

Licensing Sub Committee-Alcohol and Gambling

Monday, 2nd October, 2017

2.30 - 3.35 pm

Attendees	
Councillors:	David Willingham (Chair) Mike Collins, Tim Harman, Dennis Parsons (Reserve) and Pat Thornton (Reserve)
Also in attendance:	Phil Cooper, Beverly Thomas and Donna Marks
Apologies:	Councillor Paul McCloskey and Councillor Max Wilkinson

Minutes

1. ELECTION OF CHAIR

Councillor Willingham was elected as Chair.

2. APOLOGIES

Apologies were received from Councillor McCloskey and Wilkinson.

3. DECLARATIONS OF INTEREST

There were no declarations of interest.

All Members present declared they had undertaken a site visit either in January 2017 at the time of the first application or during the past week.

4. APPLICATION FOR RENEWAL OF A SEXUAL ENTERTAINMENT VENUE LICENCE

The Licensing Officer, Phil Cooper, introduced the report regarding an application made by Red Apple Associates Limited for a renewal of a sexual entertainment venue (SEV) licence at the premises known as the Two Pigs in Church Street, Cheltenham. He explained that the existing SEV licence will expire on 11 January 2018 and this renewal, if successful, would take effect for 12 months from 12 January 2018. The proposed dates and times for providing the entertainment were outlined in paragraph 1.4 of the report and coincided with the dates of some of the meetings at Cheltenham racecourse, namely:

- New Year's Day
- Festival Trials Day 27 January 2018
- The Festival 13-16 March 2018
- The April meeting 18-19 April 2018
- Hunter Chase Evening 4 May 2018
- New Year's Day 2019

with the licence from 8pm to 5am (with the exception of the festival meeting which proposed a licence from 6pm to 5am)

The Licensing Officer stated that the premises were located within the council's designated area to be suitable for the consideration of sexual entertainment venue licences, provided that the premises were not in sensitive locations or

near properties used for sensitive purposes. He continued that during the statutory consultation process no comments had been received from Gloucestershire Constabulary but there had been one objection from Cheltenham Borough Councillor Flo Clucas as outlined in paragraph 4.6 of the report. The grounds for objections were based on inappropriate location.

The Licensing Officer advised members that the application must be decided on its own merits and that the only grounds for a refusal of a sexual entertainment licence were set out in 5.4 and 5.5 of the report. On consideration of all the relevant matters, members needed to decide whether to grant the application as applied for; to grant the application subject to additional terms, conditions or restrictions; or to refuse the application.

In reply to questions from Members, the Licensing Officer replied as follows:-

- The policy with regard to the licensing of Sexual Entertainment Venues was due to be reviewed by the end of the year.
- The application was for the dates listed and did not include October or November 2018. Members should therefore consider the application containing the dates as submitted. The applicant would at a later date be entitled to apply to vary the application to include other dates.
- The Licensing Officer was asked to outline any incidents that had taken place on the premises since the current licence was granted. He explained that there had been 4 reports to the Police alleging pickpocketing or theft of personal items by customers, 2 reports from the management of theft from the premises, 1 report of an assault on a person by doorstaff but once investigated it was determined that proportionate force was used and the person was not assaulted, 1 report of a financial dispute between management and a performer, 1 report of money being stolen but on further investigation there was no evidence of theft, 1 report of prostitution but upon further investigation this was suspected to be a malicious complaint made by someone who had been ejected from the establishment. The Licensing Officer confirmed that the customer complaints had been dealt with by the Police. The incident reported by management was reported as a crime and the suspect had been identified.
- The Licensing Officer explained that such incidences are not unexpected in any busy premises, particularly during raceweek.
- The Licensing Officer confirmed that no reports had been made to the Licensing Department during the year on the operation of the establishment. Environmental Health (EH) had been contacted with regard to the noise from the promotional vehicle but this was not considered to be a statutory breach. EH had also been contacted about the internal condition of a changing room in the premises but no further action was required. He also confirmed that there had been no recorded complaints from local residents.

The Chair invited the Solicitor for the applicant to speak in support of the application. The Solicitor explained that this was an application for the renewal of the licence and the main difference related to the later closing time of 5 am with the exception of 13-16 March 2018 Festival where the proposed hours of operation were 6pm-5am. He explained that the application for renewal had been submitted on 3 August 2017 with the relevant advertisements and notices having been complied with. He emphasised that the Police had not objected to

the application and that the licence had been compliant and reasonable. In terms of the incidences that had occurred, these were of a relatively minor nature and had all been resolved with the Police taking no action. He also confirmed that Environmental Health had reported no breaches in terms of noise and the internal conditions of the premises.

With regard to the objection raised regarding the proximity of the establishment to the church he referred to a letter sent by the Licensing Officer on 18 January and in particular paragraphs 5-11 on why this was granted in relation to this objection. The objection was based on one of the discretionary grounds as outlined in paragraph 6.55. He circulated a copy of this letter to Members and highlighted that nothing had changed since then. He believed the licence was operating in a very satisfactory manner subject to its conditions and considered there to be no need for any alterations.

In reply to questions from Members, the Solicitor replied as follows:-

- Refusal log-it was inevitable that where there was alcohol consumption there would be some aggressive behaviour. The log had been kept up to date and could be sent to the Licensing team within 7 days if necessary for inspection and could be supplied in advance of any further application for renewal.
- No flyers or leaflets advertising the premises had been distributed within the town as per the condition.
- The establishment may not operate during the October race meeting but would be definitely in operation during the November event. In terms of dates not applied for in 2018 this was a business decision and would be reviewed going forward.
- In terms of mitigating any risk of crime and disorder (e.g. increased risk of prostitution on the premises) the Solicitor confirmed that lone females were not allowed on the premises unless they were performers. The security staff were experienced enough to deal with any risk and no problems had been experienced to date. He gave Members the assurance that the business was vigilant and did not discriminate. The Chair highlighted that the application did not specify the gender of the performers or the sexual preference of the audience.
- Performer recruitment followed a rigorous process which could take up to one month.

The following points were made by Members during the debate :

- One Member maintained his view from the initial application made in January 2017 and supported the objection from Cllr Clucas as the church and residents continued to have concerns and the location should be grounds for refusal. He therefore could not support the application.
- Other Members however acknowledged that the application could not be determined on moral grounds. The concern was expressed that in the absence of proper licensing and input from licensing officers and the Police such venues could operate unofficially putting both performers and the public at risk. No harm from the current licensed premise had been identified to date and signage to the premise was discreet.

- Members considered it appropriate for condition 6 to be amended to read “No flyers or similar promotional material for the premises shall be distributed within the Borough”.
- The Chair noted that the application had received no objections from the Police and that the level of crime and disorder was not disproportionate to other activity in the town particularly as these were predominantly incidents recorded during race week. When the application had initially been considered officers had confirmed that venues licensed under an SEV with conditions were easier to manage than those operating under a legal exemption that allows infrequent sexual entertainment at any premises. Even though the policy was due for review the application for renewal was compliant with current policy. The activities within the premises were not visible from the exterior and the operation appeared to be reasonably well managed. There were therefore no reasonable grounds for objection.

Donna Marks, Legal Officer, reminded Members that the committee should be satisfied that the application met the licensing objectives. If not an applicant had the right to appeal to the local magistrates court. The right of appeal did not apply where the licence was refused on the grounds that:

- the number of sexual entertainment venues in the area exceeded the number which the authority considered appropriate
- the grant of the licence would be inappropriate considering the character of the area, the nature of other premises in the area or the premises themselves.

And, having considered all the relevant matters, the committee must decide whether to:

- a) Grant the application as applied for;
- b) Grant the application subject to any additional terms, conditions and/or restrictions that are either specific to the licence or standard conditions; or
- c) Refuse the application.

Members agreed to amend the conditions to the current licence as follows :

1. Condition 6: No flyers of similar promotional material for the premises shall be distributed within the Borough of Cheltenham.
2. Condition 11: The premises shall maintain a ‘refusals log’ recording any occasion on which a person is refused entry to the premises. The log shall be made available to police and authorised officers of the council on request. A full copy of the log shall be supplied with any future application to renew or vary the licence.

There being no further debate the Chair moved to vote on 8.7 b of the report, being to grant the application.

Upon a vote it was 4 in favour, 1 against, no abstentions, the licence was therefore renewed

RESOLVED THAT a Sexual Entertainment Venue Licence for the premises known as The Two Pigs be renewed subject to the amended conditions as outlined above.

David Willingham
Chairman