

Licensing and Regulatory Committee

Minutes of the meeting held on Thursday 2 October 2014, at the Town Hall, Royal Leamington Spa at 10.00am.

PRESENT: Councillor Illingworth (Chairman); Councillors Mrs Blacklock, Mrs Bromley, Mrs Bunker, Cross, Ms De-Lara-Bond, Doody, Mrs Gallagher, Gill, Mrs Higgins, Pratt, Weber, Weed and Wreford-Bush.

Apologies for absence were received from Councillor Mrs Mellor.

20. **Substitutes**

Councillor Cross substituted for Councillor Guest, Councillor Mrs Bromley substituted for Councillor MacKay, Councillor Weed substituted for Councillor Wilkinson, Councillor Weber substituted for Councillor Mrs Knight and Councillor Mrs Bunker substituted for Councillor Mrs Grainger.

21. **Declarations of Interest**

Minute Number 22 – Renewal of a Sex Establishment Licence for Shades Gentleman’s Club, 6a High Street, Royal Leamington Spa

Councillor Gill declared an interest because he had been a member of the Khalsa Hockey Club and the application site was in his Ward.

Councillor Mrs Blacklock declared an interest because she was an acquaintance of one of the speakers but they had not discussed the case.

22. **Renewal of a Sexual Establishment Licence for Shades Gentleman’s Club, 6a High Street, Royal Leamington Spa**

The Committee considered a report from Community Protection following receipt of an application for the renewal of a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982.

Section 27 of the Policing and Crime Act 2009 came into force on 6 April 2010. This amended Schedule 3 of the Local Government (Miscellaneous Provisions) 1982 Act to permit the Licensing Authority to licence sexual entertainment venues (SEV’s).

SEVs included the licensing of lap dancing and pole dancing clubs and other similar venues under the regime set out in the 1982 Act. There were no Grandfather rights available within the legislation for existing operators to automatically obtain an SEV licence.

The Chairman introduced himself, invited the members of the Committee to introduce themselves and then introduced the Council’s Legal Advisor, the Committee Services Officer and the Licensing Officer.

The interested parties were then invited to introduce themselves. Present were the applicants, Mr and Mrs Ransford and their legal representative, Mr Besant as well as a several members of the public who had registered to speak and address the Committee.

The Council's Legal Advisor announced the procedure for the meeting and gave advice to Members on predetermination. All Members were satisfied with the advice received.

The Chairman gave details of a visit to the area surrounding the Club conducted earlier that morning and confirmed that Councillors Mrs Bromley, Gill, Mrs Higgins, Illingworth, Weber and Weed had attended. In addition, he advised that the remaining Members of the Committee were either familiar with the area in question or had undertaken independent site visits.

The Licensing Services Officer outlined the report which advised that a renewal application had been received on 8 August 2014 from Shades Snooker Club Ltd for a SEV licence for Shades Gentleman's Club, 6a High Street Leamington Spa. The application was attached at appendix 1 to the report and the hours applied for were as follows:

From 23:00 to 03:00 on Tuesday to Thursday
From 23:00 to 04:00 on Friday and Saturday

The officer advised that in total 184 objections had been received and 27 objections had been submitted after the deadline date. In respect of late submissions, Members had the discretion to accept or reject these because they had gone over the time limit set. If Members were minded to accept them, then they had to take into consideration if this would cause prejudice to other parties. Following advice, it was agreed that as the late objections did not contain any new information or highlight any different issues, they would not be considered.

Mr Besant outlined his client's application and explained that the premise had first applied for its licence in August 2012 and this application would allow it to operate as an SEV for a further 12 months.

He described the Club's usual clientele and reminded Members that these customers also brought business into Leamington. He also described the self-employed dancers as coming from a variety of backgrounds and many were student social workers and trainee doctors. Mr Besant described the layout of the premises and advised that strict rules of behaviour applied to the customers. If anyone was found to be breaking the rules, they were ejected from the Club.

Mr Besant then answered a number of questions from the Committee and provided clarity on the opening hours, number of employees and self-employed dancers. Members asked about the location of the premises and Mr Besant advised that it was a mixed use area of residential and commercial uses. Mr Besant also reiterated that no touching of the dancers was allowed and signs were clearly displayed advising that there was to be no propositioning. Panic buttons were also installed and the entrance and interior areas were monitored by the doormen.

The first objector, Mrs Alty addressed the Committee and made reference to her objection which had been circulated prior to the meeting. Mrs Alty then answered questions from the Committee and Mr Besant. These included reference to the 'tick form' that Mrs Alty had compiled and

circulated to residents which the legal officer advised should not carry less weight than a fully handwritten objection. In addition, the changes to the area in the past 12 months were also queried as it was felt that the student union block had been open for two years and had been open when the last application was considered.

The second objector, Mr Austin, addressed the Committee and made reference to his objection which had been circulated prior to the meeting. Mr Austin's objection centred on whether the Club enhanced the image of Leamington Spa and if the presence of a gentleman's club hindered the improvements to South Town. Mr Austin then answered questions from the Committee.

Ms Watkin addressed the Committee and made reference to her objection which had been circulated prior to the meeting. She made reference to a petition which had been delivered and had concerns about the number of new students starting the University term. Ms Watkin then answered questions from the Committee.

The fourth objector, Mr Birdi, addressed the Committee and made reference to his objection which had been circulated at the meeting. Mr Birdi was representing the views of Khalsa Hockey Club which was located near to the premises. He made reference to the volume of student accommodation in the area and was concerned with protecting the character of the area. Mr Birdi then answered questions from the Committee and Mr Besant.

The Ward Councillor, Councillor Wilkinson, addressed Members and explained that he was against the renewal of the application. He referred Members to the SEV Task & Finish Group which had consulted on the appropriateness of SEV's in the District and reminded Members that there had been a good response rate. Councillor Wilkinson also made reference to the proximity of the Club to places of worship, in particular the Shree Krishna Temple.

Mr Besant summed up the renewal application and referred to the reasons that the Committee could use to refuse the licence. He explained that the premises were well managed, there had been no complaints from the Police and there had been no change to the character of the area since the last renewal. In response to the objections received, he reminded Members that less had been received than the previous year and took umbrage to the description of a 'Sex Club' on the pro-forma that Ms Alty had delivered.

Mr Besant reminded Members that there was CCTV covering the street and doormen were present during opening hours. There was no evidence of people being abused or hassled in the street, or evidence of disorder in the surrounding areas. He explained that the Club had written to the Hindu Temple and offered to close when they held late night services but had received no reply. Mr Besant made reference to the other buildings in the area including the Community Centre, stated that there was no evidence of noise complaints, no complaints had been made to Environmental Health and neither the dancing club or boxing club had made objections.

He concluded that the applicants and their staff had a right to earn a living and this business was not illegal. He therefore requested that the Committee renew the licence on the same terms and conditions as the previous year.

At 11.45 am the Chairman asked all parties, other than the Legal Advisor and the Committee services Officer to leave the room whilst the Committee made its deliberations.

It was proposed and duly seconded that the vote should be recorded.

At 12.42 pm all parties were invited back in and the Chairman asked the Legal officer to read out the decision as follows:

The Committee, having heard and considered the competing arguments, and taking into account the relatively unchanged nature of the locality and the operation of the premises without significant incident over the past year, determined that none of the discretionary grounds for refusal were made out and accordingly the licence would be renewed subject to conditions.

The Committee, by a split decision, determined by the Chairman's casting vote

Resolved that the Sex Establishment Licence to Shades Snooker Club Limited be granted and the licence renewed with no changes to conditions, for a period of 12 months.

The voting was as follows:

Cllr Illingworth (Chairman)	Grant
Cllr Mrs Blacklock	Refuse
Cllr Mrs Bromley	Refuse
Cllr Mrs Bunker	Grant
Cllr Cross	Grant
Cllr Mrs De-Lara-Bond	Refuse
Cllr Doody	Grant
Cllr Mrs Gallagher	Grant
Cllr Gill	Refuse
Cllr Mrs Higgins	Grant
Cllr Pratt	Grant
Cllr Wreford-Bush	Refuse
Cllr Mrs Weed	Refuse
Cllr Weber	Refuse

All parties were advised that the detailed reasons for the decision would be circulated to all Committee members prior to publication in the following days.

Detailed Reasons.

1. The Committee considered and read the application and the report which contained a detailed analysis of all 184 objections in advance of the hearing.

2. The Committee also had regard to the statutory framework, the Home Office Guidance dated March 2010 and the Council's Statement of Licensing Policy relating to sex establishments ("the Policy").
3. On the morning of the hearing some members of the Committee went to the area where the applicant premises are situated in order to gain further information as to the character of the locality and the use of other premises in the vicinity. Members who did not attend the site visit confirmed that they had good knowledge of the area in question.
4. At the beginning of the hearing the Committee was asked to determine whether 27 objections that had been received after the deadline should be considered. Copies of the late objections had been sent to the applicant in advance of the hearing but had not been circulated to the Committee. In response to a question by the Chair, the Licensing Officer stated that she had read the late objections and they did not contain any significant or new grounds of objection that were not included in the 184 valid objections that had already been analysed and summarised in the report. The Committee decided not to admit the 27 late objections.
5. The Licensing Officer confirmed that 178 of the 184 objections were on a standard objection form. The Legal Officer confirmed that objections on standard forms were valid and should not be accorded less weight than individually written objections.
6. The Committee determined that the objections engaged consideration of the discretionary grounds of refusal set out in Sch 12 (3) (d) (i) and (ii). The Committee considered whether, in the light of all it had read and heard, the renewal would be inappropriate having regard to the character of the locality or the use to which any premises in the vicinity are put.
7. The Committee considered that the locality could not be precisely defined with reference to specific geographic points but that it was sufficient to define it as the area surrounding the premises and that this was well understood by the members of the Committee who all had personal knowledge of the area.
8. The Committee took into account that this was an application for renewal and that due weight should be given to the fact that a licence was already in existence. The Committee did however consider that it was not bound by the previous decision to renew the licence and was entitled to take a fresh look at the application and may reach a different decision.
9. The Committee acknowledged that purely moral or religious objections were not relevant and should be disregarded.
10. The Committee read and heard opinions on the character of the locality, the uses of nearby premises and how the applicant premises had or could affect the area in question.
11. The premises are located on the corner of High Street and Wise Street in a prominent position close to Leamington Spa train station and student accommodation. The Hindu Temple and Community Centre is in a nearby street. There is a significant amount of student accommodation in the area with planning permission for a further student development on Wise Street. There is other residential accommodation including sheltered housing near to the premises. In addition to residential accommodation the surrounding area also includes sports clubs, a scrap metal dealer, shops, licensed premises and some vacant plots. The Committee determined that the area is most appropriately described as having mixed use.

12. The applicant premises are discreetly signed and a Polish supermarket is now open on the ground floor.
13. The Committee did not consider that there had been any significant change in the locality since the licence was renewed in 2013.
14. The Committee noted the permitted opening hours of the premises as set out in the report. The applicant advised that the premises were usually closed on Sundays and Mondays, open from 22:00 until 03:00 on Tuesdays, Wednesdays and Thursdays and from 22:00 until 04:00 on Fridays and Saturdays. 42 people worked at the premises.
15. The presence of current and planned student accommodation was considered and the Committee concluded that students can be vulnerable. The Committee noted that there had been no objections from Warwick University or any other educational establishment and determined that the presence of the students in the area did not affect the character of the locality to an extent that would justify refusal of the application.
16. The Committee specifically considered the proximity of the Hindu Temple and Community Centre to the premises. The Policy states that the Council should have regard to the proximity of places of worship when considering whether a licence would be appropriate. The Committee found that whilst the Temple and the attached Community Centre are in the locality of the premises they are located in a different street and are not within sight of it. It would not be necessary for a person attending the Temple or Community Centre to pass the entrance to the premises. The Committee considered that the premises' opening hours would not tend to coincide with that of the Temple or Community Centre although it did accept that there may be occasions when both the premises and the Temple or Community Centre could be open at the same time. The Committee could not identify any clear evidence of problems being caused to visitors of the Temple or Community Centre.
17. The Committee considered the representations made by Mr Birdi as a local businessman and a member of the Khalsa Hockey Club situated next door to the premises. The Committee noted that the Policy required it to have regard to the proximity of community facilities which would include both the Hockey Club and the Boxing Club. The Committee noted that no objection had been received from the Boxing Club and that whilst Mr Birdi objected as a member of the Hockey Club there had been no formal objection from the Club itself. The Committee considered that children were likely to attend both clubs however determined that it was unlikely that the activities of either club would coincide with the opening hours of the premises and that children would be present when the premises were open. The Committee did not find any clear evidence of issues or problems arising from the premises and impacting on people attending the Hockey or Boxing Clubs.
18. The Committee heard and read evidence from a number of objectors about the Old Town area and its regeneration. It acknowledged previous and on-going efforts to regenerate the area and that there were concerns about how the premises may affect the perception of the area. On balance the Committee concluded that there was no evidence that the presence of the premises in the area had, or would, inhibit regeneration. The Committee also determined that the venue was relatively discreet and many local people and residents were not aware of it.

19. The Committee considered the effect of the premises on the safety or perceived safety of people using the area and noted that people using the train station and bus services would walk past the premises late at night. The Committee noted that whilst there was some evidence that people had been subjected to inappropriate comments or behaviour by people in the locality there was no clear evidence that this was carried out by customers of the premises. The Committee noted that the premises employed door staff and had CCTV cameras covering the area outside of the entrance.
20. The Committee concluded that the premises were well run and managed. There had been no objections from the police or other agencies including environmental health. There was no evidence before the Committee of any complaints to the police, the Council's licensing team or any other agencies since the licence was last renewed.
21. The Committee heard evidence of a recent consultation carried out by the Council in relation to the number and location of sexual entertainment venues in Warwick District. The consultation was carried out for the purposes of determining whether the current Policy was appropriate. The full results of the consultation were not in evidence at the hearing. Evidence was given that a majority of respondents had stated that a nil limit for SEV's was appropriate for the area in which the premises were situated. The Committee accepted legal advice that it should attach little weight to the consultation when reaching its decision as the results of the consultation were not part of the evidence, they had not been fully analysed or considered and the Council had yet to decide whether or not to amend the Policy in the light of the consultation.
22. The Committee, having heard and considered the competing arguments and taking into account the relatively unchanged nature of the locality and the operation of the premises without significant incident over the past year, determined that none of the discretionary grounds for refusal were made out and accordingly the licence would be renewed subject to conditions.
23. The Committee considered the conditions currently on the licence and determined that each condition was necessary and proportionate and should continue on the renewed licence.

(The meeting finished at 12.45 pm)