in the town centre.
- Explained that the performances would take place in the semi circular booths around the edge of the room, as shown in the plan on page 49 of the report. Tables were not placed between the customers and the performer and spaces for drinks to be placed were provided in the side of the seats.
- Stated that the venue may provide male Chippendale evenings but to begin with the premises would be providing lap dancing entertainment. The double booths and single booths would be occupied by one customer and one dancer only. Management and door staff would also be monitoring the dancers and CCTV would be used throughout the premises which would be kept for 28 days.

- Said he did not envisage the 20 booths all being in use at one time. The cost of a dance would be around £20.00. Customers not wanting a performance could stand in the bar area.
 - A Member asked how the applicant would control a large number of drinkers at busy times after 11pm.
- Reminded Members that door staff would be present at the venues entrance and that the applicant had agreed to the additional condition of door staff monitoring outside of the venue for up to 30 metres. Customers would have to pay a £10.00 entrance fee and felt that members of the public would not pay £10.00 to enter the venue just out of curiosity. Experience of this sort of venue shows that this does not happen.
- Confirmed that more lighting would be provided in the stairway entrance.
 - A Member raised concern over the other sort of entertainment that could be provided under a SEV licence as page 33 of the report detailed.
- Stressed that the only entertainment this venue would be providing would be lap dancing.
- Stated that the performers would dance on the stage enabling customers having a drink at the bar to watch them.
 - A Member referred to point 4.4.2 on page 30 of the report. The Member felt that dancers should also provide their addresses as well as their telephone number.
- The Officer advised Members that if they felt this was a relevant condition this could be attached to the licence if granted today.
- Confirmed he would provide an email address and mobile telephone number for residents to contact the venue if needed.
- The Officer confirmed that if granted today the SEV would enable the premises to provide all entertainment listed at point 6.4 on page 33 of the report not just lap dancing.
- Stated that he was happy for it to be recorded today that the venue would only be providing lap dancing and dancers on the stage as entertainment.
 - A Member asked if the venue did provide entertainment other than lap dancing and stage dancing could the applicant be brought back to the Licensing Committee for the licence to be reviewed.
- The Officer confirmed that it would be beyond the Council's powers to prescribe what activities can take place given that the law deliberately gives sexual entertainment a wide definition to provide operators the option to offer any sort of sexual entertainment with the definition of the Act. He stated that the Council is permitted to review the application on renewal and decide whether to renew the licence for another 12 months. The licence once granted could not be reviewed.
- Referred to the House Rules provided at page 57 of the report and advised the Committee the applicant would be happy to include in the House Rules that lap dancing and stage dance would only take place in the premise.
- Confirmed the performers would not be fully naked.

Councillor Barnes attended the Committee as Ward Councillor to speak on behalf of his residents concerns about this application. The following points were made;

- This was a huge debate and it was not easy for the Committee to consider. Councillor Barnes said that in all his years as a Councillor he had never seen so many objections made to one application, 193 in total and there would have been more.
- These objections had mainly been submitted from people living in the community who were very concerned about how the character of the community would be affected by this application.
- What happens inside the venue could be controlled properly but what occurs outside of the premises can not. A lot of stimulation would be taking place inside the club and lots of young men that had been drinking and stimulated would be leaving the venue at different times of the evening. If the premises were operating from 8pm these customers could leave the venue early on in the evening.
- The local residents in this village atmosphere feel this venue is not appropriate for this location. St Lukes Church and village hall all provide events in the evenings. Worried families have been in tears over fears for the village if this application were granted in this location.
- Vernon Place was a dark alleyway with no CCTV in this area or the park. Vulnerable people could be using these areas and shoppers returning from Sainsbury's. Residents and shoppers using this area could be accosted by young men fuelled by alcohol and stimulation leaving this venue. These residents and shoppers in this area would be denied freedom and choice to walk around safely if this application was granted.
- How would this area be policed at night and would there be enough staff inside the premises? Residents are concerned that females leaving pubs and clubs in this area could be taken advantage of by customers from this premise.
- Questions asked at the recent resident meeting with applicants about how many people would attend the premises were not answered.
- Residents were mainly concerned about what would happen outside of the venue if the licence was granted.

Councillor Barnes summed up by saying that he hoped that the 193 objections received had a voice here today. Residents were deeply concerned that granting this licence today would turn this area into a sleazy one and felt strongly that this was not the right area for this type of venue. This application should be turned down. He went on to say that if the licence was agreed that the Committee would need to ensure that there were the correct safeguards in place at the Club.

Councillor Sudbury attended the Committee as Ward Councillor to speak on behalf of local residents opposed to this application. The following points were made;

- This application has received a high number of objections and has caused huge anxiety for local residents.

- Whilst there are a number of reasons that have been given by those opposed to the application, Cllr Sudbury urged the committee to refuse the application on the following discretionary grounds: that the grant of the license would be inappropriate having regard:
 - i) To the character of the relevant locality and
 - ii) To the use to which any premises in the vicinity are put.
- In commenting on the applicants claim that the site is suitable because it compares well to the site of the former Blue Rooms which previously held a SEV licence, Cllr Sudbury said that whilst there are vague similarities, there are crucial differences.
- This venue is next to Vernon Place which is a poorly lit narrow lane whereas the Blue Rooms was next to the wider, better lit Bennington Street.
- Vernon Place is a quiet resident's backwater but residents already suffer with noise from the nightclub, anti social behaviour and illegal parking at nights.
- Vernon Place is one of the oldest lanes in the town, leading to Barrett's Mill Lane and on to Sandford Park,
- There will be a danger of and fear of sexual assaults occurring and increasing in this area if this licence is granted.
- The Salvation Army and Playhouse are close by which are key differences to the location of the previously licensed Blue Room.
- The crucial difference between the Blue Room and the application site is that Sandford Park is behind the venue and the access to the park from Bath Road is close by.
- Children and young people will be using this area at 8pm on their way to Sandford Park when the SEV entertainment starts and the premises are open.
- This area will not be policed at this time of night. Sexually charged customers will be leaving the premises at all times and members of the public will be more vulnerable to sexual attacks if this application is granted.
- The applicants had made a great deal of organising a public meeting to answer residents questions but Cllr Sudbury wanted the committee to know that residents were very disappointed that their questions were not answered at the meeting.
- At this meeting Cllr Sudbury had asked the applicant if normal club nights would continue if permission was granted and the applicants had confirmed that normal club nights would continue. There was still uncertainty about this and Cllr Sudbury asked the committee to delve deeper on this issue in their considerations.

In summing up Councillor Sudbury stated that if granted this application would have a huge negative impact on the area. Cllr Sudbury urged the Committee to refuse the application due to the proximity of the venue to and impact on residents of Vernon Place and users of Sanford Park. It is the impact of the clubs clientele when they have left the club in a sexually charged mood that would be most unacceptable in these areas.

Mr Ratton a resident of College Road attended the Committee to speak in support of his objection. The following points were raised;

A total of 193 objections had been made against this application and Mr Ratton wanted to ensure the Committee were fully aware of the strength of the residents' feelings about this application.

Concerns were raised about difficulties occurring at the end of the night when customers who had been sexually aroused and had consumed alcohol left the premises.

The Officer reminded Members that existing conditions on the current premises licence were in place for the management and dispersal of the outside area. In particular he drew the Committee's attention to conditions 2(b), (e) & (h) of the current premises licence.

These conditions would still apply if this application was granted today and both licences would run together.

When asked, The Officer confirmed that any decision made by a public body is subject to appeal or judicial review. The type of appeal would depend on the grounds for refusal.

Andrew Woods referred to Councillor Barnes' and Councillor Sudbury's comments and said that a considerable amount of speculation had been stated. The following points were also made;

- Mr Anderson, an expert has considerable experience of the West End Soho area. Surveys have been completed which confirm there is no evidence of sexually charged problems occurring outside this sort of premises.
- With this evidence and thorough research the comments made about this area turning into a mini Soho are wholly unsubstantiated.
- If the Police had concerns about this sort of problem happening outside of the premises the Police would have submitted an objection.
- The current premises licence conditions stipulate controlling the outside area.
- Andrew Woods said he was unhappy to hear that residents leaving the recent meeting were not satisfied as he felt their questions had been answered.
- The applicant was happy to start the entertainment at 10pm instead of 8pm.

A Member asked a question relating to research provided by an objector about the impact of SEV's in other areas. The Chairman felt that all parties had had sufficient opportunity to speak.

Members left the Chamber at 2.40pm to determine their decision. Members returned to the Chamber at 3.19pm with their decision.

Members were advised they had the following decisions to determine;

1. Grant the application as applied for;

2. Grant the application subject to any additional terms, conditions and /or restriction that are either specific to the licence or standard conditions;
3. Refuse the application.

Upon a vote it was (5 for, 3 against)

The decision of the Committee was as follows:

In respect of the application by Bath Road Property Limited in respect of Diamonds Gentlemen's Club at 12-14 Bath Road the Licensing Committee has read the material presented to it and has listened to all of the evidence and the oral submissions.

The decision of the Committee is:

The application for a sexual entertainment venue licence be granted as requested by the applicant in their application subject to the conditions recommended by the police and the following added conditions

The times of operation will be 10:00 p.m. to 4:00 a.m. including during race week

The Committee agrees to relaxing the 36' rule but there will be the condition of no touching whatsoever

Dancers are required to sign in with their address and telephone number

Phone number and email address to be provided for residents/authorities to contact if there are concerns

The name of the club will be "Diamond"

There are to be no hand bills delivered/handed out in Cheltenham at all

House rules to be amended to state that only lap dancing and dancing on the stage will take place at the club

The licence will be subject to renewal/review in one year

7. APPLICATION TO PLACE AN OBJECT ON THE HIGHWAY - TABLE AND CHAIRS

Councillor Garth Barnes stood down as Chairman due to his declaration of interest. Councillor Seacome became Chairman for this item.

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. An application has been received from Mr Raja Miah in respect of The Ball Room, Bayshill Lodge, Montpellier Street, Cheltenham. The applicant has requested to place 21 chairs and 7 tables on the pavement directly outside the premises.

If the application was granted today the tables and chairs would be placed outside from 08.00 to midnight on Monday and Tuesday's. 08.00 to 01.00 on Wednesday to Saturday's and from 10.00 to 23.00 on Sunday's.

Appendix A of the report detailed a picture of the proposed table and chairs. Appendix B of the report provided a location plan of the premise.

The Officer advised the Committee that at the Licensing Committee on 10 January 2014, Members resolved to defer the determination of this application to allow Members to visit the proposed site. The application is now being brought back to Committee for determination.

The Officer confirmed that four objections had been received as point 3.2 of the report detailed. Appendix C of the report provided a copy of the objections.

The Officer referred Members to point 5.3 of the report which advised Members about the current Street Scene Policy.

Members asked the following questions;

- When asked, the Officer confirmed that other premises in the area have permission to place tables and chairs outside until midnight.
- A Member proposed an amendment to the application which would consist of 2 tables and 6 chairs to the right of the entrance and on the left side 2 tables with 4 chairs.
- The applicant confirmed that the size of the chairs were the same as chairs placed outside Soho's premise.
- Members felt the tables and chairs should be placed outside until midnight to be consistent with other premises in the area.

Members were advised they had the following recommendations to determine;

1. The application be approved because Members feel the application is compatible with the current Street Scene Policy, or;
2. The application be refused as the application falls outside the provision of the current Street Scene Policy.

Upon a vote it was unanimously

RESOLVED that the application is amended to approve four chairs and two tables to the left of the premises (facing the premises) and six chairs and two tables to the right of the premises (facing the premises). The terminal hour for the use of tables and chairs will be Monday to Saturday until midnight because Members feel the application is compatible with the current Street Scene Policy.

8. REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE

Members of the Committee unanimously voted to keep Councillor Seacome as Chairman for this item in Councillor Barnes' absence.

Louis Krog, Licensing and Business Support Team Leader introduced the report as circulated with the agenda. This is a review of Mr Keith Clements Hackney Carriage driver's licence.

On the 2 January 2014 Cheltenham Borough Council were informed by Gloucestershire Constabulary that Mr Clements had been found driving a licensed Hackney Carriage vehicle without insurance on 31 December 2013.

Further checks by Gloucestershire Constabulary revealed that Mr Clements was not entitled to drive a motor vehicle because his DVLA driver's licence was revoked in October 2013 for failing to submit his licence following 3 fixed penalty points being added to his DVLA driver's licence.

The Officer stated that upon notification of this information Mr Clements was invited to attend the Municipal Offices to provide an explanation. He failed to attend two arranged meetings and failed to respond to attempts to contact him. As a consequence to this and other matters listed in 2.2 of the report Mr Clements Hackney Carriage driver's licence was suspended with immediate effect on the basis that he was not considered a fit and proper person.

Mr Clements had indicated that he would not be able to attend the meeting today.

Members felt Mr Clements had had ample opportunity to make his case known and felt they should determine this in his absence.

Members were advised they had the following recommendations to determine:

1. Mr Clements is not a fit and proper person to hold a Hackney Carriage driver's licence and as a consequence his licence will be revoked under section 61(1)(c) of the Local Government (Miscellaneous Provisions) Act 1976,
2. Subject to recommendation 2.1.1 of the report, his Hackney Carriage driver's licence be revoked with immediate effect in the interest of public safety under section 61(2B) of the local Government (Miscellaneous Provisions) Act 1976; or
3. Mr Clements is a fit and proper person and that the suspension be lifted with no further action.

Upon a vote it was unanimously

RESOLVED that, subject to recommendation 2.1.1 of the report, Mr Clements Hackney Carriage driver's licence be revoked with immediate effect in the interest of public safety under section 61(2B) of the local Government (Miscellaneous Provisions) Act 1976.

9. ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION
Boots Corner

Councillor Garth Barnes returned as Chairman for this item.

Jeremy Williamson, Cheltenham Development Task Force Managing Director attended the Committee to answer Members questions and concerns. The following points were made.

The Development Task Force MD stated that he had spoken to the County Council who raised points about a similar controlled zone in Gloucester. Their experience showed that Hackney Carriage and Private Hire vehicles when not being used for business became private cars which still used the controlled zone. There was a difficulty controlling Private Hire vehicle's as they are more seasonal. The decision was to allow Hackney Carriage vehicles access through the controlled area but no Private Hire vehicles.

A Member asked The Development Task Force MD why the Licensing Committees previous discussions and points had not been forward on to him.

The Licensing Officer confirmed that after discussions with the Licensing Committee a letter was sent to the Cheltenham Development Task Force MD and the County Council expressing the Committees views and concerns.

Private Hire vehicles are more commonly booked for longer journeys with vehicle originating from outside of Cheltenham therefore the vehicle would not be on the controlled vehicle list anyway.

Members raised the following concerns and questions;

- A Member felt this would discriminate some drivers.
- A Member felt the County Council had got this wrong. The purpose of controlling the Boots corner area was to reduce traffic. It would be more sensible to cease both Private Hire and Hackney Carriage vehicles. The topic the County Council had also overlooked was the location of the Hackney Carriage rank in Pittville Street, access to this rank if through Boots corner. The Member suggested moving this Hackney Carriage rank to Winchcombe Street. Another rank near by was located at Bennington Street. Problems within the trade would be caused if only Hackney Carriage vehicles were given access.
- A Member objected to only Hackney Carriage vehicles having access to this controlled area. Members of the public do not know the difference between Hackney Carriage and Private Hire vehicles and felt that Private Hire vehicles need more identification.
- The Licensing Officer confirmed that the law requires Hackney Carriage vehicles to have a plate placed on the back of the vehicle and there is not a law to enforce this for Private Hire vehicles.
- A Member felt there would be enough buses using this controlled area and that both Hackney Carriage and Private Hire vehicles should not have access. If access was granted this area would become part pedestrianised which defeated the object.
- A Member felt having one or the other trade would cause inequality. The Member was concerned that events that happened in Gloucester were having an affect on decisions made in Cheltenham. The Member asked the Cheltenham Development Task Force MD what was going to be done about this and residents of Cheltenham needed to be

considered. This Licensing Committee were determined to make a decision.

- The Cheltenham Development Task Force MD said a unitary debate would decide which vehicles would use the controlled area. This system would not work without any vehicular access and concerns about customers having access to Marks & Spencers would be eased if Hackney Carriages were given access. Notes from today's Licensing Committee would be taken back to the County Council for further views to be made.
- A Member stated that not all disabled customers would be able to use buses and taxis are needed for a door to door service.
- The Cheltenham Development Task Force MD said this comment reinforced why the group had suggested Hackney Carriage have access to this area. A balance decision needed to be made to ensure all customers were able to access this area.
- A Member said the Licensing Committee wanted to treat Hackney Carriage and Private Hire driver's equally. Both should be allowed access or neither but not one or the other of the trade.

The Chairman confirmed that the Committee were happy for The Cheltenham Development Task Force MD to take the previous discussions and today's concerns back to the County Council for a view to be made.

A Member said the Licensing Committee should stick to their previous decision of both trades having access to the controlled area or neither of the trade.

The Chairman confirmed that the Licensing Committee all agreed this and asked that the Cheltenham Development Task Force MD takes this view back to the County Council.

The Cheltenham Development Task Force MD confirmed he would do this.

10. DATE OF NEXT MEETING

Friday 7th March 2014

**Garth Barnes
Chairman**

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DIAMOND, 12-14 BATH ROAD, CHELTENHAM, GL53 7HA

1. **Background**

This is an application for a Sexual Entertainment Venue Licence in respect of premises to be known as Diamond but currently trading as Voodoo at 12-14 Bath Road, Cheltenham. The applicant company is Bath Road Property Limited and the Director responsible for Operations and Licensing is Nigel Blair.

On 1 October 2010 Cheltenham Council approved the adoption of the amended provision of the Local Government (Miscellaneous Provisions) Act 1982. Prior to the adoption of the 1982 Act premises with a Licensing Act 2003 Premises Licence could offer “relevant adult entertainment”. Since the adoption of the 1982 Act only premises licensed by Cheltenham Council as Sexual Entertainment Venues are able to provide “relevant sexual entertainment” unless an exception set out within the 1982 Act applies.

This application is made in accordance with Cheltenham Borough Council’s Sexual Entertainment Venue Policy statement and the relevant legislation.

2. **Mandatory Grounds for Refusal**

None of the specific mandatory grounds for refusal set out in paragraph 12 of Schedule 3 to the 1982 Act or within paragraph 3 of Cheltenham Borough Council Sexual Entertainment Venue Policy statement apply. It is not suggested by any person who has made a representation that any of these grounds do apply.

3. **Discretionary Grounds**

A. The Applicant

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The applicant is not unsuitable to hold the licence and there are no convictions for any offences or any other reasons applicable.

The applicant has been operating the premises which are currently known as Voodoo under a Licensing Act 2003 Premises Licence which has a terminal hour of 3.00am Monday to Friday, 01.00 on Sunday and 04.30 on Saturday. In 2013 the premises operated with sexual entertainment on one occasion during race week under an exemption in the 1982 Act and not a single complaint was raised whilst the premises operated with relevant sexual entertainment. Voodoo has traded on average with 1900 customers per week. The terminal hour has now been varied to match the terminal hour applied for in this application.

With the exception of Race Week the Premises will not open for relevant entertainment BEFORE 8pm and this Licence is applied for to start at 8pm. There will be no Relevant Entertainment before 8pm. The Applicant has applied for an earlier start in Race Week but is happy to amend the start time in Race Week to a later commencement time .

The Operations Manager James Elias is Chairman of Nightsafe in Cheltenham and there is a track record of strong liaison with the Responsible Authorities and Cheltenham Borough Council.

If the Sexual Entertainment Venue Licence is granted it is anticipated that there will be on average on 75 customers per night to the premises which will mean a significant reduction on the number of customers in the locality.

The Premises will only offer Lap Dancing as permitted by the legislation. The Lap Dances will take place in booth seating areas with the Customer sitting down on the booth and the

Performer Dancing in front of the Customer. There will be no physical contact and all Dances will be monitored by management and door staff . There are no private or hidden areas and nothing other than lap dancing will be allowed.

B. The Layout Plan

A layout plan has been submitted with the application showing the layout of the proposed premises on the first floor of the building. There is one entrance to the premises on Bath Road which leads upstairs to the first floor but the staircase is curved which means that even if you stood at the entrance with the doors open looking into the premises it would not be possible to see any area in which the premises trade. There are no windows to the premises and it is impossible to see any entertainment which is provided on the first floor.

An impression of the premises as they would look from the outside has also been submitted and the name Voodoo on the outside of the premises would be replaced by the name of the venue. There would be no other advertising at all on the premises and it would not appear to any person walking by that the premises were those which were operating with relevant sexual entertainment especially as the Premises are on the first floor. There will be no imagery on the outside of the building to suggest that the club has a Sex Entertainment Licence.

A private dressing room is provided for performers on the second floor and performers will also have a private smoking area on the second floor. A separate smoking area is provided for customers.

The premises are in a well kept and maintained condition and would continue to be maintained to a similar standard.

C. Other SEV Licences in the Locality

There are no other SEV Licences in Cheltenham at all. A licence was granted to Blue Room, 22 St Margaret's Road, Cheltenham on 21 July 2011. These premises had previously operated with relevant sexual entertainment prior to the adoption of the 1982 Act. Blue Room applied to offer relevant entertainment from 11.00am to 6.00pm and 9.00pm to midnight (00.30 on Friday and Saturday). (With the exception of race week the application in respect of Diamond is for the relevant entertainment not to commence before 8.00pm).

The locality of Blue Room in the Committee report was described by Gloucestershire Constabulary as "within the core commercial area of the town centre but not within the central shopping area". It is clear from observations and from local knowledge that Blue Room is situated in a predominantly residential area with some commercial premises in the area which the public would visit.

The Locality of Blue Room also has a cinema , community centre , large car park , The Brewery development and a home for the elderly. It is a very similar locality to the application site albeit a far more residential area. Trinity Church is close to Blue Room.

Although the Sexual Entertainment Venue Licence was granted for Blue Room the operator decided not to pay the relevant fee and take up the licence and the premises did not trade under a Sexual Entertainment Venue Licence.

There are therefore no other relevant licences within the locality.

D. Conditions and Policies

The applicant has submitted the following policies which will be complied with in support of the application:-

- House Rules
- Agreement as to Performers Conduct
- Conduct of Customers
- Challenge 25 Policy
- Drug Awareness Training

The applicant asks the Committee to remove the “36 inch rule” with a “no touching condition” and this will be dealt with later and the applicant would also seek a clearer definition with regard to hand bills not being handed out in the town centre.

The applicant is agreeable to all other general conditions set out within Cheltenham Borough Council policy which provides strict rules to be adhered to in respect of inter-alia the following:-

- Advertising
- Notices
- Rules
- No Under 18's
- Signing in register
- No sexual objects to be used
- No bodily contact
- Appropriate briefing each evening
- Door supervisors
- Door supervisors to monitor within 30 metres
- CCTV which is digital.

E. The Relevant Authorities

There are no objections from any statutory authority including Gloucestershire Constabulary who make no objections or comments on grounds of locality or indeed any licensing objectives under the Licensing Act 2003.

No other relevant authority makes any adverse comment both on the proposed application, the applicant or the way in which Voodoo itself has been trading.

F. The Locality

The premises are situated within the College ward and are on the edge of the town centre. The premises are within the town centre policing area and will be within the main commercial area but are not within the main shopping area.

The premises immediately below Voodoo/Diamond operate with a licence under the Licensing Act 2003 (Kukui) and the premises either side of the application site are licensed premises under the Licensing Act 2003. There is a mixture of leisure/commercial and some residential properties in the locality but it is clearly not either within a main shopping area or within a predominantly residential area. The Salvation Army which is referred to in a representation is 200 yards further down Bath Road and Cambray Church is 200 yards away opposite the application site. As the premises will not trade with relevant sexual entertainment before 8.00pm neither of these facilities will be effected at all by the grant of the Sexual Entertainment Venue Licence.

The premises themselves whilst visible from the main road do not stand out as an attraction and the Diamond sign will be at first floor level.

There will be nothing other than the name of the premises to indicate that the premises are a leisure facility and persons walking at ground level past the premises will be wholly unaffected.

It is suggested that as these premises are within the main commercial area but not in the main shopping area or main residential area that the locality of these premises is a locality in which Sexual Entertainment Venue Licences can properly be granted and granted without any fear of any impact on the locality.

G. Residents Meeting 22 January 2014

The applicant is a very responsible operator within Cheltenham and has proved itself to be so over recent years. Aware of the representations made the applicant invited all those who made representations to a meeting on 22 January at the premises when approximately 50 persons attended.

The applicant committed to hold a further meeting should the application be granted and the premises trade with a Sexual Entertainment Venue Licence and the applicant will be happy for a condition to be attached to the licence requiring the operator to provide a contact e-mail address for any ongoing concerns to be noted.

The applicant will continue to liaise with local people and Gloucestershire Constabulary and if it is felt by Gloucestershire Constabulary that door staff should monitor an area wider than 30 metres away from the premises then the operator will work with Gloucestershire Constabulary accordingly.

H. The 36 Inch Rule

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The applicant asks the Licensing Committee not to impose the 36 inch rule on the Premises Licence. It is incredibly difficult to enforce and conditions which are unenforceable should not be attached to licences and it is a condition which other authorities who have granted Sexual Entertainment Venue Licences do not attach to licences. The applicant is very much aware that Cheltenham Borough Council will make its own decision on this rule which is appropriate to Cheltenham but a “distance condition” is unenforceable and not required to promote the licensing objectives or the requirements of the 1982 Act.

The applicant is wholly in support of conditions which prevent “any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex”.

The applicant has carried out research into other towns and Cities and listed below are those towns and Cities which the applicant has researched and which all have “no contact” conditions but do not have a “distance” condition. The applicant did not find any authority which imposes such a condition.

- Bristol (3 SEV)
- Swindon (3 lap dancing clubs under the Licensing Act 2003)
- Oxford (1 SEV)
- Wakefield (no SEV)
- Leeds (2/5 SEV)
- Sheffield (3 SEV)
- Harrogate (2 SEV)
- Doncaster (1 SEV)
- Manchester (6 SEV)
- Westminster (25 SEV)

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