

REGULATORY COMMITTEE

Minutes of the meeting held on Wednesday 18 April 2012, at the Town Hall, Royal Leamington Spa at 10.00am.

PRESENT: Councillor Pratt (Chairman); Councillors Mrs Blacklock, Cross, Mrs Gallagher, Gill, Guest, Illingworth, Pratt, Weed and Wreford-Bush.

An apology for absence was received from Councillor Mrs Falp.

Councillor Mrs Blacklock substituted for Councillor Mrs Goode.

As the Chairman welcomed all parties to the meeting, Councillor Weed asked for a delay to allow Councillor Gill to arrive because he was on his way. The Chairman denied the request because it was 10.15am and the agenda had been published with a start time of 10.00am.

60. **DECLARATIONS OF INTEREST**

Minute Number 62 – Application for a Sex Establishment Licence

Councillor Pratt declared a personal interest because he was a member of the Leamington Society who had made representations. However, he had no prior knowledge of this application and was not present when the item was discussed at their meeting.

Councillor Mrs Blacklock declared a personal interest because some of the objectors were known to her through other matters but she had not discussed this case with them.

For the avoidance of doubt, Councillor Weed stated that although she was a member of the Labour Group, she had not been present when the objection letter was signed, and had not taken part in any discussions which would prevent her from approaching this application with an open mind.

Councillor Wreford-Bush explained that he had served with Councillor Wilkinson, who would be addressing the meeting, on Royal Leamington Spa Town Council, but he had not discussed the case with him nor did he hold any predetermined views on this case.

On arrival after the meeting had started, Councillor Gill stated that although he was a member of the Labour Group, he had not been present when the objection letter was signed, and had not taken part in any discussions which would prevent him from approaching this application with an open mind. In addition the application was in his Ward but he had not discussed this matter with any residents to avoid prejudicing his participation in the meeting.

61. **MINUTES**

The minutes of the meeting held on 15 March 2012 were taken as read, subject to Minute 57 paragraph 3 the word "premises" being replaced with "person", and signed by the Chairman as a correct record.

62. **APPLICATION FOR A SEX ESTABLISHMENT LICENCE**

The Committee received a report from Community Protection outlining an application for a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982 for Amara, 7 Court Street, Royal Leamington Spa.

Mr Besant, at the request of the Chairman, introduced himself as the applicants' representative and the applicant Ms N Beejadhaur who was also present.

The Chairman asked the Licensing Services Manager to outline his report to the Committee. During this, Councillor Gill arrived at 10.30 am, who apologised because he had not noticed the start time on the agenda when reading it. The Chairman of the Committee informed Councillor Gill that because he had arrived after the start of the meeting he should not participate in the meeting and should withdraw.

There were objections to this from members of the Committee because Councillor Gill had not missed any submissions to the meeting, only part of the Licensing Officer's report which was as set out in the agenda. Some members of the Committee supported the Chairman because Councillor Gill had arrived after the publicised start time of the meeting and during the submission from the Licensing Services Manager. Mr Besant, the applicant's representative expressed dissatisfaction if Councillor Gill participated in the meeting because he had missed part of the meeting and it would be against natural justice. The Chairman went to move that Councillor Gill not be permitted to participate in the meeting. The Solicitor acting for the Council advised the meeting that in his opinion the participation of Councillor Gill did not affect the natural justice of the meeting and the Civic & Committee Services Manager informed the meeting that there was no provision within the Council's Procedure Rules to enable a the Committee to remove Councillor Gill from the meeting.

Following this advice, the Chairman was content that Councillor Gill should be permitted to participate in the meeting. Mr Besant explained that the applicant was not happy with this but recognised that this was a matter for consideration by the Council.

Councillor Gill submitted his declaration of interest and explained his non-participation in any discussion in this matter (see minute 60). At the request of Mr Besant he explained that it was Labour Group practice for himself and Councillor Weed to leave the room when any Regulatory Committee matters were discussed so as not to prejudice their participation in Regulatory Committee meetings.

The Chairman asked the Licensing Services Manager to finish outlining his report. He explained that the application was made under the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Police and Crime Act of 2009. The premises held a Premises Licence under the Licensing Act 2003 which permitted adult entertainment. However, because of the amendments to legislation, all premises providing adult entertainment more than 11 times a year were required to apply for a new licence. 51 objections had been received to the application and these were appended to the report.

In conclusion, he explained that after the deadline for comments had passed, an objection including a significant number of allegations had been submitted directly to the Committee for consideration which he advised should not be considered because it was after the deadline for objections.

The Chairman asked the applicant's representative Mr Besant for his view on the document before the Committee considered if they should accept it.

Mr Besant explained that his client would be unhappy for the Committee to consider the information in this email because the local procedure states the requirements for submissions on this matter which had not been adhered to by this individual. In addition, he understood Mr Haer was not present and therefore his submission could not be questioned. For clarification Mr Besant explained that Mr Haer's father had been a shareholder of a company which previously held the lease to the property. The lease was now held by another company which neither Mr Haer or his father were involved in.

The solicitor acting for the Council explained that there were a number of unsubstantiated allegations in the letter, which Mr Haer was not present to explain and Committee members should satisfy themselves that this had not affected their views.

The Chairman explained that he had seen the email and in his opinion it only included one valid point that could be considered by the Committee. However this point had been made by a number of objectors. Councillors Cross, Illingworth, Gill, Wreford-Bush and Weed all explained that they had seen the correspondence and response from Mr Davies to this but that it had not changed their views of the case. Based on this it was agreed that the letter/email from Mr Haer was not relevant to the application and would not be considered as part of the determination of the application.

At the request of the Chairman Mr Besant outlined the application for Amara. He explained that having considered the representations made, the applicant had decided to reduce the hours of the application and now only sought a licence for adult entertainment for 23:00 to 03:00 Sunday to Thursday and 23:00 to 04:00 Friday and Saturday. This reflected the hours of operation for adult entertainment that had been in place for 12 months under the Licensing Act 2003. The current sign simply stated

Amara with no reference to adult entertainment and there were no details outside that informed people that adult entertainment was provided on the premises.

He advised that the Premises had CCTV cameras outside covering the external aspect of the premises and opposite the premises was a Warwick District Council CCTV camera. Amara was a member of the local pub watch scheme and there would be at least one SIA registered door staff at all times when adult entertainment was provided.

In addition, he explained that there was a double set of doors leading to an entrance and a further set of double doors and therefore it was very unlikely for anyone walking past to see through, but even if this did occur you would only see the bar server. He reminded members that no person under 18 would be allowed on premises when adult entertainment took place, there would be events with either male or female dancers and no touching or propositioning would be allowed. He explained that a panic button had been installed near the edge of the performance area and there would be more door staff inside. Seven private booths, with panic buttons and CCTV, would be available for people attending the club, with the same rules applying and if rules were broken, the dancers would be dismissed and customers banned.

The applicant anticipated that there would be between 50 and 100 members attending per night and because it was an expensive club, it was expected that members would come after they had visited other premises in the town. Primarily, the premises would be open on a Friday and Saturday and, depending on demand, on other nights for events and private clubs/organisations. The premises would be hosting a performance by Adonis male strippers and a drag queen comedy and entrance would be for ladies only, except for staff, with the funds raised from this event being donated to charity.

Mr Besant responded to the objections which in his opinion fell into four main categories; regeneration, places of worship, businesses and housing, which he addressed in turn.

He highlighted that the premises had been operating for a year with no issues raised by police or directly to the Council and there were no objections providing evidence that businesses had been affected or that the profits of businesses had been reduced. It was recognised that a lot of money had been spent on Court Street Arches but the area was mainly industrial premises or health care and there were some buildings adjacent to the premises that appeared not to have been in use for some time. Although each application had to be considered on its individual merit, no accounts from businesses had been produced to show that Shades had affected them in the last four years.

Mr Besant explained that the places of worship nearest to the premises, all of which were some distance from the premises, were Radford Road Church, the Polish Catholic Church and Shri Krishna Temple. The latest advertised event at the Radford Road Church was for Explorer Scouts for

16 to 18 year olds which was from 20:00 to 22:00 which even allowing for delays would mean they would have left the area by the time adult entertainment started. There was a dance school at the Catholic Church which would be addressed separately but the latest service for the church finished over 11 hours prior to the venue opening. The Shri Krishna Temple was open Monday to Sunday until 7.30pm which was over two hours before the premises were open.

He accepted that dance academy customers, at the Polish Catholic Church, might be put off by the adult entertainment and therefore there could be potential for loss of rental for the Polish Church. However, he stated that even then, the last advertised class started 90 minutes before the adult entertainment started and, although not directly related, the Christian Book Shop closed at 17:30 Monday to Saturday and was not open on Sunday.

Mr Besant advised that the objections in respect of medical services in the area all had significant lengths of time prior to the opening of the premises. The only exception was the drug advisory service which on a Tuesday was open until 20:30 but this was still a significant time before the premises opened.

In respect of housing in the area, Mr Besant submitted that the majority of units in Court Street were retail/business units, but there could be some flats above some premises in Clemens Street. However, he advised that the premises would not open until 23:00 by which time the "Government recognised most people would be in bed and the majority of those who were not, would be at home". He also felt that if anyone was out returning to their home, it was most likely that they would be driving, not walking. In addition, he felt that if they did walk to or from their homes there would be alternative routes that could be used rather than passing the premises directly.

He highlighted that no evidence had been submitted to demonstrate an increase in crime because of these premises or Shades during their operation which would explain why the police had not submitted an objection.

He concluded by reminding the Committee that they should consider all matters in a balanced and open way putting aside prejudices. He added that Members may not agree on moral or religious grounds but the application needed to be determined in line with Council policy.

Mr Besant responded to questions from the Committee explaining:

- The opening hours for the premises licence would remain at 18:00 but the adult entertainment would remain at 23:00. It would be unusual to open at 18:00 but it was necessary to retain this to ensure options available;
- There was no outside area owned by the premises, which should not therefore be referred to in the operating schedule;
- Smoking normally took place on street outside the main entrance

- and re-entry could be restricted after 23:00;
- There were three accesses through from Clemens Street, one next to Leamington Priors Club, one next to shops and one alleyway at the other end, although unsure if they were designated public rights of way; and
- There were also alternative vehicle accesses both avoid passing the front of the premises but would still need to pass along side premises.

At the conclusion of the questions the Chairman adjourned the meeting for a ten minute comfort break until 11:55.

Mr Foulds addressed the Committee amplifying his objection, as set out on page 77 of the agenda, stating that this was a residential area and while most people did return home by 23:00, residents or visitors had a right to go home at anytime.

Ms Warren addressed the Committee amplifying her objection as set out on page 62 of the agenda. Ms Warren explained that she had concerns about the premises and there were no passage ways and lighting in the area was poor.

Mrs S Davies outlined her objection, as set out on page 35 of the agenda. She explained that she was a resident in the area as well as governor at Shrubland Street School and former Regenesiis. In these roles she had become very proud of South Town and this application, if approved, could taint this and create a bad reputation for the area.

Mr Davies addressed the Committee on his objection, page 12 of the agenda, explaining that there would be an impact on the image of old town because the premises would be there at all times, not just when it was open. It would also impact on local residents who should not have access routes dictated by the presence of a club and, in his opinion, he would be very hesitant to use the other routes after dark. He responded to a question from the Committee explaining he did not know how many residents lived in the area.

Mrs Alty, page 41 of the agenda, explained that she was a previous chair of Regenesiis. In her opinion, the area needed regeneration and this would be more challenging if there was a sex club on Court Street. She reminded members that the Council had spent significant money and effort to develop the area. In response to a question from the Committee, Mrs Alty explained that she did not know of any businesses that were leaving the area because of the premises but there was a business interested in the area that would not continue their interest if the application was approved. However, the company details were not in the public domain and therefore she was unable to disclose precise details.

Mrs Skidmore, the Chair of Shrubland Street Governors, explained her objection, as set out on page 48 of the agenda, that the school looked to minimise divisive elements within the community. She accepted that the Committee couldn't consider morality as parliament had determined this.

However, she encouraged the Committee to be responsible for the different communities within the area and explained how this application could affect the community as whole and reduce cohesion.

Rev Wilson addressed the Committee, on his objection to the application detailed on page 69 of the agenda. He felt that the SEV would have an adverse impact on regeneration; it would not contribute to the wellbeing of the community and undermined the confidence of society.

Dr Cook addressed the Committee on behalf of the Leamington Society and Central Leamington Residents Association, page 90 of the agenda reminding that this was the second application this year for an SEV within Leamington South Town. She felt that if granted it would convey the negative issue that Old Town was abandoned. In addition, she felt that approval would be a highly inconsistent application of policy, because this was a residential area, close to places of worship and an area where children congregated.

In Dr Cook's opinion, the main route to houses was past the premises and there was a local bus stop that operated long into the night. She highlighted a number of objections from the dance school which raised concerns about the welfare of young people and women and stated that some religious festivals were occasionally held throughout the night. The local dentist occasionally closed at 20:00 and staff stayed on after this time.

In response to a question from the Committee, Dr Cook explained that although places closed ninety minutes before, it did take time for people to leave the area and since the objection had been submitted the applicant had amended their proposed hours of operation.

Councillor Singh, Town Councillor for Leamington Willes Ward, spoke on his objection as set on page 78 of the agenda. He felt that the Council should accept the high level of objections from the local area as no local support, recognising this as 'democracy in action' and should refuse the application based on local views. He had no objection to these premises in the correct place but felt that in this location they would have an adverse affect on the multicultural society in this area. He was concerned that the pubs, cafes and takeaways in Clemens Street were already used late into the night, High Street was a very busy area late into the night and the addition of this premises would bring more people into the area.

Mr Bond outlined his objection, as set out on page 86 of the agenda. Mr Bond lived about 200 yards from Court Street and did not want to live in an area known for being 'the place to go for sexual entertainment'. This, in his opinion, would be the description associated with the area and not just Court Street. He also felt that most people using this type of venue would choose not to be recognised and would travel in to the area. Therefore, this would attract more people looking for other forms of sexual experience, and this demand would be followed, eventually, by supply. He felt if this licence was granted it would not promote the area's regeneration but degeneration.

Councillor Wilkinson, Town and District Councillor for Leamington Brunswick Ward and trustee of Brunswick Healthy Living Centre, spoke on the objection from the local labour group as set out on page 14 of the agenda. In their opinion, the premises would be disastrous for all of south Leamington and the people who had tried hard to make south Leamington not the poor relation of north Leamington. He reminded members that businesses were surviving in these times and when the economic climate was right they would boom, but this licence could have a negative effect on reputation and customers coming to the area.

In response to a question from the Committee, Councillor Wilkinson explained that the premises would be unlikely, in his view, to be mentioned locally for support but this was because he represented an area of one of the most deprived wards in the UK where economic regeneration was needed. He felt that this application would take this opportunity away.

Ms Enoch amplified her objection as set out on page 17 of the agenda. She explained that as a business owner in the area the application would be detrimental to the area, would cause problems for people and regeneration would not happen with business like this in the area.

At the request of the Chairman, Mr Besant summed up, explaining that the legal issues relevant to this application were set out well within the Council's Policy and the Committee should follow these when determining the application. He explained that he felt the Council Policy on proximity meant that any of the areas defined should be nearer than near. He was unsure what a residential area was but felt it was somewhere of greater housing density than Court Street.

He reminded the Committee that the area's schools and churches all closed long before the premises opened and the premises had operated for over a year with no issues or evidence of such issues raised or provided. He highlighted that the Police had not objected to the application which they would have if they had any concerns. In conclusion, the Committee should look at law, put subjective views to one side and concentrate on the written objections and he had concerns that there had been an active campaign to oppose the application including details on how to object.

The Chairman thanked all parties for their submissions and asked all parties to leave while the Committee determined the merits of the application.

Having considered the application the Committee noted that no objection had been received by any of the relevant statutory bodies, including Warwickshire Police or Children's Services. However, around 50 objections had received from a variety of people, including non-statutory bodies, local residents and other interested parties.

Some objections which were based wholly on either religious or moral grounds were ignored. It was important to note that while people may

have strong objections to sexual entertainment venues, Parliament had already debated the moral and religious basis for SEV, and the resulting legislation provided that they were legal where licensed. The Committee considered only those grounds permitted by Schedule 3 of the Act.

Where possible, objections framed partly on Schedule 3 grounds, and partly on moral or religious grounds, were considered, but only to the extent that they could be characterised in terms of the grounds permitted by Schedule 3.

The Committee had heard from several objectors, to enable them to amplify their submissions. These objections were carefully scrutinised by the Committee and Committee members asked questions where appropriate and the answers given were considered. The principle grounds which were relevant to the majority of the objections received were that the grant of the licence would be inappropriate having regard to the character of the relevant locality and to the use to which any premises in the vicinity was put.

The broad scope of the remaining objections were summarised as follows: the presence of an SEV in Old Town mitigated against the attempts by the Council and the community to regenerate the area; the presence of an SEV close to places of worship, schools, charities and community groups was inappropriate; and the proximity of residential property made the SEV inappropriate.

The Committee also considered the applicant's submissions to the effect that the premises had been well run previously and that there had been no objection by the Police. The Committee were told that female and male entertainers would be subject to strict working conditions and the customers would be required to obey a set of rules. The Committee noted the applicant's submission that there would be little or no effect on businesses, schools and places of worship in the area due to the opening hours of these not coinciding with the proposed hours for the premises.

The Committee considered that they had received no evidence that suggested that the applicant's description of how the premises had been or would be run was inaccurate, and noted that Warwickshire Police had not objected to the grant of the licence. They concluded that they had not been provided with any evidence that the premises were connected with any form of illegal activity, whether inside the premises or outside of them.

The Committee considered the grounds for refusal provided by paragraph 12(1) of schedule 3 of the Act which were that the grant of a licence would be inappropriate having regard to the character of the relevant locality or to the use that any premises in the vicinity was put or to the layout, character or condition or layout of the premises. The Committee also considered the Council's Policy and in particular paragraph 3.2 which stated that the Council would not normally licence premises that were in close proximity to a residential area, school/nursery, park or recreation area, church or other place of religious worship.

The Committee considered the locality of the area to be characterised by a mix of industrial, commercial and retail uses with some residential use. Having considered the character of the area the Committee considered that the grant of the licence would not be inappropriate.

Further, while the Committee noted the proximity of the premises to the residential properties in Tower Street, the Committee did not consider that Tower Street would constitute a residential area and in any event Tower Street was not in close proximity to the premises.

Whilst the Committee noted that there was no definition of close proximity in the Policy, the Committee considered close proximity to be adjacent to the property or immediately opposite.

It was therefore proposed, duly seconded and

RESOLVED that

- (1) the application be GRANTED, subject to the following hours and conditions:

23:00 to 03:00 Sunday to Thursday
23:00 to 04:00 Friday and Saturday.

- (1) no persons under the age of 18 be inside the premises at all when adult entertainment is taking place;
 - (2) no material to be displayed externally and visible to the general public of an adult nature;
 - (3) no adult entertainment to be visible from outside the premises;
 - (4) door supervisors be on duty on every occasion where erotic dancing/adult entertainment is to take place no later than 30 minutes before the entertainment starts and shall remain until 30 minutes after the end of adult entertainment;
 - (5) at least one door supervisor to be on duty on every occasion where erotic dancing/adult entertainment is taking place, which is an addition to the required door supervisors controlling the entrance/exit;
 - (6) if booths are used, all shall be fitted with panic buttons for the protection of performers; and
 - (7) any changes in signage shall be approved in writing by Licensing Services; and
- (2) the Council's Statement of Licensing Policy for

premises to be licensed as a sex establishment
be brought to the Committee for consideration.

At 4.40pm all parties were invited back in by the Chairman and the
decision of the Committee announced.

(The meeting ended at 4.50pm)