

# Cheltenham Borough Council Licensing Sub-Committee - Miscellaneous Minutes

**Meeting date:** 1 February 2023

**Meeting time:** 7.45 pm - 9.15 pm

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**In attendance:**

**Councillors:**

Councillor Dr David Willingham (Chair), Councillor Angie Boyes (Vice-Chair), Councillor Barbara Clark, Councillor Diggory Seacome and Councillor Simon Wheeler

**Also in attendance:**

Vikki Fennell (Solicitor) and Jason Kirkwood (Licensing Team Leader)

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## **1 Apologies**

There were none.

## **2 Declarations of Interest**

Councillors Clark, Willingham and Seacome attended a site visit earlier in the day, supervised by officers, the applicant and his solicitor.

## **3 Application for a new Sexual Entertainment Venue Licence**

The Chair explained the process for the benefit of those present, then asked the Licensing Team Leader to introduce his report. He highlighted the following points:

- the application was for an SEV licence for 13-17 March, at Under the Prom, 109 Promenade, and included a request for the disapplication of Standard Condition 1 (regarding hours of operation) and removal of Standard Condition 6 (regarding solicitation and advertising);
- the application complies with parliamentary legislation, which is very clear about mandatory and discretionary grounds for refusal. The licensing of a SEV falls under the

council's Public Sector Equality Duty, but while such establishments may raise concerns about objectification and equality, the council cannot take a moral stand;

- there is no objection from the Chief of Police, eight objections and 59 emails of support from the public;
- the premises are situated outside the designated permitted area, so if Members are minded to permit the application, they must provide cogent reasons for going against the council's stated policy;
- concerns about potential noise have been raised and addressed by the Environmental Health team; it would be disproportionate to refuse on the basis of noise;
- Members must decide whether to grant the application, grant the application subject to additional conditions, or refuse the application.

In response to a Member's question, the Licensing Team Leader confirmed that there has been correspondence in the past relating to the venue, which operates as a nightclub, but these have been resolved to the satisfaction of the Environmental Health team. The applicant can respond to any further questions on this issue.

The Chair invited the GRASAC representative to speak in objection to the application. She said that, backed by evidence, her organisation believes strongly that most victims of sexual violence are women and most perpetrators are men, and that this is rooted in inequality. In terms of consent, sexual entertainment venues spread harmful attitudes and ultimately pose a risk to women, both in area and around the venue. In the 2021 CBC survey about safety in race week, 70% of those who answered said they didn't feel safe. GRASAC's objection is based on the belief that all women should have fair choices and be supported, and that men who attend SEVs then leave in an intoxicated state with no regard for the women in the local area, put them at greater risk. Research shows that harmful sexual behaviour often starts slightly and then escalates if not stopped, and there is evidence from women in race week, including those giving out fliers, that they are groped, grabbed, touched and threatened; a volunteer from Cheltenham Guardians has confirmed that they are extremely busy in race week, intervening many times to stop men from cornering women. The issue is getting worse, with the introduction of special tents to accommodate SEVs.

In response to a question from the Chair, she confirmed that she understood that Parliament had made sexual entertainment a lawful activity, although this didn't go hand-in-hand with the Home Office strategy to tackle violence against women and girls.

The Chair invited a second member of the public to speak, in support of the application. She read a statement on behalf of a dancer who is completely supportive of the proposed licence, having nothing but positive experience of working for the applicant. Dancers are kept safe and well looked after by a senior house mother and a host, and continue to return year after year. Licences mean that dancers can return to a place they know and like, where everything is above board and regulated. It was a lot more stressful in the early days of moving between different venues, and granting a licence provides positive benefits for the dancers and staff.

The Chair thanked her for her contribution, as it was important to hear views from both sides. He then invited the applicant's solicitor to speak, who said it was important to get the whole picture, and highlighted the following details:

- the applicant has 12 years' experience of running SEVs in all kinds of venues with no reported incidents. He is an active member of Nightsafe and has thought very carefully about the application, with well set-out policies and procedures to cover welfare and the right to work of performers, customer experience and safety, with well-established

- house rules including how transactions are made and cashing up, and customer rules, including entry refusal; the venue, leaflets and minibuses are all discreet, and crucially, there has been no objection from the police;
- the venue is a stone's throw from the designated area, is already known to work well as an SEV, and is in the commercial core, as set out in the Cheltenham Plan. The SEV review highlighted that the policy is guidance not law, and every application must be considered on its own merits;
  - regarding the venue itself, the temporary structure is needed to meet the criteria of the SEV regarding customer flow and performer welfare. In the area which usually operates as a smoking area, it is a strong, layered structure, with sound-deadening material, no visibility in or out, and speakers directed downwards to the carpeted floor to help keep noise levels low. There will be no public access from Montpellier Street – just a fire exit and disabled access – and no internal doors, just curtains to the booths, and booth managers and door staff ensuring there is no disturbance;
  - regarding the disapplication of the standard condition regarding hours, the start and finish times have been carefully considered to mitigate queues. The courtesy bus has been operating for 10 years and is also beneficial to performers' welfare and, on occasion, to assist vulnerable people;
  - the leaflets, as agreed with the police, advertise the courtesy bus, and are only handed to people over 25 years of age – staff are trained how to approach people, and also provide extra eyes and ears in town at busy times. The applicant is happy to offer a condition specifying that customers won't be dropped off in Montpellier Street, only at safe points at the front of the building;
  - SEVs have been lawful since 2009, and a 2019 meeting of Gloucestershire police confirmed no correlation between SEVs and any increase in disorder and crime. Cheltenham retains its Purple Flag status and takes the safety of people in town seriously;
  - most of the eight objections are on moral grounds, and although the SEV may not be to the taste of everyone, it is a legitimate business, in legitimate commercial premises, and will only run for five days. It must be remembered that the applicant could operate exempt SEV activity at five different venues; it is better for everyone involved – performers, customers, public, police - to have one venue, with robust, enforceable conditions, and visits from council officers and police to ensure all standards are met. The police have previously been impressed by the security and safety at The Two Pigs;
  - checks are carried out to ensure the welfare of performers, with no issues arising. The number of positive comments from staff and performers working with the applicant are testament to how well run his venues are, and staff are vetted – ID and work history taken, house rules set out, courtesy bus provided, house mother and refuge area at the venue, payment by cheque, escorts provided at the end of the evening – to ensure their wellbeing throughout;
  - in conclusion, it is better to rely on a licensed SEV than an exemption, as it is easier to monitor and control; the application should be determined on its merits; objections on moral grounds cannot be considered; this is a professional business and the police can take action if rules and regulations are broken. 109 Promenade is situated in a commercial area, the applicant has a good track record, branding is discreet, and the positive representations demonstrate that the many concerns are unfounded and without evidence.

In response to questions from Members, the applicant's solicitor gave the following responses:

- the banner on the outside of the building will display the name only – Eroticats – with no pictures or evidence to emphasise that it is an SEV. It is the label used under the previous licence at Cambray Place;

- the courtesy bus will not drive over the pavement but will drop customers in a safe place at the roadside on the Promenade;
- the flier is the same as used previously, and includes a telephone number which can be used to communicate with the venue if someone has any concerns.

Before the start of the debate, the Chair invited the licensee to speak. He commented that he has run events safely and effectively since 2015, has a longstanding relationship with the police, and has a vested interest as he cares about Cheltenham, is a member of BID and Nightsafe, and is confident that the SEV is suited to this venue following pop-up events in previous years.

Moving into the debate, the Chair said it was important to give due regard to council policy and material licensing considerations, and to be proportionate, reasonable and rational. None of the five mandatory reasons and two of the discretionary reasons to refuse an SEV were triggered here. If Members are minded to refuse on either of the other discretionary reasons – relating to the location and lay-out of the venue – they must give clear reasons for their decision, but not determine on moral.

In debate, Members made the following points:

- as Parliament has legalised the operation of SEVs, the council's role to ensure they are administered within the law. Mandatory grounds for refusal aren't triggered, and the venue is only 50m outside the designated area, in a Purple Flag, commercial area, where the proposed use can be regarded as a lawful part of the night-time activity. There are no sensitive premises to the front; the Ladies College is to the rear of the building but not residential rooms, added to which access to the venue is to be via the front only, and only at times when the school is closed;
- Members cannot take a moral stance, there are no objections from the police, and overwhelming support from the public. Having visited SEVs with licensing officers during race week, there has never been any sense of performers not wanting to be there or being coerced into working. The applicant has held a licence for many years with no issues. Public safety is paramount, and it is better to have licensed premises which protect performers and the public;
- a previous SEV licence in Bath Road was granted to a venue outside the designated area at the time, but there was a nightclub on the other side of the road – so there is a precedent here;
- the objectors' concerns are very real and highlight a serious problem, but if this licence is refused, the applicant is likely to operate with an infrequent use licence, with little or no control over the premises from licensing officers or police, which would give rise to even greater concerns. Granting a licence is a much safer and reliable way to monitor this sort of activity;

The Chair highlighted the following issues:

- the venue is outside the designated area but operates successfully as nightclub until 5.00am, with no challenge on noise or nuisance. It seems likely that the SEV will not be any different;
- apart from Cheltenham Ladies College, which will be closed during the SEV hours of operation, there are no other sensitive premises in the area;
- Montpellier Street will not be used as a customer entrance or exit (other than in emergencies and for wheelchair users) and a condition can be included to ensure the courtesy bus only drops customers at the front of the building;

- the female performers are willing participants, with valid documentation for each night they work. The applicant is only responsible for their activity in and very close to the venue;
- regarding the leaflets, the reputation of the council could be at risk here, and the applicant could be encouraged – maybe by condition or working informally – to use them to promote the safety of women at night agenda;
- neither the legislation nor the licence specify the sex of the performer or preference of the client;

He then ran through the eight letters of objection, and made the following points:

- several object to the activity on moral grounds but this is a lawful activity;
- inspection of the premises provides reasonable level of assurance that no-one is forced to work there;
- the suggestion that Cheltenham is known as a brothel town is not relevant here, with substantial assurance that this activity does not promote prostitution; the applicant is only responsible for behaviour in or close to the venue;
- due regard is given to women's safety at the venue and in the town, with licensing officers and committee members visiting the premises during race week, checking procedures and speaking to performers;
- there has been no objection from the Chief of Police, and there is no evidence linking the SEV to crime and disorder; the applicant cannot be held responsible for the behaviour of people away from the venue, and anyone who is harassed, assaulted, or subject to inappropriate activity is encouraged to report it to the police – if there is any consistent evidence of the premises causing problems, the police will object;
- while noting the important work of GRASAC, the SEV is a lawful activity – as demonstrated by acts such as the Dream Boys performing at the Town Hall - and evidence would be needed to substantiate claims that it increases the rate of sexual harassment and crime against women in the vicinity of the venue. A licensing condition requires safeguarding information to be made available backstage for performers;
- the venue already operates as a nightclub, making it irrational to restrict it as an SEV.

He said the letters in support predominantly address the suitability of the applicant, and it is reasonable to interpret this as support for the SEV in the locality. There are no grounds to refuse due to the character of the locality, or the layout of the premises.

He reminded Members that they must be very clear on the reasons for their decision, noting that they seemed to be moving towards a recommendation to approve with additional conditions, in particular one relating to encouraging the applicant to distribute women's safety leaflets with their advertising leaflets.

The applicant's solicitor thanked the Chair for his comprehensive overview and confirmed that the applicant was happy to restrict the use and access of Montpellier Street, and work with the council to promote safety in Cheltenham during race week through his promoters handing out leaflets and being the 'eyes and ears' of the town.

Members voted unanimously to approve the application with conditions, to be agreed with licensing officers.

#### **4 Any Other Items the Chairman Determines Urgent and Which Requires a Decision**

There was no other business to consider.

