

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

### **1. Background**

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

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

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

### **2. Mandatory Grounds for Refusal**

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

### **3. Discretionary Grounds**

#### **A. The Applicant**

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

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

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

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

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

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

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

#### **B. The Layout Plan**

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

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

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

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

#### **C. Other SEV Licences in the Locality**

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

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

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

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

There are therefore no other relevant licences within the locality.

#### **D. Conditions and Policies**

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

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

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

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

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

#### **E. The Relevant Authorities**

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

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

#### **F. The Locality**

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

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

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

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

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

**G. Residents Meeting 22 January 2014**

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

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

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

**H. The 36 Inch Rule**

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

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

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

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



