

Licensing and Regulatory Committee - 2 October 2014

Application to renew Sex Entertainment Venue Licence for Shades Gentleman's Club at 6a High Street, Leamington Spa.

Decision Notice

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 they were not bound by the previous decision to renew the licence and were 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 decided by a split decision, determined by the Chairman's casting vote that the application should be granted and the licence renewed for a period of 12 months.
11. 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

Detailed Reasons.

12. 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.
13. 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.

14. The applicant premises are discreetly signed and a Polish supermarket is now open on the ground floor.
15. The Committee did not consider that there had been any significant change in the locality since the licence was renewed in 2013.
16. 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.
17. 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.
18. 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 they 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.
19. 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 them 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.

20. The Committee heard and read evidence from a number of objectors about the Old Town area and its regeneration. They 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.
21. 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.
22. 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.
23. 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 they should attach little weight to the consultation when reaching their 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.
24. 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.
25. 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.