

REGULATORY COMMITTEE

Minutes of the meeting held on Thursday 15 March 2012 at Town Hall, Royal Leamington Spa at 10.00 am.

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

55. **DECLARATIONS OF INTEREST**

Minute Number 57 – Application for a Sex Establishment Licence

Councillor Mrs Falp declared a personal interest because she was acquainted with a charity in the vicinity, Action for Children, however, they had not made any representation.

For the avoidance of doubt, Councillors Gill and Weed stated that although they were members of the Labour Group, they had not been present when the objection letter was signed, and had not taken part in any discussions which would prevent them from approaching this application with an open mind.

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

56. **MINUTES**

The minutes of the meeting held on 21 February 2012 were taken as read and signed by the Chairman as a correct record.

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

The Committee received a report from Licensing Services outlining an application for a Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982 from Lisa Margaret Ransford for Shades Gentleman's Club, 6a High Street, Leamington Spa.

The Licensing Services Manager, David Davies, introduced the report. He explained the difference between Shades Gentleman's Club and Shades Snooker Club Ltd, who had applied for an application previously but was refused in June 2011 on the grounds of locality.

He advised that this was therefore a separate application for a different premises although Mrs Ransford was part of the original company.

Shades Gentleman's Club held a premises licence issued under the Licensing Act and their existing permitted hours were detailed in paragraph 3.11 of the report. Under the existing licence they were permitted to provide adult entertainment, subject to conditions, on no more than eleven separate occasions per year, with at least one month's gap between each event.

Mrs Ransford was now applying for a Sex Establishment Licence for the same hours as their premises licence, which were:

Monday to Thursday from 10:00 to 03:00
Friday and Saturday from 10:00 to 06:00

A large number of objections had been received and these were detailed in appendices 3 to 77 of the report. A number of objectors had registered their desire to address the committee and six further members of the public were present in the public gallery.

The applicant, Mrs Ransford, and her representatives, her husband Mr Ransford and Ian Besant, Solicitor with Wright Hassall introduced themselves and explained the Mrs Ransford was company secretary to the business.

Due to the number of objectors present, the Chairman requested that when it was their turn, each individual would move to the public speaking table, introduce themselves and signpost members to their objection in the report.

Mr Besant introduced his client's application and gave a brief history of the operation of Shades Snooker club on the Parade in Leamington and advised that the premises at 6a High Street was taken over four years ago. He stated that there had been no problems with the operation of the premises in that time.

Mr Besant proposed that the hours applied for be altered, to reflect the concerns of some of the objectors. He therefore stated that SEL would only apply to the following hours:

Tuesday to Thursday from 22:00 to 03:00
Friday and Saturday from 22:00 to 04:00
The premises would be closed on Sunday
The entertainment would not be provided on Monday

Mr Besant highlighted that the majority of Shades' customers, would frequent the town's bars initially before moving onto nightclubs and that Shades peak hours were 1:30am onwards. The demographic of their clientele was made up for Business men, women and a large proportion of Asian customers.

He outlined the various entertainments provided at the club, including pole dancing and explained that there were seven private booths, without doors, which were used for private dances. He stated that the dancers were not allowed to proposition the customers for any other services and besides which, the booths were covered by CCTV cameras. The club had strict guidelines for their customers and anyone found to be breaking these would be asked to leave.

Mr Besant reminded Members that the Police had not made any representations and were happy with the way the club was run.

Mr Besant described the clubs location in comparison to the Hindu Temple and advised that the temple was not open for prayer during the club's

operating hours. In addition, he stated that to reach the temple, worshippers did not have to walk past the entrance to the club but accepted that it was possible for it to be open at other times.

Following discussions with Mrs Ransford, it was proposed that a condition be added, stating that the club would not operate on designated holy days, which they were happy to agree with the temple's committee.

With regard to residential properties, Mr Besant stated that local residents did not have to pass the entrance to the club unless they were living in Wise Street or Wise Terrace. He explained that the club had received a petition from the residents of Wise Street and Wise Terrace, showing their support for the premises.

He stated that there was rarely a queue to get in, CCTV was provided that covered the entrance and the club was a member of Pubwatch. He explained that two members of doorstaff worked at the club, one was always on duty at the front door, monitoring smokers and the immediate street outside. Again, Mr Besant made reference to the club's good working relationship with the Police.

The third aspect that Mr Besant addressed was that of regeneration. He stated that the 'sleazy image' was subjective but could appreciate that some people may take issue with the sign. Photographs of the sign were circulated as part of the agenda on page 5/21. Mr Besant advised that the advertising banner had been removed from the front of the premises and stated that the applicant would be happy to agree to a condition which restricted the signage on High Street. He felt that it was unlikely that a visitor to the town would know that this premises was a Sex Establishment, purely by looking at the building.

Mr Besant referred to the local businesses that had objected and argued that the majority of these were retail and would, in turn, be open during the day time and not when the club was open. He did not feel that any evidence had been submitted which showed a detrimental effect on local business.

Mr Besant concluded by reminding members that this form of entertainment was legal and there was a demand for it. He stated that if this licence was not granted for Leamington, customers would purely go to Stratford where there was a SEL premises. He reminded the committee that without the licence, the premises could still hold eleven events per year, without the Council having any control over the conditions. He felt that to grant the licence would give the Council more control and, if the conditions were breached, the applicant knew that the licence could be revoked.

The Council's solicitor, John Gregory, asked the applicant's solicitor if he had an agreed list of religious dates when the club could be closed, out of respect to the local temple. Mr Besant stated that they did not have a list but were willing to sit down with the temple's staff and agree the dates with them.

Mr Gregory also asked if all parties were happy for copies of the petition to be distributed, and following agreement the copies were circulated.

The Committee were then given the opportunity to ask questions of the applicant and her representative.

Clarification was given regarding the opening hours of the club, the removal of the banner and whether there was any provision for smokers.

The Chairman then advised that the objectors would be able to address the committee and, following each one, members and the applicant would be able to ask questions of them.

Mr Martin Tanner addressed the committee as the owner of a local wine merchants. He felt that the application was irresponsible and vexatious and had resulted in a great deal of officer time and money being spent during a recession. He felt that the reputation of the area had been tarnished and that many of his affluent customers were put off by the proximity of this type of business. As a resident of Old Town, he felt that Shades was detrimental to lease holders and freeholders and dragged the character of the area down. Mr Tanner felt strongly that whether the venue was well run or not, was irrelevant because it would still remain the sex industry, which had a negative impact on the area.

Dr Audrey Cook addressed the committee on behalf of Central Leamington Residents' Association (CLARA). She made reference to the ongoing efforts to regenerate Old Town and felt that by granting the SEL, the Council would be turning its back on the work achieved to date. Dr Cook reminded members of the close proximity of the club to the high density residential area and highlighted that planning applications had been agreed for more development. She highlighted the issues raised by women who felt vulnerable passing a premise like Shades and felt that the risk of assault was very real.

Dr Cook signposted members to the diversity of groups located in the area including martial arts and dance classes, the community centre in High Street, the proximity to the temple and the location of the bus stop outside the club. The presence of these, in her opinion, made the granting of an SEL amidst it, wholly inappropriate. She concluded by reminding members that there were now 500 businesses in the area and stakeholders who had invested money and effort to improve Old Town.

Councillor Tim Naylor made his objection on behalf of the County Council and agreed with the remarks made by the previous objectors. He added that the Council ran the risk of setting a precedent if the licence was granted. He requested that the committee demonstrate consistency and integrity and would uphold their previous decision.

Mr Jonathan Chilvers addressed members as a local resident and active member of the Green Party. He stated that he appreciated the applicant's offer to remove the signs but felt that the reputation of the premises would remain. He said that he often walked this route with his family and children and had concerns that this establishment would jeopardise the hard working, independent businesses in Old Town. He felt that women had the right to feel safe, valued and respected and this application contradicted that.

Ms Ruth Skidmore addressed her concerns as the Chair of Governors for Shrubland Street School, which was one of four schools within a half mile radius of the site. She felt that Shades undermined the values and beliefs teachers were trying to instil in their pupils, whose families were working hard to bring their children up in positive ways. She said that the ethos of Shades had a negative impact and that the population of Old Town was already being marginalised by the increase of HIMO and student accommodation.

The Reverend Christopher Wilson addressed the committee as Priest in Charge at All Saints Parish Church, who were taking the lead in conjunction with other churches in the town. He felt that the grounds for refusal of the previous application remained relevant to this licence. In addition, he felt that whether the public had to walk past the club to worship at the temple was irrelevant because as a place of worship it should have protected status.

Ms Sally Davies expressed her objection as an individual resident, a governor at Shrubland Street School and as a previous representative on the board of Regensis. She referred to the work done to raise the standards of Old Town and felt that the term 'sleaze' related to the reputation of the area. She felt strongly that the applicant was insulting their intelligence, with veiled threats of replacing the banner and implying that the eleven events the club were permitted to hold would result in wild parties.

Mr Archie Pitts addressed members as the Chairman of the Friends of Leamington Station. He agreed that the level of residential dwellings was increasing and felt uncomfortable with Mr Besant's 'threat' of further adverts being put up. Mr Pitts referred members to their SEL Policy and highlighted the similarities between this premises and the locations described in paragraph 3.2 of the policy.

The Chairman agreed to take a break at this point of the proceedings and requested that all parties return at 12.25 pm.

The applicant's representative, Mr Besant, was then given the opportunity to sum up.

Mr Besant recognised that this was a highly emotive subject but implored the committee to look at the evidence presented, not to rely on innuendo or hearsay. He reiterated the applicant's proposal that the signage to the club could be conditioned, mitigating any impression that the premises was a Sex Establishment. In addition, he felt that there were significant differences between this and the previous application, by virtue of the fact that changes had been proposed and the applicant was willing to work with the temple.

Mr Besant argued that the club did bring business to the town and the majority of the club's customers also used other business, whether retail or restaurants, in Leamington.

He made reference to the lack of objection from local charities and the Police and clarified that the bus stop was located outside the Old Crown Hotel and not directly to the front of Shades.

Mr Besant stated that there had been no threat intended with regard to the eleven events permissible per year but reiterated that the Council would have greater control if they granted the licence and applied conditions.

At 12:55 pm the Chairman requested that all parties, apart from the Committee Officer and the Council's Solicitor, leave the room whilst members deliberated the application.

Members were mindful that the Policy limited this type of establishment in a residential area. This in turn caused a split between members with some protesting that this was certainly a residential location and others feeling strongly that it was town centre living. However, the majority of members concluded that the area could be characterised as "residential" whilst incorporating a variety of other uses.

The Committee took into account the representations made by the objectors but were conscious that a proportion of the representations made in the report appeared to be from the same person or had been made on moral grounds.

Some members felt strongly that it was more favourable to have control over this type of establishment by adding conditions and monitoring the situation. They believed that a certain percentage of residents would object to the licence wherever the premise was located and were satisfied that the well running of the club was a relevant factor. Members felt that there were various areas of Leamington that were unfavourable and that the proposed residential developments to Old Town should be seen as a positive. In addition, there was a lack of evidence that there had been a detrimental effect on business or residential development and the Police had raised no objection.

Other members had concerns that the club was situated in close proximity to so many community ventures including the hockey club, dance and yoga classes and the temple. They felt that there was a link between the presence of Sex Establishments and the effect on the perception of an area. Some members also had concerns that they would not want members of their family to walk past, or live close to, the club but accepted that there was no evidence before them that the establishment had made women more susceptible to attacks.

It was proposed, and duly seconded, that the application be refused the grounds that the premise was located in a residential area. A vote was taken and won five votes to four.

At 14:25 pm all interested parties were invited back into the room to hear the committee's decision.

Having read the report and having heard from the officer present, the Committee made the following observations.

The application had been made by Lisa Margaret Ransford for the grant of a licence for a Sexual Entertainment Venue ("SEV") under the provisions of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act").

All of the administrative requirements regarding an application were satisfied, and no point was taken by any objector in this respect.

Before considering the main substance of the application, the Committee dealt with two preliminary points.

Firstly, the Committee considered the issue raised in paragraph 3.7 of the Licensing Officer's report and noted that it was arguable that Mrs Ransford would be operating the premises on behalf of Shades Snooker Club Limited, who would be refused a licence if they applied themselves because they had been refused a licence within the last 12 months.

However, the applicant advised the Committee that Mrs Ransford was a separate legal person to Shades Snooker Club Limited and would not actually be operating the premises on its behalf. The Committee considered that it did not have enough evidence before it to conclusively determine whether Mrs Ransford would be operating the premises on behalf of Shades Snooker Club Limited or not. However, regardless of this the Committee considered that this provision is aimed at preventing people applying for licences in order to run them on behalf of others who may not be suitable to do so. This is not the case in the present circumstances, as Shades Snooker Club Limited were refused a licence on the grounds of locality rather than their unsuitability to run the premises.

The Committee therefore decided not to refuse the Licence on the ground contained at Schedule 3, 12 (3) (b).

Secondly, the Committee considered the status of the Council's previous decision in respect of the application made by Shades Snooker Club Limited for the same premises. The Committee were advised that they were not bound to follow that decision provided that it explained its reasons for making a different decision on this application.

Having dealt with these points, the Committee went on to consider the main substance of the application.

No objection was received by any of the relevant statutory bodies, including Warwickshire Police or Children's Services. However, around 70 objections were received from a variety of people, including non-statutory bodies, local residents and other interested parties.

Several 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 heard from several of the 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, 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 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 limited effect on businesses in the area due to the opening hours of most businesses not coinciding with the proposed hours for the premises. They also noted that the applicant was now suggesting reduced hours along with conditions in respect of religious festivals and signage.

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 them.

However, the Committee had significant concerns in relation to whether the grant of this licence would be appropriate having regard to the character of the relevant locality, and the use to which any premises in the vicinity was put.

In this respect, the Committee took the view that the locality of the premises could be characterised as residential, whilst incorporating a number of other uses. In particular, the representations received highlighted the importance of premises in the locality used for religious and community purposes. The Committee noted that Wise Street was both a vehicular and pedestrian cul de sac and there was no access to the residences without passing the entrance to the premises. The fact that the locality was residential, and the presence of the Shree Krishna Mandir Temple in close proximity to the premises was of concern to the Committee, particularly when considering the Council's SEV Licensing Policy at Paragraph 3.2 (a) and (d).

In this context, the Committee considered that the grant of a licence would be inappropriate in accordance with Schedule 3, Section 3 (d) (i) and (ii) of the Act along with Paragraph 3.2 (a) and (d) of the District Council's Policy in relation to the licensing of Sexual Entertainment Venues. They considered that this was the case even with the reduced hours suggested by the applicant at the hearing and did not feel that the

proposed conditions would mitigate against the fact the premises were inappropriate given the overall character of this locality.

The application was therefore refused.

In refusing the grant of this licence, the Committee had regard to Article 1, protocol 1 and Article 10 of the European Convention on Human Rights and carefully weighed the Applicant's convention rights with the competing interests of objectors, local residents and any other interested parties. In all the circumstances in this case, the Committee found that any interference with the Applicant's rights caused by the refusal of the licence was justified and proportionate in the general public interest.

RESOLVED that the application be REFUSED.

58. **PUBLIC AND PRESS**

RESOLVED that under Section 100A of the Local Government Act 1972 that the Public and Press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below:

Minute No.	Para Nos.	Reason
59	1	Information relating to any individual
59	2	Information which is likely to reveal the identity of an individual

59. **MINUTES**

The Committee considered the confidential minutes of the meetings held on 21 February 2012.

RESOLVED that the minutes be approved.

(The meeting finished at 14:35 pm)