

Licensing Sub Committee-Alcohol and Gambling

Thursday, 8th March, 2018
2.20 - 4.10 pm

Attendees	
Councillors:	Diggory Seacome (Chair), Tim Harman, Pat Thornton and Dennis Parsons
Also in attendance:	Louis Krog and Donna Marks

Minutes

1. APOLOGIES

There were no apologies.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

The minutes of the last meeting held on the 27th February were signed as a correct record.

4. APPLICATION FOR A SEXUAL ENTERTAINMENT VENUE LICENCE

The Licensing Officer introduced the report he explained that an application for a SEV licence had been received from Mr Massimo Salatino in respect of the premises located at 12-14 Bath Road, Cheltenham. Outlined in the appendices of the report were a copy of the application, a copy of the premises layout, a location map and a map of Cheltenham's central shopping area. The Licensing Officer reminded the sub-committee that in determining the application they must have due regard to any observations made by the Chief Officer of the Police and any other comments received. He confirmed that no objections had been received from the Chief Officer of Police, however, a number of conditions proposed by the police were agreed by the applicant and these were outlined in Appendix E of the Officer's report. He explained that a number of other objections had been received and these were outlined in the background documents a summary of the objections had also been included at section 3.7 of the report.

The Licensing Officer explained that relevant sections from the Council's adopted policy in relation to the regulation and control of SEV's had been outlined in section 4.4 of the report and that the discretionary grounds for refusal were highlighted in section 4.6 of the report. He reminded the sub-committee that the Council's policy must not fetter the committee's discretion to consider the individual circumstances of the application but if they were minded deviate from its policy they must have clear reasoning for doing so. He confirmed that the committee granted a SEV licence for the establishment in question in May 2017, however, as the applicant at the time is no longer the legal occupier of the venue a new application was required. The Licensing

Officer also drew Members attention to section 7.8 of the report and the need for the sub-committee to have regard to the Council's Public Sector Equality Duty.

Having considered all the relevant matters the Licensing Officer reminded the subcommittee that they could:

- Grant the application as applied for;
- Grant the application subject to any conditions as the subcommittee sees fit or;
- Refuse the application.

The Members proceeded to ask the Licensing Officer a series of questions.

The Licensing Officer confirmed that with regards to discretionary grounds for refusal they were limited to those outlined in section 4.6 of the report. If however they felt there was a safeguarding issue for example this would be a relative consideration. In response to Members concerns over the state of the building, the Licensing Officer reminded the subcommittee that they must determine the applications as it stands today and should they have concerns regarding the safety of the building their decision must be determined on that basis. The Licensing Officer confirmed that an application had been granted in both March 2016 and May 2017 subject to repair works being carried out on the building. Following questioning, the Licensing Officer confirmed that he had not seen any fire safety reports or reports from environmental health. He stated that the subcommittee did not have the option to defer but must make a decision today based on the information they had before them.

The objectors in attendance were then invited to speak. Councillor Garth Barnes noted the following:

- He had previously objected to the premises receiving an SEV licence on several occasions.
- The premises lies outside of the area which is deemed appropriate for the licensing of SEVs as defined within the Council's adopted policy. Despite this, the committee had overturned the Council's adopted policy on several previous occasions by granting the venue a licence.
- Councillor Barnes stated that he had visited the premises last year when the previous application had been made and was alarmed at the extremely dilapidated state of the building. He noted that the exterior of the building was still in disrepair and had heard from nearby residents that the inside was also still in a poor state.
- He had further concerns regarding the safety of the performers as he noted during his previous visit that there were steps out to a flat roof whereby the performers went out to smoke, despite the fact there were no safety barriers.
- He felt concerned that conditions had been applied to the previous licence to make repairs to the building however these had not been adhered to and no enforcement action had been taken.
- He requested that should the licence be granted conditions be applied that require maintenance to the building and enforcement action taken if they are not adhered to. In addition, he requested that Officers attend the venue whilst it is in operation.

Councillor Flo Clucas also objecting to the application was then invited to speak and noted the following:

- She firstly drew the subcommittees attention to section 7.4 of the report which highlights that the venue is located in an area deemed to be inappropriate under the policy for the licensing of SEVs. She felt that it would be inappropriate to deviate from the policy and that the borders had been put in place for a reason.
- Councillor Clucas requested that the subcommittee have regard for the Public Sector Equality Duty when determining the application and felt that the Council had a duty of care to residents and those using the nearby Town Centre.
- She noted that the diagram of the inside of the premises showed a number of private booths which she felt inevitably led to inappropriate conduct and sexual touching.
- She was surprised and concerned that no response had been provided by the Chief Officer of Police. She reported that during the last 12 months there had been 548 sexual offences committed in the Town Centre which she felt the police had not dealt with appropriately.
- Councillor Clucas felt that the safety of those residing in the area and those using the Town Centre was paramount and as such the licence should be refused.

The Chair then invited the other objectors in attendance to speak. They stated that they were objecting to the application on the following grounds:

- They noted that whilst Parliament had made it lawful to operate SEV's they had delegated power to local authorities to use their discretion to determine whether granting a licence for a sexual entertainment venue would be appropriate in a given area.
- They reiterated Councillor Barnes and Councillor Clucas' point that the premises was located outside of the area deemed to be appropriate under the policy for the licencing of SEVs.
- One objector felt that whilst there was a no touching policy performers would continually be subjected to harassment from intoxicated males asking for extra services.
- The objectors also expressed concerns over the safety of the performers particularly with regards to the smoking area on the roof and the fact there was no fire escape on the second floor.
- The objectors were concerned that whilst a condition was applied to the licence when it was granted in 2016 that maintenance works was carried out on the building this was not adhered to and the establishment subsequently failed to open due to the amount of work required. They were also sceptical that should a condition again be placed on the licence that any alterations would be made in time for race week.
- One objector felt that the building could be put to better use as it was largely only ever used during race week.
- The objectors felt that as part of the Council's Public Sector Equality duty they should seek to eliminate discrimination and felt that such venues promote inequality and the objectification of women as well as contributing to a culture of sexual offences.

- One objector also noted recent changes in the cultural climate for example the eradication of page 3 from the Sun newspaper, the fact Formula 1 were no longer using grid girls and the fact Geneva motor show were no longer using 'booth babes'. They felt that the subcommittees decision should reflect these changing times and the application be refused.
- One objector raised concerns over paragraph 2.3 of the report which claimed that the purpose of such venues was for 'sexually stimulating any member of the audience'. She felt sexually charged men posed a risk to public safety, particularly when alcohol was involved.
- One objector raised concerns over issues of human trafficking and felt that they could not guarantee the performers were willing participants.
- The objectors also felt that it was naïve to think that by the licensing the venue it would eradicate unlicensed pop up brothels.

The applicant was then invited to speak. In his statement he noted the following:

- The issue over the location of the venue had been an ongoing problem.
- He felt that his responsibility for the performers and the customers was within the venue not when they were outside.
- He stated that the performers were willing participants and simply turned up and did what they had to do.
- He explained that they had a zero tolerance policy for abuse or drug taking.
- In response to comments on the state of the venue and safety issues Mr Salatino confirmed that he had the necessary documentation to prove that the work had been completed and also had the relevant fire safety and environmental health certificates.
- With regards to human trafficking, Mr Salatino explained that all performers had to show valid ID which proved they were a resident in the UK.
- He explained that they had no visible advertising which would suggest that they are a gentlemen's club and that they kept and background noise to a minimum.
- He confirmed that they had security staff on hand should they have any issues and also CCTV 24/7.
- He explained that he had managed several gentlemen's clubs in the past which he had never had any problems with.
- Mr Salatino informed the subcommittee that any previous issues they had were immediately reported to the police and licensing team.

Members were then invited to ask Mr Salatino questions in response to his statement.

When questioned on the dilapidated state of the building Mr Salatino reasoned that customers must be satisfied as they continued to come back to the venue. He proceeded to pass round an image of the performers changing area which he felt was in a satisfactory state. Mr Salatino confirmed that he had all required insurance and fire safety documentation including that from environmental health. Mr Salatino offered the report and the Legal Officer took this to look at with the Licensing Officer. The Legal Officer noted that the report was from 2016 and therefore questioned how credible it was, as it was not up to date. Mr Salatino claimed that this was the only report he had but had the relevant certificates which could be provided if necessary, although he failed to produce these certificates during the meeting.

Mr Salatino confirmed that he would comply with the general conditions as noted in Appendix E of the report that a door supervisor would regularly monitor the area immediately outside the premises for a distance of 30 metres. He also confirmed that women would be allowed to enter the club and pay for services if they so wished. He reported that women and couples regularly attended to have a drink and a dance with the girls.

The Chair who had attended the site visit prior to the meeting that week with the Licensing Officer claimed that he was appalled with the state of the building and felt that the state of the girls changing room was atrocious.

The Chair also drew attention to the fact that under current legislation during race week 1 establishment across the town could hold an SEV licence for the evening. If the subcommittee was minded to refuse the application it would not mean there would be no SEV's in operation.

Mr Salatino confirmed that he had a sexual entertainment venue in Swindon and explained that they took a very strict stance on trafficking and prostitution in both venues. He confirmed that they took all the girls details and copies of their IDs and that they were required to sign in and out of the venue. He claimed that the majority of girls were the same ones that he used at the venue in Swindon and those who had worked at a club he previously owned in Weston-super-Mare. He further reported that they displayed signs highlighting that no mobile phones were allowed and that the exchange of numbers was strictly prohibited. Should anyone be caught on their mobile phone or exchanging numbers they would be escorted off the premises.

The objectors were then invited to ask any questions of the applicant. Councillor Garth Barnes questioned why Mr Salatino was advertising (promoting) the business before the licence had been granted and for girls on social media if he already had girls that he used from previous clubs. Mr Salatino claimed that he was running a business and had to advertise somewhere, he questioned how people would know they were in operation otherwise.

Councillor Clucas raised concerns over how Mr Salatino would get all the work completed on the venue before race week she also asked for clarity on what Mr Salatino meant when he had said 'the girls do what they have to do' in his statement. Mr Salatino explained that he simply meant the girls turn up and perform dances and reiterated that they have a no touching policy. He confirmed that the girls are then escorted to their car by security staff and that security staff were placed in front of each booth. Councillor Clucas raised further concerns that the booths looked very isolated and feared girls would not be able to easily notify staff if they were in trouble.

The application was then open to debate. One Member claimed that whilst on a personal level they would be minded to refuse the application they had to act on behalf of the Council. The Licensing Officer reminded the subcommittee that whilst the Government have issued non statutory guidance to aid local authorities they could use their own discretion when determining the application. Some Members also felt that the committee's decision in the past to issue a licence did not set a precedent and that they should take a 'fresh look' at the application.

Some Members agreed that the location was inappropriate given that it was situated outside of the area deemed appropriate for the licensing of SEV's in the Council's policy. They also felt that it was clear from the information before them that the venue was not in a position to open and as such, they had good grounds to refuse.

One Member, however, felt satisfied that there was not an issue of equality as women were equally able to enter the venue and pay for the performers' services. They also felt that the advertising on social media was not an issue as any business would do the same. They further noted that there was another establishment in the town of similar nature and felt that competition actually benefits the consumer whilst a monopoly can be harmful; something which they felt needed to be taken into consideration. They were however concerned at the state of the venue and requested that a condition be applied which requires a Fire Safety and Environmental Health certificate to be provided before the venue could open.

The Licensing Officer reminded Members that Environmental Health and Fire Safety Officers would not comment on the general state of the building only the technical matters relating to their area of expertise. He reiterated that Members must make their decision based on the information that they had before them and that they had the right to refuse the application on discretionary grounds if they felt that venue was not fit for purpose.

The Legal Officer advised the subcommittee that in determining the application they must have due regard to any observations made by the Chief of the Police, the representations made by the parties at the sub-committee (including the objectors) and the applicant's representations. The Legal Officer reminded the sub-committee of the mandatory grounds for refusal although confirmed that there were none to refuse the application upon. She reported that there were, however, discretionary grounds for refusal including the location of the SEV outside of the designated area and also the condition of the premises. The Legal Officer further advised the sub-committee that they must have due regard to the Public Sector Equality Duty and that they must consider objections made on moral grounds although this was not a discretionary ground for refusal. She reiterated that should the sub-committee be minded to refuse the application they would need to state clear reasons for the refusal.

The Members then proceeded to vote on whether to grant the application subject to the condition that the applicant provides the relevant Health and Safety and Environmental Health certificates.

1 Member voted for and 3 Members voted against.

Resolved That

The application be refused.

The Legal Officer following the delivery of the decision by the Chair advised the applicant that he had the right of Appeal against the decision to the Magistrates Court within 21 days from the date of the meeting.

The full decision and letter with his full Appeal rights would be sent to the applicant.

Chairman