



# CHELTENHAM

## BOROUGH COUNCIL

### Notice of a meeting of Licensing Sub-Committee - Miscellaneous

**Wednesday, 5 February 2020**  
**6.00 pm**  
**Pittville Room - Municipal Offices**

<b>Membership</b>	
<b>Councillors:</b>	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Simon Wheeler
<b>Officers:</b>	Louis Krog, Vikki Fennell and Jason Kirkwood

### Agenda

1.		<b>APOLOGIES</b>	
2.		<b>DECLARATIONS OF INTEREST</b>	
3.		<b>MINUTES OF THE PREVIOUS MEETING</b>	(Pages 3 - 12)
4.		<b>APPLICATION FOR A STREET TRADING CONSENT</b>	(Pages 13 - 20)
5.		<b>REVIEW OF A HACKNEY CARRIAGE DRIVER'S LICENCE</b>	(Pages 21 - 22)
6.		<b>APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE</b>	(Pages 23 - 24)
7.		<b>APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE</b>	(Pages 25 - 52)
8.		<b>BRIEFING NOTES</b>	
9.		<b>ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION</b>	

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### Licensing Sub-Committee - Miscellaneous

**Wednesday, 6th November, 2019**

**6.00 - 7.50 pm**

<b>Attendees</b>	
<b>Councillors:</b>	David Willingham (Chair), Dennis Parsons (Vice-Chair), Mike Collins, Diggory Seacome and Angie Boyes (Reserve)
<b>Also in attendance:</b>	Louis Krog, Vikki Fennell and Beverly Thomas (Minutes)

### Minutes

**1. APOLOGIES**

Councillor Simon Wheeler.  
Councillor Angie Boyes acted as substitute

**2. DECLARATIONS OF INTEREST**

None.

**3. MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 3 July 2019 were approved and signed as a correct record.

**4. APPLICATION FOR RENEWAL OF SEXUAL ENTERTAINMENT VENUE LICENCE (19/02708/SEXR)**

The Chair reminded the meeting that this was a quasi-judicial committee and Members would take evidence to the standard of the balance of probabilities. He then reminded Members that the rationale for their decision and any conditions agreed should be reasonable and proportionate. He also reminded Members that the objectors registered to speak tonight were there to clarify their objections and Members would have the opportunity to ask questions of clarification.

**Officer introduction**

The Licensing Team Leader introduced the application as set out in the report from Red Apple Associates Ltd for the renewal of the annual sexual entertainment venue (SEV) licence in respect of the premises known as Two Pigs, located at Church Street, Cheltenham. Paragraph 1.2 of the report outlined the dates and times and informed Members that the existing SEV licence was due to expire on 10 January 2020. A copy of the application form was attached at Appendix A, a copy of the premises layout attached at Appendix B, the location map attached at Appendix C and the wider plan of the central shopping area at Appendix D. A copy of the existing licence was attached at Appendix E along with the conditions applicable to the licence.

The Licensing Team Leader informed the Members that in determining the application Members must have due regard to any observations made by the Chief Officer of the Police and any other comments received. He informed them that no comments or objections had been received from the police but there had been 14 objections, including 178 signatories to a petition.

He then drew Members' attention to paragraphs 5.4 and 5.5 of the report with regard to mandatory and discretionary grounds for refusal.

The Licensing Team Leader then explained that when determining an application for a SEV licence, the sub-committee must have regard to the relevant statutory provisions, the council's adopted policy referenced in the report, the relevant guidance issued by the Home Office and any objections or comments made by the Chief of Police and other persons.

The Licensing Team Leader then addressed some of the issues raised in the objections and highlighted to Members that they must be mindful of the council's Public Sector Equality Duty when discharging its licensing function and each application should be considered on its own merit. If Members were minded to deviate from the council policy to permit SEVs they should be clear on reasons. The Committee, once it had considered all the relevant matters, 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.

### **Questions to the Licensing Team Leader**

In response to Members' questions, the Licensing Team Leader confirmed that:

- No comments had been received from the Police with regard to this application
- During race week the Two Pigs, as a SEV venue, was inspected 1-2 times a day, both announced and unannounced, by both the police and licensing officers. Outside of races the venue was inspected every 6 months for the purposes of alcohol licensing. If there were any issues identified by the police these would be fed back to the licensing team.
- The Police had submitted statistics for crimes recorded. There were no incidents of sexual assault during race week. Outside of race week, between 1 January 2018 and 31 December 2018 there were 6 recorded incidents directly attributable to the Two Pigs.
- Under the Police and Crime Act 2009 sexual entertainment is permitted to take place under a statutory exemption, provided this was not for more than one occasion lasting no longer than a 24 hour period. This could happen up to 11 times a year and the council would not receive notification that it was to take place.
- From a professional point of view the council suffered from the exemption. Refusing the current licensing application would not decrease sexual entertainment in the town as this would still take place under the exemption.
- Any sexual entertainment taking place under the exemption did not involve the police or the council. However a voluntary code of practice through which the council could be informed did exist, but the host was not duty bound and there was no recourse if this did not take place.

- During race week 2019, on each of nights of the racing event, there were three sexual entertainment venues operating in the town, two under the exemption.

There were no questions from the applicant.

### **Applicant's address**

The solicitor for the applicant, Mr Vic Younis and Steve Burrows, Red Apple Associates, were invited to address the committee. The solicitor explained that this application was in line with previous applications. The venue had been a SEV during major racing events since January 2017 and had operated successfully. The police and the licensing team inspected the premises every night and no adverse comments had been received.

He emphasised that SEV operations were lawful under the Police and Crime Act 2009. The mandatory grounds for refusal should be disregarded and in terms of discretionary grounds for refusal, he believed that the objections received were based on moral reasons or an individual's own opinions and therefore not relevant.

The Solicitor highlighted that there was a difference between fear of sexual offences and actual offences taking place and a direct link to the premises. The police gathered evidence but had raised no objections with regard to this application. No sexual assaults or related incidences had been recorded. If there was any evidence available his client would take them seriously. He emphasised that his client actively participated in the Cheltenham Night Safe scheme and Cheltenham had received a purple flag for being a town where people could feel safe in the vibrant evening economy of the town. Any offences that had occurred were not known or there was no evidence to support them so it was unfair and unjust to relate them to this application.

He made the following further comments:

- The Two Pigs had good access to the town with the bowling alley and the Brewery a 5 minute walk
- Door staff picked up and disposed of litter outside the premises
- No alcohol was allowed to be consumed outside the premises
- The statistics presented to the committee by the objectors were unofficial
- There was ample CCTV around the 6 walkways in proximity to the venue
- There was no signage advertising the venue as a SEV and any future signage would only be undertaken with the council's consent
- The premises was located in the designated SEV policy area
- Equality-the safety of staff and customers was paramount, there was no discrimination against any group or background
- The client updated refusal logs which the council were able to view;
- Security officers were professionals of the highest repute
- Security officers manned the courtyard and performers were told that they must be fully clothed when outside

In conclusion, the Solicitor highlighted that the applicant had held an SEV licence since 2017, there had been no comments from the police on the application and the strict conditions of the current licence were respected and adhered to. He believed the GRASAC objections were prejudicial and

subjective to the point of being irrational. The town held a purple flag award and had recently received a special award for well-lit buildings. He referred to a statement on the Police website explaining that reports of sexual violence did not increase with licensed SEV activity.

He wished to emphasise that his client was not responsible for every offence which occurred around the town during raceweek which attracted some 50-60,000 people. He quoted one of the performers who had confirmed in July that the venue was one of the safest places she had worked in and that performers were cared for over and above what could be expected. If the council granted the licence the council would maintain control over the venue, yet if not, no protection could be accorded to either visitors or performers.

His client was keen to take extra measures and he referred to his participation in the Night Safe Scheme and radio contact was maintained with other establishments in town if there was antisocial behaviour.

### **Questions to applicant**

In response to Members' questions, the applicants solicitor confirmed that :

- the refusal log would be made available
- performers had constant access to their cloakroom so could put on additional clothes if they wished to stand in the courtyard
- all performers had the full right to work in the UK and had valid identification
- individuals applied for positions of their own free will. The majority of performers had performed before so a relationship had been built up with them.
- There was an SIA licensed house mother who managed the welfare of the performers and to whom any concerns could be directed. Hot meals were provided to performers and end of night transport in the form of a minibus.
- Refusal for entry would be given for intoxication or use of illegal substances.

### **Question to officer**

The Licensing Team Leader was not aware of any recorded sexual assault incident at the venue since it held its SEV licence in 2017. In addition the Police had not objected to the renewal or applications submitted to date.

### **Objector's address**

#### **1) Maggie Stewart, Alison Cowmeadow, GRASAC**

Ms Stewart explained that GRASAC were unable to mention specific events due to the confidentiality it maintained with its clients, therefore the objection may appear rather vague. Occasionally however there were incidences in Church Road and in the venue itself but it was very difficult to elaborate.

When asked whether Members of the Licensing Committee visited the Two Pigs and how often, the Chair confirmed that Members had all undertaken a site visit to the premises, accompanied by licensing officers, and had talked to performers and doorstaff. They had been given unfettered access to the premises including areas not available to the public. This was to ensure that the facilities met normal standards.

Alison Cowmeadow, Independent Sexual Violence Adviser at GRASAC,

explained that she supported numerous women including rape victims during raceweek. Some incidences were reported to the police and some not, for fear of being recognised, not believed, shamed or blamed with the prospect of conviction. She informed the committee that GRASAC had undertaken an online survey which revealed instances of stranger rape in the town centre by multiple perpetrators, groping, and fear due to prevalent unwanted sexual behaviour and other examples of aggressive behaviour towards women.

Some women quoted that upon reporting such sexual harassment to the police the response was that it constituted men having fun because of raceweek. She also reported that a previous employee of the Two Pigs had informed that she had been told to wear revealing clothing and that it was common to be grabbed and groped. She asked how many more women needed to be harmed before it was acknowledged that this was a problem?

### **Question to objector**

CBC valued the work of GRASAC but the Chair highlighted that the committee needed to take evidence into account which directly linked to the Two Pigs and not just Cheltenham during race week. There was work to be done with the police to make raceweek safer but could any evidence be directly linked to the venue?

In response GRASAC explained that the person currently being supported highlighted that it was quite common for workers at the Two Pigs to be grabbed and groped. In a SEV women were promoted as objects. In addition, GRASAC claimed that 9/10 clients did not report to the police as reporting would bring shame on the person. It was very difficult to come up with hard cases and GRASAC did the best it could to support people and highlighted that 9% of the caseload was male.

It was confirmed that the employee had not reported the case to the management at the Two Pigs.

In light of the low reporting levels one Member suggested that GRASAC could consider working with the police whilst maintaining anonymity. The police could advise on how to proceed as such incidences did constitute crimes.

It was clarified that the survey responses (obtained through face to face contact or online) referred to 4-5 cases of sexual harassment but these incidences were not specified to occur around the Two Pigs area.

### **Objector's address**

#### **2) Christina Ruck**

She explained that SEVs fuelled the sexual attitude towards women in Cheltenham that you could buy women and treat them as objects. To that end the Two Pigs contributed to the sexist culture in the town. She felt that the reaction from the police when instances were reported was why there were no formal objections against this application from them.

### **Questions to objector**

When asked whether there was a link back to the Two Pigs with the examples quoted in the objection, it was confirmed that no locations were specified.

### **Objector's address**

### **3) Richard Coombs, St Mary's Church, Rector of Cheltenham**

Richard Coombs explained that a petition against the application had been signed by members of his congregation. 11,000 people visited the minster each year which was increasing annually. He was encouraged that CBC was making the churchyard more welcoming and open and gave the example of the glazed entrance at Chester walk and the proposal to create a workshop on land at the western end. This would make a positive difference to the town and to those who lived, worked and visited it. His objection related to the limited access to the town centre for a significant number of people who felt vulnerable due to the activities around the Two Pigs. It also related to the buses with sexually explicit images and loudspeakers collecting clients from all over the town and transporting them to the Two Pigs.

The churchyard represented the town centre's most sensitive and historic place and should not be a place where people felt vulnerable inside and outside of the churchyard. He wished to see Cheltenham improve and thrive and be accessible to all without the fear of intimidation.

#### **Questions to objector**

Members agreed strongly that intimidation in the churchyard was unacceptable. In response to a question on the timings of night services, Richard Coombs confirmed that the latest event hosted by the Minster was the Youth Event which finished at 10 pm on a Friday and this was held at St Matthews Church.

Members acknowledged there were 6 entrances to the churchyard and that the church took on a different feel during raceweek. It was asked how many of the issues in the churchyard directly related to the Two Pigs and how much was due to the large influx of people during raceweek which significantly increased the town's population. In response Richard Coombs said he failed to see how the issues did not arise as a result of Two Pigs when a large number of men were coming and going around that area and the churchyard took on a very different feel.

The meeting adjourned from 19:05 – 19:10.

#### **Applicants response to objections**

The Solicitor for the applicant said that no evidence had been put forward to link any offences with the Two Pigs or the current application. The police had confirmed there were no sexual assault offences linked to the venue. In relation to bar staff employed he stipulated that his client gave employees the option not to work race week.

An official survey had not been commissioned and there was only 'hearsay' links to the applicant. The applicant had agreed to have breathalysers and drug test equipment available for both employees and customers.

Any issues with large groups of individuals entering the premises were controlled by fully licensed security staff of the highest repute. He reiterated that during raceweek the venue was inspected on a nightly basis by both police and the licensing team. The licensing conditions imposed on the venue were strict and fully respected by his client and this would continue to be the case.

The solicitor confirmed that the licensee had not been made aware of the incident relating to a member of bar staff. The venue had a house mother on

site for the welfare of the performers and if there were any issues with groups of customers these would be escalated to security. Should any member of staff feel threatened or harassed the policy was to approach the licensee and follow the procedures for ejecting the individuals.

The Chair of the committee urged the licensee who was present in the audience to ensure that all members of staff were aware of the procedures and encourage them to report any instances in the interest of safety so that they could be dealt with appropriately.

It was confirmed that when individuals left the venue they were signposted to the high street or the taxi ranks, rather than the churchyard.

It was noted that a separate condition was on the alcohol licence which required 2 door supervisors.

### **Member Debate**

The following points were raised by Members :

- A 6pm opening time of the SEV was not supported due to the venue's proximity to the children's library which closed at 7.30 pm on a Wednesday and a Friday. In addition at 6pm people were still going about other daily business and it was deemed that the venue would be quiet then. A condition of 8 pm was therefore proposed.
- The refusal log should be taken very seriously and where people were ejected this needed to be correctly recorded with an explanation. There were legitimate objections to the application so it was right that the appropriate measures were in place.
- Whilst Members respected the concerns of GRASAC, it was not able to take moral reasons into account. However, it was suggested that the council raise the issues of approaches made to the police so that they could be taken more seriously and any reports be recorded.
- Members highlighted that March raceweek was extraordinary and the volume of people in the town could be intimidating to some, particularly women, making them feel uncomfortable. They felt that unless the objections could be directly linked to activities at the Two Pigs it was difficult to take any action since this was a perfectly legitimate activity. It was Members' preference to have a licensed SEV in the town which could be conditioned rather than an unlicensed activity which offered no protection to members of the public or performers.
- A Member appreciated the difficulty rape crisis groups faced in gathering evidence but asked that in a future survey it would be useful to establish a pattern where people were coming from.
- A Member requested to see a completed refusal log added to the paperwork submitted to the council with each application in order to focus more closely on the issues by having an SEV at the Two Pigs.
- Members felt that having visited the premises during raceweek the business was well run and the conditions on the licence were adhered to. There was therefore no firm reason to refuse the application as the business was working well within the current conditions.

The Chair considered further the proposal for introducing an 8pm time of opening condition on the basis of the discretionary reasons for refusal as follows- the character of the locality and the use to which other premises in the locality are put. Members supported this.

Members highlighted the following further points:

- The council was there not just to support performers but also customers and referred to condition 25 of the licence which specified the display of the tariff.
- Members highlighted that there were serious criminal penalties for breach of the licence
- It was emphasised that SEV licensing applied to both genders of performer and audience. Under the exemption Cheltenham hosted other SEV activity such as the Dream Boys at the Town Hall.

Members were minded to support the application subject to the aforementioned amendment to the opening time.

A Member highlighted the importance of working with the police to encourage them to be more amenable to take note of issues when brought to their attention as per the objection. This could be done at the start of each race night of the festival at the briefing between the police and officers in terms of reminding the police how to deal with approaches with regard to reports of intimidation. The Licensing Team Leader undertook to raise the issue with the Chief Inspector.

It was noted that an absence of objection did not necessarily constitute support for an application.

The Chair wished to put on record his thanks to GRASAC for their important work in the town. It was felt that more work should be done to increase reporting but unfortunately at this stage the objection was not material to the specifics of the application.

### **Right of Reply of applicant**

The Solicitor stipulated that 6pm had been the start time for this year's festival and the applicant had originally requested 5pm. The reason behind the early start time was that it helped control numbers since there was a risk of queues forming outside to access the premises at 8pm. A 6pm start time had been supported by police at the time.

The Solicitor said that the maintenance of refusal logs were part of the licensing conditions and were available on request. The Licensing Team Leader confirmed that officers had unfettered access to inspect them.

### **Vote (unanimous)**

Grant the application as applied for subject to the amendment to the opening time being set to 8:00 p.m. for every night that the SEV operated.

Finally, the Chair took the opportunity to inform members of the public present that the council was currently reviewing its SEV policy and comments were invited until 6 January 2020.

**5. ANY OTHER ITEMS THE CHAIRMAN DETERMINES URGENT AND WHICH REQUIRES A DECISION**

There were none.

David Willingham  
**Chairman**

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## "Miscellaneous" sub-committee – 5 February 2020

### Local Government (Miscellaneous Provisions) Act 1982

#### Application for a Street Trading Consent

**Mr Edward Danter**

#### Report of the Licensing Team Leader

### 1. Summary and recommendation

- 1.1 We have received an application from Mr Edward Danter for a street trading consent to sell hot turkey rolls, pork rolls, German and Gloucester Old Spot sausages and hot and cold drinks from a hot food unit measuring 3.1m (10 ft) x 2.1m (6.8 ft).
- 1.2 Mr Danter has applied to trade outside 109 - 113 High Street. **Appendix 1** shows the location of the proposed trading pitch.
- 1.2.1 Mr Danter has applied for a seasonal consent from 8 November to 31 December 2020 on the following days and times:

Monday	09:00 - 18:00
Tuesday	09:00 - 18:00
Wednesday	09:00 - 18:00
Thursday	09:00 - 21:00
Friday	09:00 - 18:00
Saturday	09:00 - 18:00
Sunday	11:00 - 17:00

- 1.4 An image of the trading unit is shown in **Appendix 2**.
- 1.5 **The Committee can:**
  - 1.5.1 **Approved the application because Members are satisfied that the location is suitable, or**
  - 1.5.2 **Refuse the application because it does not comply with the provision of the Street Scene policy or for any other reason.**

Legal The Local Government (Miscellaneous Provisions) Act 1982 provides that a local authority can grant a trading consent for an individual within their area. Under the legislation, consent can be granted for a period not exceeding 12 months. Consent must therefore be reviewed every 12 months. A local authority can apply reasonable conditions to the consent.

Any application should be considered in line with the Council's policy on Street Trading.

**Contact officer: One Legal**  
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**Tel no: 01684 272015**

## 2. Background

2.1 The current street trading policy was adopted by Council on 12 February 2016. A copy of the policy has previously been circulated to Members and extracts are included in the application pack that was given to the applicant.

## 3. Policy Principles, Aims & Objectives

This section outlines the policies the council will apply when making decisions on applications for consents.

Each application will be determined on individual merits and in view of promoting the principles and objectives contained in this policy.

In particular, the policy aims to promote the following aims and objectives in reference to street trading activities:

- prevent the obstruction of the streets by street trading activities;
- sustain established shopkeepers in the town;
- maintain the quality of the townscape and add value to the town;
- encourage inward investment; and
- promote quality markets.

### 3.1 Permitted locations for street trading

The council's adopted policy prescribes a number of permitted trading locations and associated permitted trading goods. These locations and permitted goods are outlined in the council's adopted policy that is available on the council's website.

### 3.2 Assessment criteria

In considering applications for the grant or renewal of a consent the following factors will be considered:

- **Needs of the Area** - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.

- **Public Nuisance** – Whether the street trading activity represents, or is likely to represent, a substantial risk of nuisance to the public or properties in the vicinity from noise, misbehaviour, emissions, smells etc.
- **Public Safety** – Whether the street trading activity represents, or is likely to represent, a substantial risk to the public from the point of view of obstruction, fire hazard, unhygienic conditions or danger that may occur when a trader is accessing the site.
- **Appearance of the Stall or Vehicle** – Trading units must enhance the visual appearance of the street rather than detract from it and be constructed in a suitable scale, style and of appropriate materials. It should also be designed to be fully accessible for all customers and advertising material must be limited to the name of the stall, the type of product sold and a simple price list and be professionally designed and printed. The council will generally not permit trading units over 3 meters tall to avoid obstruction of sight.
- **Environmental Credentials** - The impact of the proposed operation on the local environment including street surfaces, tree pits & materials, power supply, carbon footprint, supply chain, packaging, waste minimisation, waste disposal and waste created by customers.

#### 4. Consultee Comments

- 4.1 Two objections were received in respect of this application. Please refer to the accompanying background papers where these are outlined.

#### 5. Licensing Comments

- 5.1 The Committee must determine the application with a view to promoting the council's adopted policy and Members should not arbitrarily deviate from the council's policy.
- 5.2 The policy takes into account a number of factors when determining the permitted trading types. These are outlined above ("Permitted Locations") and Members should take these into account when determining this application.
- 5.3 Whilst the policy creates a presumption against the grant of an application if the application does not comply with the policy, this position should not fetter the Committee's discretion to take into account the individual merits of the application and any circumstances that may warrant a deviation from the policy.
- 5.4 Members are reminded that clear and thorough reasons should be given for decisions made by the Committee particularly where the decision is contrary to adopted policy.
- 5.5 A number of issues were raised in the objections relating to "unfair competition" and other matters.
- 5.5.1 **Competition** - The committee should be mindful that street trading is a legitimate form of trading provided it is sanctioned by the authority. In sanctioning the trading and with the "unfair competition" complaint in mind, Members should be guided by its licensing policy:

##### 4.2 Assessment Criteria

*Needs of the Area - The retail offer of each individual pitch. The goods complement and do not conflict with the goods sold by other retailers (including other street traders) within vicinity. This criterion permits the council to undertake a qualitative assessment of the goods to be sold by each competing applicant against those on sale in the adjacent area. The council does however recognise that the surrounding retail offer is subject to change therefore it will apply this criterion to applications for new or renewal applications.*

5.5.2 **Approved Locations** – Objectors referre **Page 16** that the proposed location is not approved by the policy and should therefore be refused.

As outlined above (5.3), there is a presumption against the grant of the application for this reason but this does not fetter the Committee’s discretion to take into account the individual merits of the application.

5.6 The Committee is to note that the trading location does not comply with the council’s trading policy in that the proposed location is not an approved location.

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**Background Papers**

Service Records

**Case Officer**

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**



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Proposed trading unit measuring 3.1m (10 ft) x 2.1m (6.8 ft)

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# Background Papers

Mr Edward Danter

19/01930/STA

## **Cheltenham BID**

Cheltenham Business Improvement District (BID) represents the interests of more than 550 businesses in the town centre and opposes the application for the Hot Food Unit Xmas on their behalf.

Last year, we set out a number of reasons why the unit would be detrimental to many of the town's permanent businesses and were disappointed at the response of the committee.

It was stated in the minutes that "members agreed that Mr Danter's stall was integral to Cheltenham during the festive period". It is not. We have a number of excellent businesses who provide the same or similar produce and who pay business rates, rents and other fees throughout the year that street traders are not liable for.

These businesses, many of them in the close vicinity of the proposed stall, should be allowed to reap the benefits of the busy Christmas period without having a short-term competitor in place.

Among the businesses nearby that would be directly affected are: Farmhouse Deli, Zi Coffee Shop and Bakery, Falafel King, German Doner Kebab, Costa Coffee, SOHO Coffee, Tailor's and Sainsbury's Local.

Another comment from one member last year was that "the majority of food outlets in the immediate vicinity had a different offer". Some do and some do not. But potential customers are not going to eat twice. Anyone visiting one outlet for lunch or another meal, does not then use another as well because it sells something different.

Under the council's Licensing Policy, the proposed site is not designated as an approved location for trading of this kind. It has been allocated for sign-up services and buskers selling merchandise. It does not permit food and drink sales. We would urge the Licensing Committee to follow the advice of the council's own policy and refuse this application.

The BID has no concerns about Mr Danter as an operator and works with him on other projects but, in the current difficult climate for town centres, it is important that the needs of our full-time businesses are put first.

## **SOHO Coffee**

Thank you for letting us know about this application.

We would like to strongly object to the application for Danter's Christmas Hot Food Unit on several grounds.

As a fixed business and bearing the 12 months of overheads as we do, we feel it would be very unfair to allow a competitive temporary trader to benefit from trading only at the busiest time of year. Christmas is a key trading period for us and we depend on the festive season to iron out the seasonal peaks and troughs of sales. The proposed unit will be in direct competition with us, offering hot

food (eg. pork rolls) and hot and cold drinks of a remarkably similar nature to ours, and will gain the advantage of being directly on the High Street prior to our customers entering Cambray Place, directly detracting from our sales.

Thank you for giving us the opportunity to comment. For the above reasons, we would ask the Council to, please, reject this application on the firmest grounds.

**"Miscellaneous" Licensing Sub-committee – 5 February 2020**

**Review of a Hackney Carriage Driver’s Licence**

**Mr Samir Jamshidi - HCD076**

**Report of the Licensing Team Leader**

**1. Executive Summary and Recommendation**

1.1 Mr Samir Jamshidi holds Hackney Carriage driver’s licence HCD076 which is due for renewal on 20 January 2021.

1.2 On 09.01.2020, officers received a complaint that officers deems sufficiently serious to call into question Mr Jamshidi’s fitness and propriety to hold a Hackney Carriage driver’s licence.

1.3 The details of the incident and Mr Jamshidi’s interview notes are attached to the accompanying background papers.

**1.4 The Sub-committee can:**

**1.4.1 Resolve that Mr Jamshidi remains a fit and proper person to hold a Hackney Carriage driver’s licence and that no further action is required; or**

**1.4.2 Resolve that Mr Jamshidi is to undertake, at his own expense and within 3 months, an enhanced driving assessment through the authority’s approved provider and that Members consider whether a suspension is proportionate until such a time as he successfully pass this assessment; or**

**1.4.3 Resolve that the incident is of such a serious nature that Mr Jamshidi is no longer deemed a fit and proper person to hold a Hackney Carriage driver’s licence and as a consequence his Hackney Carriage driver’s licence is revoked.**

**1.4.4 Subject to either 1.4.2 or 1.4.3 above, Members can further resolve that, if it appears that the interests of public safety require, the suspension or revocation of the licence to have immediate effect under section 61(2B) of the Local Government (Miscellaneous Provisions) Act 1976.**

**1.5 Implications**

1.5.2 Legal There is a right of appeal against a decision to revoke a licence which, in the first instance, is to the Magistrates’ Court.

**Contact officer: One Legal  
E-mail: [legalservices@tewkesbury.gov.uk](mailto:legalservices@tewkesbury.gov.uk)  
Tel no: 01684 272015**

**2. Background**

2.1 The Borough Council must be satisfied that the holder of a Hackney Carriage licence is a fit and proper person to hold that licence (Section 59 Local Government (Miscellaneous Provisions) Act 1976).

2.2 Under the Rehabilitation of Offenders Act 1974 (Exceptions)(Amendment) Order 2002 (SI2002/441) hackney carriage and private hire drivers are exempted from the provisions of the Rehabilitation of Offenders Act 1974 and convictions are never spent.

The question for the committee is therefore whether, given the nature of the convictions, the applicant is a fit and proper person to hold a licence.

### 3. Policy Considerations

3.1 Decision making in relation to licensing is an onerous duty, dealing with both the livelihood of the Licensee/Applicant and the risks to the safety and comfort of the public.

3.2 Each case must be decided on its own merits and Members must always consider the full facts of the case and any mitigating or other circumstances before reaching a decision.

3.3 The overriding consideration is the safety of the public. The authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.

### 4. Licensing Comments

4.1 Details of the incident and the subsequent interview with Mr Jamshidi is enclosed on the background papers for Member to refer to.

4.2 Mr Jamshidi has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members' questions or to be represented.

4.3 In considering the application on its own merits Members should have regard to the adopted Probity Guide.

---

#### Background Papers

Service Records

#### Report Author

**Contact officer:** Mr Louis Krog  
**E-mail:** [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
**Tel no:** 01242 262626



- 3.3 The overriding consideration is the safety **Page 26** The authority has a duty to ensure so far as possible that those licensed to drive hackney carriage and private hire vehicles are suitable persons to do so, that they are safe drivers with good driving records and adequate experience, sober, courteous, mentally and physically fit, honest and not persons who would take advantage of their employment.
- 3.4 Some discretion may be appropriate if the offence is isolated and there are mitigating circumstances. Similarly, multiple offences or a series of offences over a period of time are likely to give greater cause for concern and may demonstrate a pattern of inappropriate behaviour which will be taken into account.
- 3.5 Details of the relevant policy extracts can be found on the background paper.

#### **4. Licensing Comments**

- 4.1 The authority is under a statutory obligation to ensure that persons licensed as Private Hire drivers are fit and proper people. Public safety is the authority's primary concern and therefore applicants are expected to demonstrate a high standard of driving and behaviour.
- 4.2 Members are advised that Mr Charles still needs to complete all of the tests, assessments and requirements to obtain a Private Hire driver's licence of which one is a driving assessment.
- 4.3 Members will note from the accompanying background papers that Mr Charles' application does not satisfy the policy requirements.
- 4.4 If Members are minded to grant this application contrary to the provisions of the authority's licensing policy, the sub-committee is under duty to provide clear and comprehensive reasons for doing so.
- 4.5 Mr Julian Charles has been sent a copy of this report and invited to attend this meeting to speak in support of his application and to answer members' questions or to be represented.
- 4.6 In considering the application on its own merits Members should have regard to the adopted Probity Guide.

---

#### **Background Papers**

Service Records

#### **Report Author**

**Contact officer:** Mr Phillip Bowen  
**E-mail:** [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)  
**Tel no:** 01242 262626

## "Miscellaneous" Licensing Sub-committee – 5 February 2020

### Local Government (Miscellaneous Provisions) Act 1982

#### Application for a Sexual Entertainment Venue Licence

**Mr Steven John Burrows**

#### Report of the Licensing Team Leader

### 1. Summary and recommendation

- 1.1 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”), as amended by section 27 of the Policing and Crime Act 2009, allows applicants to apply for, renew, vary and/or transfer a Sexual Entertainment Venue (“SEV”) licence where they wish to offer “relevant entertainment” on a frequent basis.
- 1.2 In this case, an application for the grant of a Sexual Entertainment Venue (SEV) Licence has been submitted to the authority on 18.12.2019 in respect of Club Covert, 12 - 14 Bath Road, Cheltenham, GL53 7HA.
- 1.3 The dates and hours applied for are as follows:

Tuesday 10 March 2020	20:00 – 04:00
Wednesday 11 March 2020	20:00 – 04:00
Thursday 12 March 2020	20:00 – 04:00
Friday 13 March 2020	20:00 – 04:00

- 1.4 A copy of the application form is attached at **Appendix A**. A copy of the premises layout is attached at **Appendix B** and a front elevation at **Appendix C**. A location map is at **Appendix D** and a wider plan of the Central Shopping Area is at **Appendix E**.

### 1.5 Implications

Legal Any applicant who is refused a licence may, within 21 days of being notified of the refusal, appeal to the local magistrates' court.

However, the right to appeal does not apply where the licence was refused on the grounds that:

- the number of sexual entertainment venues in the area exceeds the number which the authority considers is 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

**Contact officer: One Legal**  
**E-mail: [legalservices@tewkesbury.gov.uk](mailto:legalservices@tewkesbury.gov.uk)**  
**Tel no: 01684 272015**

## 2. Background

- 2.1 On 1 October 2014, Council approved the adoption of the amended provision of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to take effect in the borough on 1 December 2010.
- 2.2 Since the adoption, any premises that want to offer “relevant entertainment” on a frequent basis can only do so by obtaining a SEV licence.
- 2.3 Relevant entertainment is defined as any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- 2.4 Under the Act premises can provide relevant entertainment on an infrequent basis without the need for a SEV licence. An infrequent basis is defined under the Act as no relevant entertainment has been provided on more than 11 occasions within a 12 month period and no such occasion has begun within a period of one month beginning with the end of the previous occasion, and no such occasion has lasted longer than 24 hours. Any premises wishing to offer relevant entertainment more frequently are required to apply for a SEV licence.

## 3. Consultation

- 3.1 The applicant has advertised the application in accordance with the statutory requirements set out in Schedule 3 of the Act.

### Consultation – Objections

- 3.2 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.
- 3.3 Members are to note in particular that any objection must relate to both or either of the mandatory or discretionary grounds for refusal set out below.
- 3.4 Objections made on moral grounds or values are not relevant to either the mandatory or discretionary grounds for refusal and should therefore not be considered relevant.

### Consultation – Chief Officer of Police

- 3.5 The Chief Officer of Police did not raise any objections in relation to this application.

### Consultation – Other Persons

- 3.6 In relation to this application the licensing authority received 2 representations from residents and others. Copies of these are enclosed as background papers.

## 4. Policy Considerations

- 4.1 The council’s adopted policy statement in relation to the regulation and control of SEVs was adopted by Council on 13 October 2014, and this policy statement sets out the council’s guidance, application procedure, terms and conditions relating to the regulation of SEVs.
- 4.2 Below (para. 5.3 – 5.16) are relevant extracts from the policy to highlight relevant issues to Members. However, Members should read these in conjunction with the policy document for completeness and contextual understanding.
- 4.3 The Council does not take any moral stand in adopting this policy. The Council recognises that Parliament has made it lawful to operate a sex establishment and that such businesses are a

legitimate part of the retail and leisure industry. This Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

## **Determination (Section 10)**

### **Mandatory Grounds for Refusal**

4.4 A licence cannot be granted:

- a) to any person under the age of 18 years;
- b) to any person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to any person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application made;
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to any person who has, within a period of 12 months immediately preceding the date when the application was made, been refused that grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

### **Discretionary Grounds for Refusal**

4.5 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the Council consider is appropriate for that locality (nil may be an appropriate number for these purposes);
- d) the grant or renewal of the licence would be inappropriate, having regard:
  - 1) to the character of the relevant locality; and/or
  - 2) to the use to which any premises in the vicinity are put; and/or
  - 3) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

### **Location of Premises (Section 11)**

4.6 In deciding the appropriate number of premises to be licensed, the Council must consider the character of the relevant locality and what is the appropriate number of SEVs for the relevant locality. The number can be 'nil'.

4.7 Cheltenham is a relatively small urban borough that is predominantly residential in nature. The Council has already resolved that it is inappropriate to licence SEVs in or in the vicinity of, amongst others, residential areas. It is the Council's policy therefore that there is no locality outside of the

adopted Central Shopping Area in which it is appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the adopted Central Shopping Area is nil.

- 4.8 The Council recognises however that the Central Shopping Area offers a more unique situation in as much as it has a much wider mix on offer, particularly in the night time economy and it may therefore be appropriate to consider applications for SEVs in the area. The Council has therefore resolved that it will not set a limit on the number of permitted SEVs in the adopted Central Shopping Area providing those premises are not near properties with sensitive uses or in sensitive locations.
- 4.9 A copy of the plan showing the Central Shopping Area is attached at Appendix E.

#### **Properties with sensitive uses or in sensitive locations**

- 4.10 In considering if the grant, renewal or variation of the licence would be inappropriate, having regard to the character of the relevant locality or to the use to which any premises in the vicinity are put, the Council shall consider, inter alia, whether the grant of the application would be appropriate, having regard to:
- a) The fact that the premises are sited in a residential area;
  - b) Whether the premises are sited near shops used by or directed at families or children, or on frontages frequently passed by the same;
  - c) Whether the premises are sited near properties which are sensitive for religious purposes e.g. churches, mosques, temples; and/or
  - d) Whether the premises are sited near premises or areas which are sensitive because they are frequented by children, young persons or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets and covered markets.

#### **Objections (Section 13)**

- 4.11 When considering an application for the grant, renewal, variation or transfer of a SEV licence the Council will have regard to any observations submitted to it by the Chief Officer of Police and any objections that have been received from anyone else within the statutory consultation period.
- 4.12 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.
- 4.13 Objections should not be made on moral grounds or values and the Council will not consider objections that are not relevant to the grounds mentioned above.
- 4.14 Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 4.15 Where the Council receives notice of any objection it will, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the Council shall not without the consent of the person making the objection reveal their name or address to the applicant.
- 4.16 Objections may only be made within the period of 28 days following the date on which the application was made to the Council.

### **5. National Guidance (March 2010)**

- 5.1 The Government has issued non-statutory guidance to aid local authorities carrying out their functions under Schedule 3, as amended by section 27.

5.2 Although it is non-statutory guidance, local authorities are encouraged to have regard to the guidance when exercising their functions (although there is no statutory requirement to do so) in order to promote best practice and consistency across England and Wales.

5.3 Below (para. 6.4 – 6.14) are relevant extracts from the policy to highlight relevant issued to Members. However, Members should read these in conjunction with the guidance document for completeness and contextual understanding.

### **Meaning of Sexual Entertainment Venue**

5.4 Paragraph 2A of Schedule 3 as inserted by section 27 sets out the meaning of a 'sexual entertainment venue' and 'relevant entertainment' for the purposes of these provisions. A sexual entertainment venue is defined as "any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer." (para 2.1)

5.5 The meaning of 'relevant entertainment' is "any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of an audience (whether by verbal or other means)." An audience can consist of just one person (e.g. where the entertainment takes place in private booths). (para 2.2)

### **Refusal of a Licence**

5.6 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the Chief Officer of Police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection. (para. 3.23)

5.7 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights. (para. 3.30)

5.8 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it on one or more of the above grounds, it must provide the applicant with reasons for the decision in writing. (para. 3.31)

### **Relevant Locality**

5.9 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the "relevant locality". A licence can be refused if either, at the time the application is determined, the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number. (para. 3.32)

5.10 Schedule 3 to the 1982 Act does not define "relevant locality" further than to say that:

- a. in relation to premises, it is the locality where they are situated; and
- b. in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment. (para. 3.33)

- 5.11 Clearly, the decision regarding what constitutes 'relevant locality' is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application. (para. 3.34)
- 5.12 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits. (para. 3.35)

### **Licence Conditions**

- 5.13 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3. (para. 3.39)

### **The Services Directive**

- 5.14 Schedule 3 to the 1982 Act constitutes an authorisation scheme under Article 9 of the EU Services Directive 2006/123/EC ("the Directive") which was implemented in the UK by the Provision of Services Regulations 2009 ("2009 Regulations"), which came into force on 28th December 2009. Local authorities must ensure they comply with the Regulations when applying the licensing provisions in Schedule 3. (para. 3.53)

## **6. Probity in Licensing (relevant extracts)**

- 6.1 Cheltenham Borough Council's Licensing Committee operates in a quasi-judicial way in determining contentious licensing applications and related matters.
- 6.2 The decisions that the Committee makes are significant and weighty. The Committee operates, for the most part, under its extensive delegated powers and it, rather than any other part of the council, actually makes the decisions. The decisions can have a considerable effect on the value of premises or other capital assets, on the amenities of people living near licensed premises and on the lives of applicants. Furthermore if the Committee makes a wrong or irrational decision this may mean that the council will face substantial costs if there is a successful appeal against the decision or if the decision is the subject of a legal challenge from an aggrieved third party.
- 6.3 Some licensing legislation specifies procedures to be followed but in all cases human rights and natural justice considerations dictate that the Committee adheres to the following principles in that decisions must:
- Be made on the individual merits of a case
  - Have regard to all relevant national and local guidance
  - Be made impartially and in good faith
  - Be made by the body that receives all the relevant information and evidence
  - Relate to the issue or question placed before the committee
  - Be based only on consideration of relevant and material matters
  - Be proportionate, rational and reasoned
  - Be made in a way that engenders public confidence

- 6.4 Licensing Committee Members must vote **Page 33** interests of the Borough as a whole and must not vote on the basis of local ward interests that may be contrary to a balanced licensing assessment in the light of the evidence before the members and wider policies and guidance.
- 6.5 Licensing applications must be determined on the basis of the documents and information that have been formally submitted and where all parties have had a proper opportunity to consider them.
- 6.6 Members must read and carefully consider the content of the circulated report before the meeting and they must have regard to its contents in reaching their decisions.

## 7. Officer Comments

- 7.1 When determining an application for a SEV licence, the committee must have regard to the relevant statutory provisions, the council's adopted policy, the relevant guidance issued by the Home Office and any objections or comments made by the Chief Officer of Police and other persons.
- 7.2 For this application, the Chief Officer of Police made no comment.
- 7.3 In relation to the objections made by other persons, a number of issues have been raised by objectors that require clarification:

- 7.3.1 **Cheltenham's Night Safe scheme** – Members are to note that Club Covert have now been granted access to the Night Safe scheme including access to the scheme's radio and banning schemes.

However, the SEV application has *not* been made by the licence holder of Club Covert. It is not clear from the SEV application the arrangements in place between the licence holder of Club Covert and Mr Burrows over the use of the club particularly in relation to preventing crime and disorder whilst the club is being used for relevant entertainment.

To address any concerns about the management of the club whilst Mr Burrows is temporarily occupying it for relevant entertainment, the committee must satisfy itself that these arrangements are sufficient and robust.

Members are to note that Mr Burrows is not listed as a member of Cheltenham's Night Safe scheme.

- 7.3.2 **Mr Daniel Field** – Mr Field, current DPS at Club Covert, has been referred to in objections. Reference has been made to a previous criminal conviction for assault with objectors making the point that this should disqualify him from being considered suitable for a licence.

Members are to note that Mr Field is not referred to in the SEV application and as such the grounds for refusal cannot be applied to him and to that extent this part of an objection is irrelevant.

However, with reference to 8.3.1 above, Members must be clear on what arrangements exist between Mr Burrows and Club Covert with regard to the management of the relevant entertainment with Mr Burrow's temporary occupation. This will be relevant particularly to discretionary ground 4.5(b) above.

- 7.3.3 **Equality** – A number of objectors have made reference to the fact that the presence of a SEV makes them feel uncomfortable and unwelcome. The Committee must be mindful of its Public Sector Equality Duty when discharging its licensing functions.

The licensing and regulation of SEVs often creates a tension between the statutory right to operate such a venue and equality issues relating to discrimination and objectification of primarily women. The starting point for the council is the fact that it cannot take any moral stand in relation SEVs in recognition that Parliament has made it lawful to operate a sex establishment. This starting point however does not mean that the council is therefore bound by the primary legislation at the expense of other statutory requirements.

When determining individual applications, **Page 34** must have regard to its PSED taking into account the individual merits of each application.

With reference to the objections, equality issues that may be relevant include:

1. The need to ensure that any protected characteristic group is not more, or less, welcome than another;
2. The need to properly consider the fear of any protected characteristic group using and accessing public spaces, facilities and infrastructure;
3. The need to properly understand the relevant locality and the need to ensure, taking into account the relevant locality, any protected characteristic group's view is taken into account such as those relevant to religion or belief or race;

Some or all of these equality issues may be addressed through appropriate conditions and robust enforcement. Equally, the licensing process may also be an important tool to achieve the same outcome, for example, licence reviews and policy changes.

7.4 Members are to note that the relevant locality in which Club Covert is situated falls outside the area in which the council will permit the licensing of SEVs. Discretionary ground 4.5(c) therefore allows the committee to refuse the application.

Members are however to be mindful of the fact that it has previously granted a SEV licence for this location. However, as this application should be determined on its individual merits, Members are not bound by previous decisions.

7.5 Members are to note that the policy must not fetter the sub-committee's discretion to consider the individual circumstances and merits of the application but equally the sub-committee must not arbitrarily deviate from its policy without good reason.

7.6 The licensing sub-committee, in making its decision, should provide comprehensive reasons.

7.7 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.

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#### **Background Papers**

Sexual Entertainment Venues: Guidance for England and Wales (March 2010)

Cheltenham Borough Council Sexual Entertainment Venue Policy Statement adopted October 2014

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009

#### **Case Officer**

**Contact officer: Mr Louis Krog**  
**E-mail: [licensing@cheltenham.gov.uk](mailto:licensing@cheltenham.gov.uk)**  
**Tel no: 01242 262626**



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LICENCE APPLICATION

\*NOTE\* Please read the explanatory notes attached before completing this application form

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3  
APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE

PLEASE NOTE

All applicants must complete Section A.  
Section B to be completed if applicant is a company.  
All applicants must sign declaration in Section C.

SECTION A

Application type (please tick ✓)  New application  Renewal of existing licence  
 Transfer of licence  Variation of licence

If renewal please state existing licence number

Applicant's details:  
Surname

BURROWS

Forename(s)

STEVEN JOHN

Address:

Date of birth [dd/mm/yyyy]

National Insurance number

Daytime telephone number

Fax number

Email address

EUROPEANEVENTS@live.co.uk

Agent acting on behalf of applicant (eg solicitor) if applicable:

Name of agent:

VIC YOUNG

Address of agent:

WALL JAMES HARPER

15-23 HAGLEY ROAD

STURBRIDGE

Post code

DY8 1QW

Daytime telephone number of agent

01384 571622

Email address of agent

vy@vjclaw.co.uk

Name under which the business is to be known and traded as

EUROPEAN EVENTS CONSULTANTS LTD

Address of premises for which this application is made

~~CONVERT CLUB~~ CLUB COVERED

12-14 BATH ROAD

CHELTENHAM

Post code

GL53 7HA

For what purpose do you intend to use this premises?

eg sex shop, sex entertainment venue

SEXUAL ENTERTAINMENT VENUE

Do you have planning consent to use the premises stated above for the purpose intended?

(please provide details, and forward appropriate documentation to evidence this)

YES

If this application relates to a vehicle, vessel or stall please give description (including site to be situated on)

Proposed days and hours of operation

(please tick ✓ and specify times for each day using the 24 hour clock)

eg: 23:00 that day or 02:00 on the day following

SEE ATTACHED

- Sunday - from                      until                      hours
- Monday - from                      until                      hours
- Tuesday - from                      until                      hours
- Wednesday -from                      until                      hours
- Thursday - from                      until                      hours
- Friday - from                      until                      hours

Saturday - from \_\_\_\_\_ until \_\_\_\_\_ hours

Have you ever been convicted by a Court for any offence which is not now spent under the terms of the Rehabilitation of Offenders Act 1974?

- Yes  
 No

(please tick ✓ as appropriate)

If **Yes**, please give details  
 All unspent convictions must be disclosed (if renewal application, since you last applied for a licence)

(please continue on a separate sheet if necessary)

Date of Conviction	Name of Convicting Court	Nature of Offence

Are there any criminal proceedings against you pending?

- Yes  
 No

(please tick ✓ as appropriate)

If **Yes**, please give full details including date of hearing and name of Court

Have you been a director or company secretary of a company involved in the ownership or operation of a sexual entertainment venue licence previously?

- Yes  
 No

(please tick ✓ as appropriate)

If **yes**, please give details

Were there any convictions recorded against that company?

- Yes  
 No

(please tick ✓ as appropriate)

If **yes**, please give details

**SECTION B**

To be completed if the applicant is a company

Company name EUROPEAN EVENTS CONSULTANTS LIMITED

Company address UNIT 3 AMBROSE HOUSE, METEOR COURT,  
BARNETT WAY, BARNWELL,

Post code GL4 3GG

Company telephone number 01684 273875

Company fax number \_\_\_\_\_

Company email address EUROPEANEVENTS@LIVE.CO.UK

Full names and private addresses of all directors or other persons responsible for management of the company:

1	2	3
Name <u>STEVEN JOHN BIRKOWS</u>	Name:	Name:
Address:	Address:	Address:
	Post Code:	Post Code:
	Date of birth:	Date of birth:
	National Insurance no.	National Insurance no.

Any convictions recorded against that person or those persons

Name and date of conviction	Name of convicting Court	Nature of offence	Sentence (if imposed)
	<u>NONE</u>		

Are there any criminal proceedings against that person or those persons pending?

Yes

No

(please tick ✓ as appropriate)

If **Yes**, please give full details including date of hearing and name of Court

**SECTION C**

**Declaration**

All new and variation applications for sexual entertainment venue licences are considered by the Licensing Committee. Opposed applications for renewal and/or transfer will also be considered by the Licensing Committee. The applicant and/or their representative are required to attend the meeting of the Licensing Committee at which their application is due to be considered to speak in support of their application. They should be prepared to answer any questions which the Licensing Committee may wish to ask.

**PLEASE NOTE**

**This application must be signed by the applicant personally or, in the case of a company, by a director or other duly authorised agent of the company.**

I/We confirm that the contents of this application are true and correct.

I/We agree that if a licence is granted by Cheltenham Borough Council for a sexual entertainment venue licence, that I/we will comply with all Acts, Byelaws, Regulations and Conditions relating thereto and for the time being in force.

I/We understand that non-compliance with any relevant Acts, Byelaws, Regulations and Conditions will prejudice the continuance of any licence granted.

I/We understand that the council may utilise the information contained herein for internal purposes and may disclose the information to persons or organisations in accordance with the council's registration under the Data Protection Act 1998.

I/We, the undersigned, hereby apply for registration as a sexual entertainment venue licence within the Borough of Cheltenham and I/we declare that to the best of my/our knowledge and belief the foregoing statements are true and correct.

I/We understand that this licence will expire 1 year after it has first been granted or after a period of time decreed by the Licensing Committee, and a newly completed application form will need to be submitted to the local authority **two months before the expire of the existing licence, together with the licence fee current at that time.**

I/We further understand that once the completed application form has been submitted it will be submitted to environmental health, planning, building control and community safety officers of Cheltenham Borough Council together with the local police, fire service, parish councils, ward members or any other interested party for comment.

I/We understand that I/we must submit a copy of this application form to the chief officer of police for the area in which the premises are located and all other Responsible Authorities.

Signature of applicant (s) \_\_\_\_\_

Name (s) in BLOCK CAPITALS STEVEN JOHN BURROWS

Capacity in which application is signed DIRECTOR  
(see note above)

Date 17.12.2019

**How to apply for a sexual entertainment venue licence**

This application and the appropriate supporting documentation should be forwarded to the Licensing Team at the address on the front of this form.

**Please read the guidance notes that accompany this application form.** Failure to comply with the application procedure could result in a licence not being granted.

The following are required in order to proceed with the application:-  
please tick the boxes below ✓ to confirm you have sent them

- **Application form** (all sections completed)
- **Copies of plans** delineating the specific rooms or premises to which this application relates, with escape routes (in case of emergency) indicated.
- **Copies of a location plan** showing the vicinity of the proposed premises with the premises themselves clearly marked.
- **Planning consent documentation** as confirmation that you have permission to use the premises for the purpose for which you are making this application.
- Any **additional information** in support of the application.
- **What you need to show to establish your identity**  
*This will be required from the applicant named in Section A*
  - **Driving Licence original(s) for inspection (paper and photo card counterpart)** which will be photocopied by an officer from Licensing Team. *If you do not have a valid photo card driving licence then a valid passport must be shown to the Licensing Officer.*
  - **If none of the above are available then please supply one of the following original documents-**   
Original birth certificate (or similar official document if born outside UK )  
P45 / P60 Statement  
Marriage certificate, passport

If you have any queries or require assistance in completing the application form, please contact our Licensing Team at the address on the front of this form, or telephone 01242 775200.

**Proposed Hours of Operation**

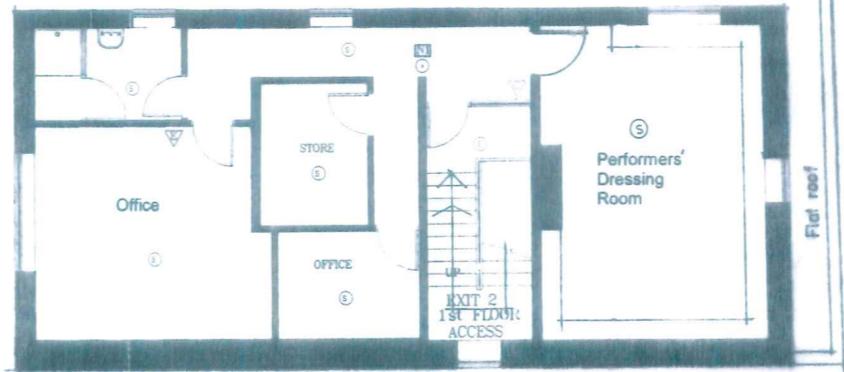
Tuesday 10<sup>th</sup> March 2020 2000 – Wednesday 11<sup>th</sup> March 0400

Wednesday 11<sup>th</sup> March 2020 2000 – Thursday 12<sup>th</sup> March 2020 0400

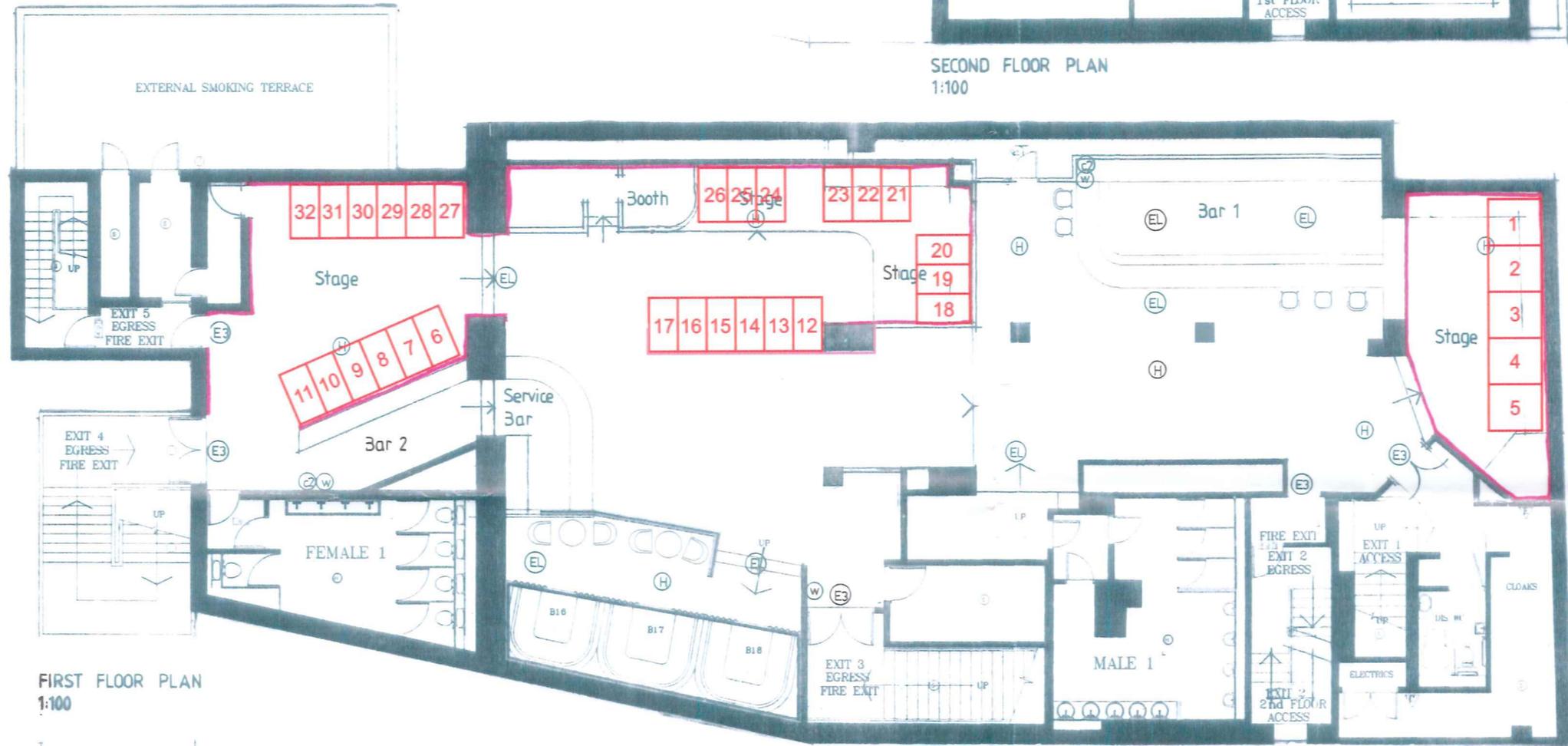
Thursday 12<sup>th</sup> March 2020 2000 – Friday 13<sup>th</sup> March 2020 0400

Friday 13<sup>th</sup> March 2020 2000 – Saturday 14<sup>th</sup> March 2020 0400

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SECOND FLOOR PLAN  
1:100



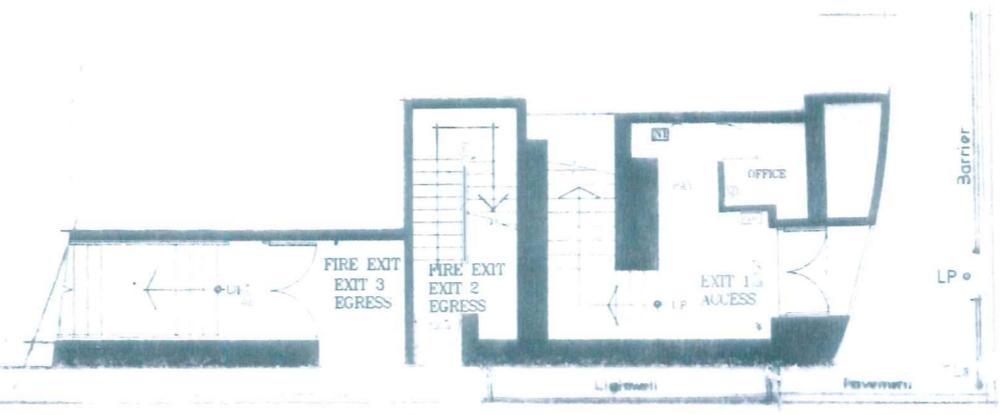
FIRST FLOOR PLAN  
1:100

- FIRE ALARM**
- VOID DETECTOR
  - REDCARE LINE
  - SMOKE DETECTOR
  - SMOKE DETECTOR - FIRST STAGE SOUNDER
  - HEAT DETECTOR
  - HEAT DETECTOR - FIRST STAGE SOUNDER
  - COMBINE SMOKE & HEAT DETECTOR
  - MANUAL CALL POINT
  - FIRST STAGE SOUNDER-LED
  - FIRST STAGE SOUNDER-NEON
  - YOKLE EVACUATION SOUNDER
  - VOI E EVACUATION HORN/STATION SOUNDER
  - FLASHING BEACON
  - INTERFACE
  - FIRE ALARM PANEL
  - FIRE ALARM REPEATER PANEL
  - DISABLE REFUGE INTERCOM POINT
- EMERGENCY LIGHTING**
- EMERGENCY LIGHT 140V N/MS BULBHEAD LIGHT BOX
  - EL 140V AREA COMBINE 28 WATT ED DECORATIVE FITTING
  - EMERGENCY SIGN 240V M3
  - BOX REF A75004 FULVIC AREA AC5019
  - EMERGENCY CLEANFYS LIGHT 240V N/MS IP20 TWIN SPOT WITH MULTI DIRECTIONAL HEADS REF A75007
- FIRE EQUIPMENT**
- 6kg MULTI-PURPOSE FOAM EXTINGUISHER
  - FIRE PLANKS
  - 4kg CARBON DIOXIDE EXTINGUISHER
  - ARGONIS FOAM FILLED
  - 6kg MULTI PURPOSE WATER EXTINGUISHER
  - DRY POWDER
- FIRE NOTICES**
- GENERAL BY EACH CALL POINT
  - STAFF
  - KITCHEN
  - DUTY MANAGER

Page 43



PART GROUND FLOOR PLAN  
1:100



Bath Road  
Barrier  
Lap Dance  
Frontage  
Pavement  
Lighter  
Vernon Place

The accuracy of this Drawing cannot be guaranteed and all critical dimensions must be taken on site.

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FRONT ELEVATION TO BATH ROAD  
1:100  
**PROPOSED**

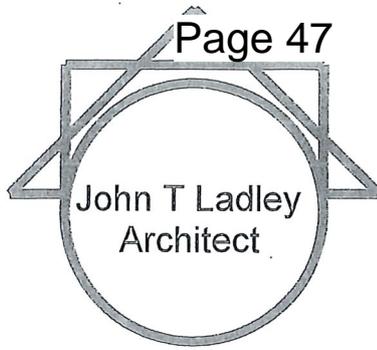
**EXTERNAL MATERIALS**  
**EXISTING FRONT ELEVATION**  
**Walls** – Stone coloured smooth render  
**Window** – White upvc  
**Door** – Black painted timber  
**Canopy** – Black fabric  
**Signage** – Black painted boards, red highlight signed 'Club Covert'  
**Lighting** – Illuminated track with spotlights at high level beneath cornice



FRONT ELEVATION TO BATH ROAD  
1:100  
**EXISTING**

**EXTERNAL MATERIALS**  
**EXISTING FRONT ELEVATION**  
**Walls** – Stone coloured smooth render  
**Window** – White upvc  
**Door** – Black painted timber  
**Canopy** – Black fabric  
**Signage** – Black painted boards, red highlight signed 'Club Covert'  
**Lighting** – Illuminated track with spotlights at high level beneath cornice

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John T Ladley  
Architect

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m: 07702 190 852  
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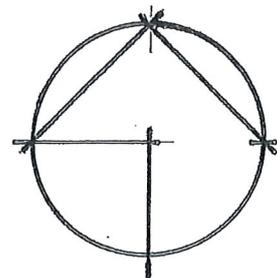
**2019/20 : Covert Club, Bath Road, Cheltenham, Glos GL53 7HB**

**2018/19/03 - ORDNANCE SURVEY LOCATION PLAN**

**Scale 1:1250** Ordnance Survey Copyright Number AR 10000 9812

John T. Ladley Chartered Architect/2019/20/CovertClub/OSLocationPlan

John T. Ladley Chartered Architect Dip.Arch (Oxford) RIBA



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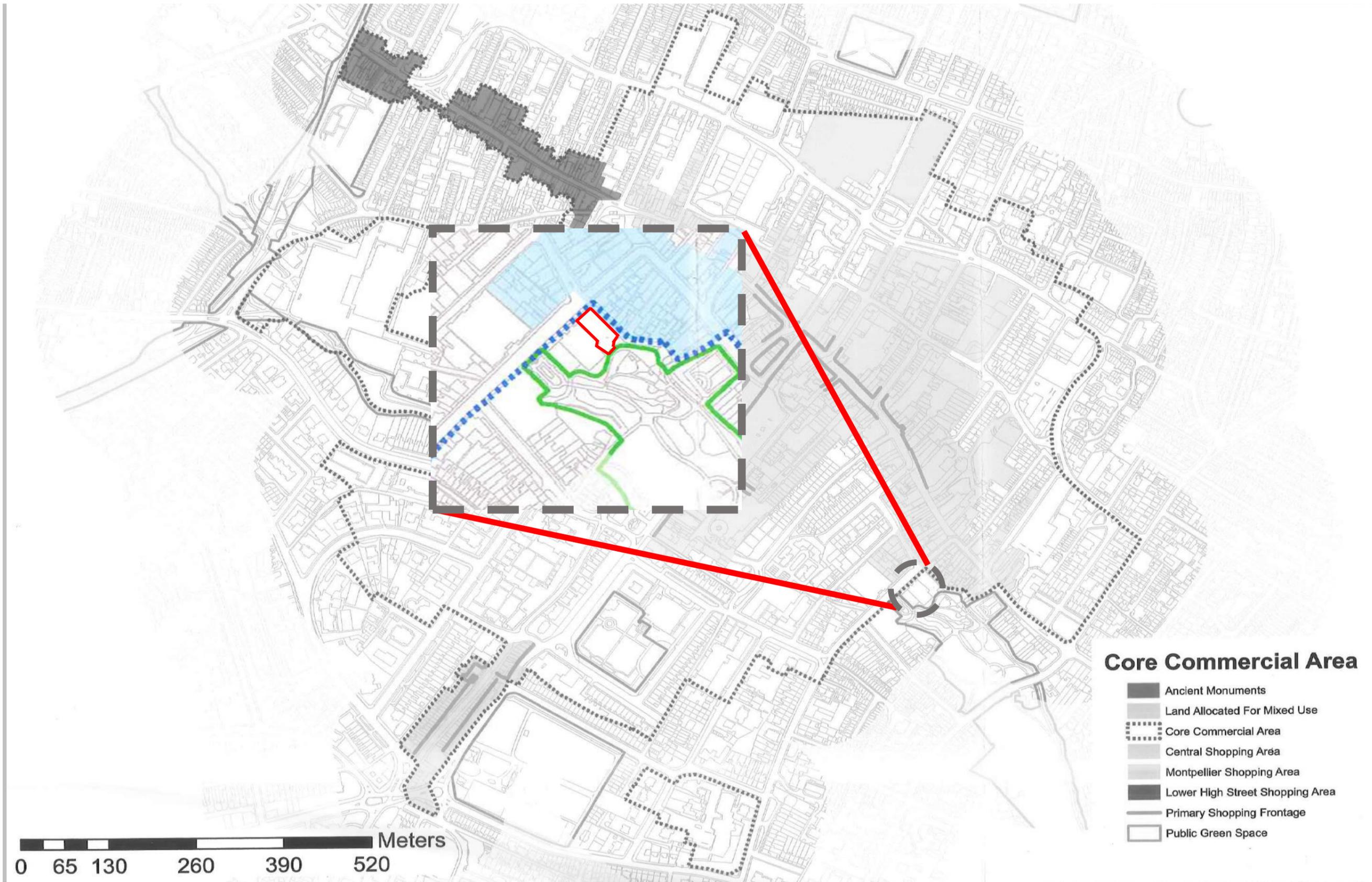


Fig 1 – Adopted Central Shopping Area (Shaded in sky blue)

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# Background Paper

Club Covert

19/03431/SEXA

Dear Sir/Madame,

## OBJECTION TO GRANTING A SEXUAL ENTERTAINMENT LICENSE TO COVERT CLUB, BATH ROAD

In our society women's bodies are routinely sexualized for commercial gain. Women are bombarded by images of highly sexualized beauty in all forms of media. Their bodies are used to sell products and generate revenue, shaping the way women and girls understand their role in, and value to, society. Eating disorders, self-harm and low self-esteem have become common among our teenage girls, who have been taught that their value lies primarily in the desirability of their bodies.

While the Bishop of Gloucester works to fight these problems in our area with her Liedentity campaign, I am distressed to find Cheltenham Borough Council signaling its potential endorsement of the sexual exploitation of women's bodies for money. I am writing to ask the Council to refuse the application for a sexual entertainment license by Covert Club on the Bath Road and to take steps to ensure that licensing loopholes which permit sexual entertainment in our community are closed. Not only is sexual entertainment harmful to women and girls as a class, it is completely out of keeping with the ethos of the Cheltenham community and the lucrative reputation that our town is keen to cultivate as a centre of culture and history.

Lap dancing clubs create the illusion that there exists a subclass of women that it is acceptable to exploit for money. They teach our men and boys that it is possible to put a price on sexual access to women. There is an inescapable logic to the prevalence of rape and domestic violence in our country, when we consider the dehumanizing impact of the commercial exploitation of women's bodies. While parts of our society continue to treat women as commodities, a minority of men will abuse them as such. Local organisations like Gloucestershire Rape and Sexual Abuse Centre (GRSAC) are at the forefront of combating these ills in our community. It is unclear to me why the sexual entertainment industry has been allowed to gain a foothold in Cheltenham at all, but the Council now have an opportunity to act decisively in favour of the wellbeing and self-esteem of the women and girls who live here. To grant this license would be to openly disrespect the mission of groups like GRSAC. In legitimizing the sexual entertainment industry, the Council would be contributing to the social conditions that make their difficult work with survivors of sexual assault and domestic violence necessary, advocating the kind of commodification of female bodies that leads to the dehumanisation and abuse of women.

Sexual entertainment is the most extreme, legal manifestation of commercial sexual exploitation in our country. Its harms impact the safety of our communities on multiple levels. Extensive documentation shows that it is usually accompanied by the very worst forms of illegal activity. Women who have exited the industry describe exploitative employment practices, relentless pressure to provide illegal sexual services and the routine violation of personal and legal boundaries by patrons. Pimps and brothel keepers are known to use lap dancing establishments as hiring grounds, with sex trade survivors frequently reporting that they were first prostituted after working in the sexual entertainment industry. Cheltenham's local pimps will no doubt be delighted by the recruitment opportunities that Covert Club intends to offer them.

In light of these facts about threats to public safety, it is extremely concerning to learn that Dan Field, the owner of Covert Club, has not enrolled his establishment in Cheltenham's Night Safe scheme. Given the inevitable proliferation of criminal activity at sites of sexual entertainment, it is astonishing that the Council are considering granting a license to a club that is already demonstrably less safe than other local venues. Mr. Field's conviction for assaulting a patron of one of his establishments in 2016 suggests that he rejects the model of community safety promoted by Night Safe and prefers to take a more direct approach to the security of his businesses. This is not something I wish to see more of in my community.

Quite why the Council are considering endorsing this gift to local criminals is beyond me. I have lived in and around Cheltenham since childhood and seen the community build its reputation as an up-market regency town. We are known for our celebrations of culture and music, for our preservation of history. Cheltenham Literature and Jazz Festivals are nationally celebrated, and we take pride in sharing our history as a spa town and the birthplace of the renowned musician Holst. It was unsurprising to me to learn that Mr. Field is not from Cheltenham himself. Perhaps he cannot be expected to understand the character and history of a town that he has not grown up in. Mr. Field is from Swindon, a decidedly different town to Cheltenham and not one I can imagine local residents wishing to emulate. I am surprised to find the Council prepared to countenance drastically changing the character of Cheltenham at the request of someone who is not even a local resident. What part of the community does Mr. Field believe he will be enhancing by bringing the sex trade to our town? How will a booming sexual entertainment industry benefit Cheltenham's reputation as a high end, regency spa town and a centre of culture? Mr. Field's professional profile shows him to be a competent businessman. I fear that his pursuit of profit has made him careless of the broader implications of a growing sexual entertainment industry in our town, a town which is not his own. However, the Council has a responsibility to consider the potential harms to its citizens extremely carefully, and the profitability of commercial sexual exploitation should not be deemed more important than its negative impact on the broader community and reputation of the town.

Similarly, the right of individual performers to be objectified for financial gain in the sexual entertainment industry should not outweigh the negative impact of commercial sexual exploitation on the class of women in its entirety. While individual women may find careers in sexual entertainment acceptable, the impact of the industry as a whole is the normalization of commercial exploitation of women's bodies. This has an impact on women as a class that I believe overrides the right of individual women to choose participation in a self-objectifying and exploitative industry. Whether Covert Club's employees oppose the terms of their objectification or not, I and many other local women are demeaned and distressed by the sight of our sisters being sold at market. The omni-present advertising for sexual entertainment during race week obliges us to explain to our young children why their local community supports the sale of female bodies. It is important to see beyond the deceptive sex industry narratives of 'choice' and 'empowerment' to recognize what lap dancing really is: the right of one human being to purchase access to another's body. While reports of the discomfort felt by women around sexual entertainment venues are purely anecdotal and have been dismissed as irrelevant by the Council in previous licensing decisions, they are telling and often come from the most vulnerable in our community. Rape victims and women who have escaped the sex trade are legitimately triggered by the presence of sexual entertainment venues in their communities. Similarly, I would encourage the licensing committee to give due weight to the stories of women who have exited the sexual entertainment industry and testified to its harms. The Council should be prioritizing the real-life experiences of these vulnerable people, not disregarding their concerns in favor of profitability.

I am including references and urge the Council to consider them carefully.

## References and Further Information

. Fact sheet from campaign group Not Buying It. This document provides objective evidence of the entirely preventable increases in illegal commercial sexual activity that accompany the licensing of sexual entertainment venues. If the Council are not prepared to accept the subjective experiences of local women who report increased rates of sexual harassment at the times when these venues are operating, perhaps they will at least consider the testimonies of exited sexual entertainment workers in this well referenced document. They deserve your respectful attention. The fact sheet also provides evidence of the broader harms to women and girls caused by commercial sexual entertainment:

<https://www.notbuyingit.org.uk/sites/default/files/Fact%20Sheet%20on%20Lap%20Dancing.pdf>

. The Liedentity Campaign can be found here and deserves the full support of the Council:

<https://www.gloucester.anglican.org/parish-resources/communications/liedentity/>

. Information on increasing rates of eating disorders in the UK and the impact of objectification on women:

<https://www.bbc.co.uk/news/uk-50969174>

<https://www.healthline.com/health/sexual-objectification-eating-disorders-link#6>

. Statistics on the continued prevalence of sexual assault in the UK:

<https://rapecrisis.org.uk/get-informed/about-sexual-violence/statistics-sexual-violence/>

. Information on the work of Gloucestershire Rape and Sexual Abuse Centre:

<http://www.glosrasac.org/>

. On Mr. Field's failure to register his business with Cheltenham's Night Safe scheme:

[https://www.gloucestershirelive.co.uk/news/cheltenham-news/guardian-patrol-leaders-serious-safety-3713735?fbclid=IwAR1i\\_6774I8CGKEzVIFgl2cJmRLGXYUWqDTCjh1U-T8jMsEYxxtRPaGYVx0](https://www.gloucestershirelive.co.uk/news/cheltenham-news/guardian-patrol-leaders-serious-safety-3713735?fbclid=IwAR1i_6774I8CGKEzVIFgl2cJmRLGXYUWqDTCjh1U-T8jMsEYxxtRPaGYVx0)

. Mr. Field's assault charge:

<https://www.swindonadvertiser.co.uk/news/14301525.manager-admits-assault-outside-baker-street-bar/>

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Dear sir or madam

I wish to formally object to the above application.

I am a resident of Cheltenham and avoid the town centre entirely during race week. The atmosphere is intimidating and since the Fantasy Club, now the Covert Club, began hosting lapdancing I have had to cancel the late-night appointments at my hairdresser, Cream, as I feel uncomfortable and unsafe

walking past the place. The staff in the salon said that they feel similarly. I was approached a couple of years ago by an individual outside this establishment who asked if he could assault me. This will be dismissed as "anecdotal" evidence, but I did not report it to the police because he did not physically do anything to me. I was frightened and rushed past him. I have since learned that I could have reported this and that my experience is invalid because I did not. If all women in the town start reporting what is said or intimated to them, let alone when they are touched, the police will have no time to deal with anything else; is this an environment the council is happy to foster?

Councils are legally bound by equality law to take measures to eliminate harassment, victimisation and discrimination of women - yet every year, despite protests from those of us who have to put up with this, you continue to allow these places to operate. Please read below why you can - and SHOULD - be refusing this and other applications - and that you can be held legally accountable if you do not.

<https://notbuyingit.org.uk/wp-content/uploads/documents/SheffieldShame.pdf>

By allowing this licence and others, Cheltenham Borough Council are breaching my human right to free movement. I should be able to walk around the town where I live, where I pay council tax, and indeed which I was at one point proud of - without feeling dirty, ashamed, uncomfortable or intimidated.

For once, please, please take the views of the women and men who protest SEVs seriously. We are in 2020, yet we are still having these battles.

Cheltenham could be, and should be, better than this.