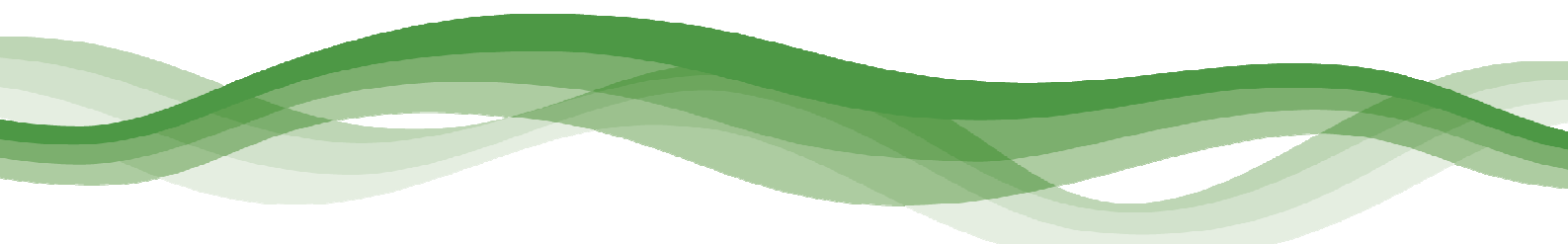




CHEL TENHAM
BOROUGH COUNCIL

SEXUAL ENTERTAINMENT VENUE POLICY STATEMENT

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



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Preface

This Policy Statement sets out the Council's requirements for premises to be licensed as Sexual Entertainment Venues ("SEVs") within the meaning of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("1982 Act") as amended by Section 27 of the Policing and Crime Act 2009.

Adoption of Schedule 3 also allows the Council to set terms and conditions and fees for the grant, variation, renewal and transfer of such licences and the number of premises to be licensed in an area, which may be nil.

The Council adopted the original provisions of Schedule 3 of the 1982 Act for Sex Cinemas and Sex Shops on 25th April 1983 and the new provisions for SEVs under the amendments of the Policing and Crime Act 2009 on 11th October 2010.

Consultation was conducted with local residents, existing and future potential holders of SEV licences in the Borough, the statutory responsible authorities under the Licensing Act 2003, and holders of Premises Licenses and Club Premises Certificates under the Licensing Act 2003 in the Borough.

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 industries. It is this Council's role as the Licensing Authority to administer the licensing regime in accordance with the law.

In formulating this policy statement consideration has been given to:

- a) The legal requirements of the 1982 Act (as amended);
- b) The Home Office Sexual Entertainment Venues Guidance for England and Wales;
- c) Section 17 of the Crime and Disorder Act 1998 to take all reasonable steps to reduce crime and disorder within the Borough;
- d) The Regulators Compliance Code; and
- e) The Provisions of Services Regulations 2009 and associated Department for Business, Innovation & Skills guidance.

The legislation may be viewed here:

<http://www.legislation.gov.uk/ukpga/1982/30>

Local Government (Miscellaneous Provisions) Act 1982 Chapter 30

<http://www.legislation.gov.uk/ukpga/2009/26/section/27>

Policing & Crime Act 2009 Part 2 Section 27 – Regulation of lap dancing and other sexual entertainment venues etc

The Borough of Cheltenham

The Authority is one of six district councils within Gloucestershire.

The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 115,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

1. Introduction

- 1.1 This policy statement sets out the Council's guidance, application procedure, terms and conditions relating to the regulation of SEVs.
- 1.2 This policy statement will guide current licence holders, potential licence holders and the Council when considering applications for SEVs.
- 1.3 This policy statement applies to every type of SEV (as defined in the Act) unless an exemption applies.
- 1.4 Whilst each application will be considered on its individual merits, this policy statement is intended to give prospective applicants an early indication of whether their specific application is likely to be successful and the material facts that will be taken in to consideration when determining the application. This policy statement also sets out the expectations of the Council on the applicant when receiving an application.
- 1.5 Applications for grant or variation and opposed applications to renew and/or transfer, will be determined by the Council's Licensing Committee. Unopposed applications to renew and/or transfer will be determined by the relevant director in accordance with the Council's constitution and scheme of delegation.

2. Definitions

The 1982 Act

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

SEV

Means Sexual Entertainment Venue as defined by section 27(3) of the Policing and Crime Act 2009.

The Policy Statement

This refers to this policy statement.

The Relevant Locality

Refers to the locality in which an application for a SEV licence has been made in respect of a premises, vehicle, vessel or stall.

The Character of the Relevant Locality

The character of the Relevant Locality where the premises is situated will be instrumental in determining whether or not the grant of a licence will be appropriate. This is a proper matter for the Council to consider based on local knowledge, factors and circumstances.

The Council

Means Cheltenham Borough Council.

The Premises

This is the premises, vessel, vehicle or stall which is subject to a SEV licence. The premises will be in possession of all appropriate consents and permissions required to operate.

Permitted Hours

These are the hours of activity and operation that have been authorised under the SEV licence.

3. Making an Application

- 3.1 An application for the grant, variation, renewal or transfer of a SEV licence must be made in writing to the Council in accordance with the requirements set out below.
- 3.2 The address at which the Council will accept applications and notices is:-
- a) By post/personal service to Licensing Section, Cheltenham Borough Council, Municipal Offices, Promenade, Cheltenham, GL50 9SA;
 - b) By e-mail to licensing@cheltenham.gov.uk;
 - c) By facsimile to 01242 77 4924;
 - d) On-line via the gov.uk website.
- 3.3 For all enquiries please contact the Licensing team on 01242 77 5200.

4. Application for the Grant of a licence

- 4.1 The Council may grant to any applicant a licence for the use of premises as a SEV on such terms and conditions as specified by the Council.
- 4.2 To apply for the grant of a SEV licence an applicant must:-
- a) Complete an application form;
 - b) The relevant fee
 - c) Submit a plan of the premises to which the application relates showing, amongst other things, all means of ingress and egress to and from the premises, parts used in common with any other building, and
 - d) Details of how the premises lie in relation to the street. (See below)
 - e) Submit a site plan scale 1:1250;
 - f) Submit drawings showing the front elevation as existing and as proposed to a scale of (1:100) (see below);

And must also;

- g) Display a notice on or near the premises (see below);
 - h) Advertise the application in a local newspaper no later than 7 days after the date of the application; and
 - i) Send a copy of the application and plan to the Chief Officer of Police for the area within 7 days of making the application to the council.
- 4.3 Application forms are available from www.cheltenham.gov.uk

5. Plans

- 5.1 The plan of the building, unless agreed in writing beforehand, must comply with the following:

The plan shall be drawn at a scale of 1:100 and shall show:

- (a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;

- (b) The location of points of access to and egress from the premises;
- (c) If different from paragraph (1)(b), the location of escape routes from the premises;
- (d) In a case where the premises is used for more than one existing activity the area within the premises used for each activity;
- (e) Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) In a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) In a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (h) The dressing room of performers;
- (i) The area where performances take place;
- (j) Any private screened area where a performance(s) take place;
- (k) In a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (l) The location and type of any fire safety and any other safety equipment; and
- (m) The location of a kitchen, if any, on the premises.
- (n) The area(s) to be licensed must be clearly identified by outlining these areas in red.

5.2 The plan must include a legend through which the matters mentioned are sufficiently illustrated by the use of symbols on the plan.

6. Public Notices

6.1 A notice must be displayed at or on the premises to which the application relates for a period of no less than 21 consecutive days beginning with the date of the application, where it can be conveniently read from the exterior of the premises.

6.2 Where the premises cover an area of more than 50 square metres, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

6.3 The notice must be on pale blue paper sized A4 or larger and printed legibly in black ink or typed in black in a font size equal to or larger than 16.

6.4 The notice must state:

- a) the details of the application and activities that it is proposed will be carried on or from the premises,
- b) the full name of the applicant,
- c) the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- d) the date, being 28 days after that on which the application is given to the council, by which objections may be made to the council and that the objections should be made in writing,
- e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine (£20,000) for which a person is liable on summary conviction for the offence.
- f) A similar notice must be published in a local newspaper circulating in the area within 7 days of giving the application to the Council (example The Gloucestershire Echo).

7. Variation of a Licence

- 7.1 The holder of a SEV licence may apply at any time for any variation of the terms, conditions or restrictions on or subject to which the licence is held.
- 7.2 The process of applying for a variation is the same as that for applying for an initial grant except that a plan of the premises is not required unless the application involves structural alterations to the premises.
- 7.3 Application forms are available from www.cheltenham.gov.uk

8. Renewal of a Licence

- 8.1 The holder of a SEV licence may apply for renewal of the licence. In order for the licence to continue to have effect during the renewal process, a valid application form together with the appropriate fee must be submitted before the current licence expires.
- 8.2 The process of applying for the renewal of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.
- 8.3 The Council will determine renewal applications on individual merits taking into account the facts of the application and any objections received. Opposed applications will be referred to the Council's licensing committee for determination. The Courts have confirmed that Councils are entitled to look afresh at renewal applications and, accordingly, it is open to the Council to refuse to renew a licence even where there has been no change in the character of the relevant locality, or in the use to which any premises in the locality are put.

9. Transfer of Licence

- 9.1 A person may apply for the transfer of a licence at any time.
- 9.2 The process of applying for the transfer of a licence is the same as that for applying for an initial grant except that a plan of the premises is not required.

10. Determination

10.1 Mandatory Grounds for Refusal

10.1.1 A licence will not 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 was made; or
- 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 the 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.

10.1.2 If the Council finds any of these grounds apply then it must refuse the application.

10.2 Discretionary Grounds for Refusal

10.2.1 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) that the grant or renewal of the licence would be inappropriate, having regard:-
 - to the character of the relevant locality; and/or
 - to the use to which any premises in the vicinity are put; and/or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
 - Suggest amending unless this is a straight lift from legislation?

10.2.2 Applications for the transfer of an issued SEV licence may only be refused on grounds (a) and (b) above.

10.2.3 Any decision to refuse a licence must be relevant to one or more of the above grounds.

11. Location of Premises

11.1 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'.

11.2 It is the Council's policy that there is no locality outside of the adopted Central Shopping Area in which it would be appropriate to license a SEV. Accordingly the appropriate number of SEVs for outside of the adopted Central Shopping Area is nil.

11.3 The Council has 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 (see 11.4).

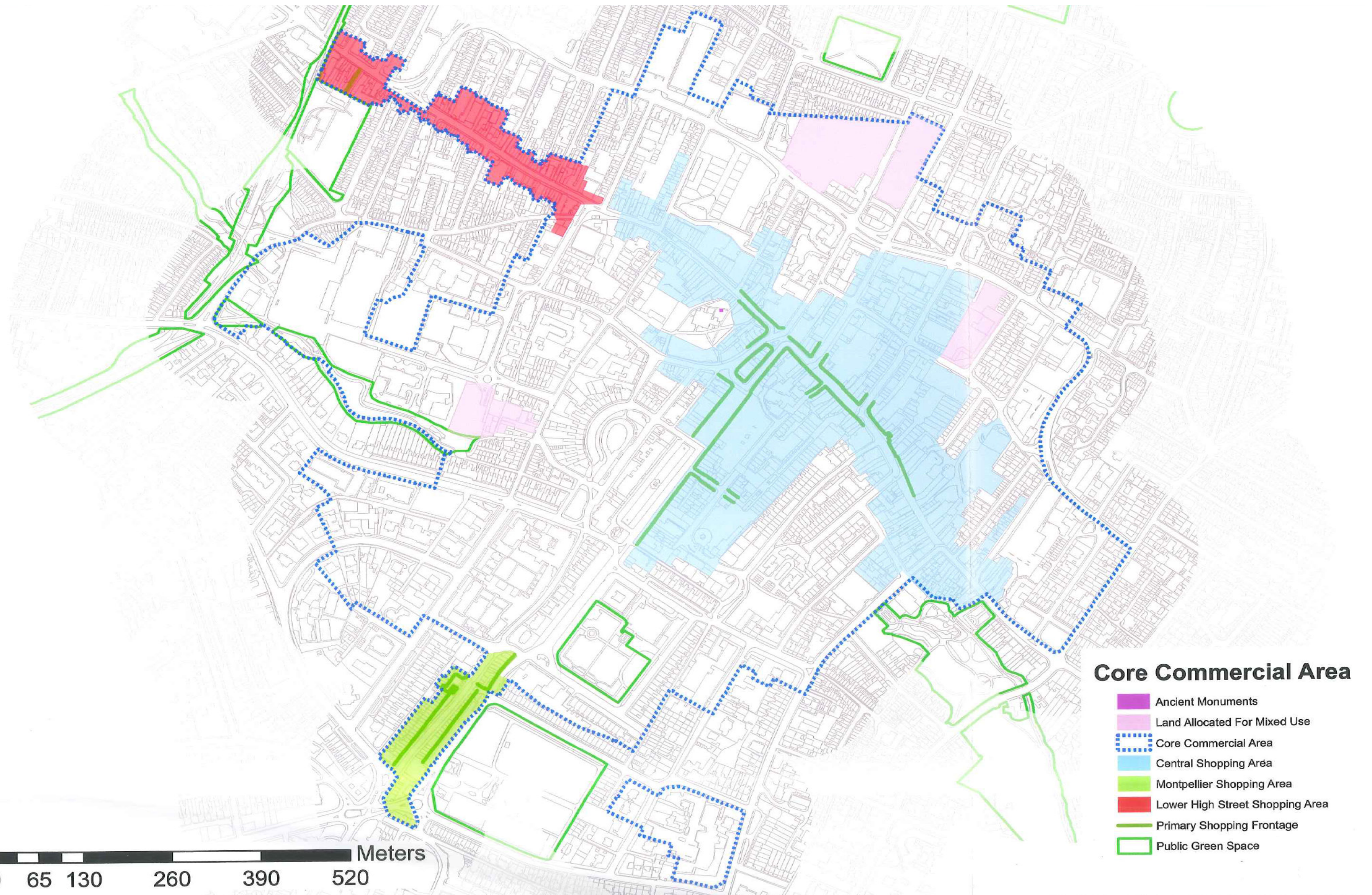


Fig 1 – Adopted Central Shopping Area

Properties with sensitive uses or in sensitive locations

- 11.4 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.
- 11.5 When determining an application for the grant of a SEV licence, the Council shall have regard to the policy statement, the relevant guidance issued by the Home Office and provisions set out above, but subject to the overriding principle that each application will be determined on its merits.
- 11.6 Applications in respect of premises must state the full address of the premises.
- 11.7 Applications in respect of a vehicle, vessel or stall must state where it is to be used as a SEV.
- 11.8 The Council would normally expect that applications for licences for permanent commercial premises would have the appropriate planning consent for the property concerned.

12. Granting a Licence

- 12.1 All applications for the grant of a new SEV licence will be referred to the Council's Licensing Committee for determination.
- 12.2 In determining the application, the Licensing Committee will have regard to this policy statement, any limitation on the number of permitted SEVs, the merits of the application and any objections, if any, that have been made.

13. Objections

- 13.1 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.
- 13.2 Any person can object to an application provided that the objection is relevant to the discretionary grounds for refusal of a licence.
- 13.3 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.

- 13.4 Objectors must give notice of their objection in writing, stating the general terms of the objection.
- 13.5 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.
- 13.6 Objections may only be made within the period of 28 days following the date on which the application was made to the Council.

14. Hearings

- 14.1 Where applications are referred to a Licensing Committee, the hearing will take place within 20 working days of the end of the period in which objections may be made.
- 14.2 The hearing provides all parties to the application, including those making objections, the opportunity to air their views openly and those views will be considered by the Licensing Committee.

15. Appeals

- 15.1 There is no right of appeal:
- a) Against the mandatory grounds for refusal as detailed in section 10.1.1 (a), (b), (c), (d), and (e) above, unless the applicant can prove that the ground of refusal does not apply to them, and
 - b) Against the grounds as detailed in Section 10.2.1 (c) and (d) which can only be challenged by the applicant by way of judicial review.
- 15.2 All relevant grounds for appeal, other than these detailed at point (a) and (b) above can be made to the Magistrates Court within 21 days from the date on which the person is notified of the decision.

16. Fees

- 16.1 The fees set are deemed to be reasonable to cover the cost of administration, enforcement in relation to licensed operators, inspections and any hearings and are not refundable.

17. Standard Conditions

- 17.1 The Standard Conditions for Sexual Entertainment Venues are attached at Appendix 1.

18. Specific Conditions

- 18.1 Under schedule 3(8) of the 1982 Act the Council may grant to an applicant, and from time to time renew, a licence for SEV on such terms and conditions and subject to any restrictions as may be specified. These specific terms and conditions will be tailored for each individual premises and each type of SEV licence.

19. Duration of Licence

- 19.1 The Council, unless there are exceptional circumstances for doing so, shall grant a licence for the maximum duration of one year at a time, to provide certainty to those persons operating businesses.

20. Exempt Sexual Entertainment Code of Practice

- 20.1 The Government has seen it fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the Council recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection & safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.
- 20.2 Whilst the Council cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an Exempt Sexual Entertainment Code of Practice. The intention of the code of practice is to promote responsible and properly managed exempt sexual entertainment. The Council expects any premises wishing to offer infrequent sexual entertainment to adhere to the code of practice.
- 20.2 A copy of the code of practice is attached at **Appendix 2** of this policy statement.

21. Review

- 21.1 This policy statement will be reviewed at least once every three years.

APPENDIX 1

STANDARD CONDITIONS REGARDING SEXUAL ENTERTAINMENT VENUES

General Conditions:

1. The premises shall only permit adult entertainment between the hours of hours and hours the following morning as determined by the licensing committee.
2. Only activities which have previously been agreed in writing by the Council shall take place.
3. The agreed activities shall take place only in designated areas approved by the Council.
4. There shall not be displayed outside the premises, in the immediate vicinity, or elsewhere within the Town any advertisements, photographs or images that indicate or suggest that striptease-type dancing takes place on the premises.
5. Any flyers advertising the adult entertainment must not display any photographs or images of the entertainment and any images must be approved by the Advertising Standards Agency and not be handed to persons who look under the age of 21. Any handbills must only be distributed after 19.00hrs with the exception of race days. Examples of the handbills that are in use shall be lodged with the licensing authority prior to their distribution.
6. No flyers or similar promotional material for the premises shall be distributed within the Town.
7. Rules shall be produced by the licensee for customers indicating conduct that is deemed acceptable. These rules shall be prominently displayed at all tables and at other appropriate locations within the club.
8. A clear Notice shall be displayed inside the entrance to the premises in the following terms:
"Striptease-style entertainment takes place on these premises. No persons under 18 shall be permitted in the premises."
9. The performance must not be visible from the street, and any person who can be observed from the outside of the premises must be properly and decently dressed. Scantily-clad individuals employed in the premises must not exhibit themselves in the entrance or in the vicinity of the premises.
10. When the premises are open for Striptease/Lap/Pole Dancing no person under the age of 18 shall be permitted to be on the premises. Anyone appearing to be under the age of 21 years shall be asked to produce valid photographic identification. If this is not produced the individual shall be refused access.
11. The premises shall maintain a Refusals Log whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Council.

Conditions regarding Performers:

12. Striptease and similar entertainment may only take place in 'designated areas' that are marked on the plan of the premises.
13. The entertainment shall be provided by professional performers only. The audience must at all times remain fully-clothed.

14. Performers shall be aged not less than 18 years and the licence holder (or his nominated deputy who is authorised in writing) shall satisfy him/herself that this is the case by requesting valid photographic ID, if necessary, prior to the performance.
15. A 'Signing-in' Register shall be kept at the premises that records the time that the performer starts and finishes at the premises. This shall be made available for immediate inspection by a Police Officer or authorised Officers of Cheltenham Borough Council (who will carry identification).
16. During any performance there must be no physical contact between the performer and any member of the viewing public.
17. No performances shall include any sexual act with other performers.
18. No performances shall include any sexual act with objects.
19. There shall be no nudity by performers in public areas of the premises, unless the Council has agreed in writing that the area may be used for performances of sexual entertainment.
20. At the completion of the relevant entertainment the performers shall dress themselves immediately and leave the designated performance area. Performers not engaged in performing shall not remain in any area in a state of undress.
21. Performers are not to solicit, exchange addresses or telephone numbers with customers, liaise with customers of the premises, or incite customers to purchase alcoholic drinks.
22. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only, whilst the performers are on the premises and shall be marked on the plan of the premises.
23. Any bodily contact between entertainers or performers or any movement that indicates sexual activity or simulated sex between entertainers or performers is strictly forbidden.
24. Entertainers or performers not performing must not be in a licensed area in a state of undress.
25. There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices in respect of relevant entertainment, including any charge for the company of any person working at the premises, which shall be placed in such a position that it can at all times be easily and conveniently read by persons inside the premises.

Briefing:

26. Prior to performers carrying out any activity on the premises, they shall be briefed (verbally or in writing) by the licence holder or his nominated deputy who is authorised in writing as to the conditions that pertain to these particular premises, including the fact that their activities will be recorded on CCTV. The performer(s) shall sign in the Register that they have been briefed.

Door-Supervisors:

27. Subject to a minimum of two, SIA-registered door-supervisors shall be employed at a minimum ratio of 1:50 customers on the premises whilst Striptease/Lap/Pole-dancing activity is taking place.
28. The licence holder, or his nominated deputy who is authorised in writing, or door-supervisors, shall carry out regular monitoring of all areas of the premises to which the public have access,

and shall intervene promptly, if necessary, to ensure compliance with Licence conditions by customers and performers.

29. Door-supervisors shall regularly monitor the area immediately outside the premises for a distance of 30 metres in all directions and shall take steps to deal with (by alerting the Police if appropriate) any unsavoury activity that may be attracted to the vicinity due to the nature of the business.
30. A dedicated SIA-registered door supervisor shall remain at all times in any 'private' performance area where performers are performing nude, and shall intervene promptly, if necessary, to ensure compliance with the Licence conditions.
31. When performers leave the premises they are to be escorted to their cars or taxi by a door-supervisor or member of staff.

CCTV System:

32. A digital CCTV system shall be installed and be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for 14 days. The CCTV system is to be installed in all areas as recommended by the Police Crime Reduction Officer
33. The CCTV recording device, controls and recordings shall be kept under suitable security to prevent unauthorised access/tampering. Access shall be restricted to the licence holder or his nominated deputy who will be authorised in writing and no more than two designated persons.
34. Unaltered CCTV recordings shall be provided on request (as soon as possible and in any event within 24 hours) to the Police or authorised Officers of the Cheltenham Borough Council (who will carry identification).
35. No CCTV footage is to be copied, given away or sold (except as required by Police/Council for investigation/enforcement purposes).
36. Except in accordance with the requirements for CCTV as described above, no photographs, films or video recordings shall be taken of the performances. Nor shall electronic transmissions of performances take place.
37. Notices shall be displayed informing customers of the presence of CCTV.

APPENDIX 2 - Sexual Entertainment Code of Practice

1. Operators/licensees will notify the Council & Police Licensing Sections of events where sexual entertainment is due to take place.
2. All sexual entertainment should only take place in one designated area inside the premises, and this shall not be visible from outside the premises.
3. Private performances should only take place inside screened-off private booths. However, the front of these booths must not be covered or obstructed, so that managers and SIA door-supervisors are able to monitor activity inside the booths.
4. A clear notice should be displayed inside the entrance to the designated area stating: "Sexual entertainment takes place on these premises. No persons under 18 shall be admitted."
5. Scantily clad individuals performing in the premises must not exhibit themselves in the entrance to or in the vicinity of the premises and individuals not performing shall not remain in any area in a state of undress.
6. Customers must at all times remain fully-clothed.
7. During any performance there must be no physical contact between the performer and any member of the viewing public/private customer.
8. No performance shall include any sexual act with other performers, customers or viewing public.
9. An appropriate room shall be set aside to provide a changing and rest area for performers. Access to this room shall be restricted to performers only.
10. A minimum of one SIA registered door supervisor shall be employed in the designated area where sexual entertainment is taking place and they shall intervene promptly to ensure compliance with these rules.
11. The area in which sexual entertainment is to take place shall be covered by CCTV from which footage shall be stored for a minimum of 14 days and produced to Police or Council officers on request.
12. A list of all performers shall be available on the premises for immediate production if requested by Police or Council officers. This list shall contain full names, dates of birth and contact details (address or telephone number).
13. Rules 2, 3, 5,7,8,9 and 10 shall be drawn to the attention of all performers and promoters prior to activity commencing.
14. Rules 6, 7 and 8 shall be prominently displayed to customers at appropriate locations within the premises.