

## Licensing Sub-Committee - Miscellaneous

Wednesday, 6th November, 2019

6.00 - 7.50 pm

Attendees	
<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**