

Licensing and Regulatory Committee

Minutes of the meeting held on Tuesday 6 October 2015, at the Town Hall, Royal Leamington Spa at 10.00am.

PRESENT: Councillor Illingworth (Chairman); Councillors Ashford, Mrs Bunker, Davies, Edgington, Mrs Falp, Gill, Quinney, Mrs Redford, Mrs Stevens and Weed.

Apologies for absence were received from Councillors Cain, Mrs Cain and Gifford.

6. **Substitutes**

Councillor Mrs Bunker substituted for Councillor Murphy and Councillor Edgington substituted for Councillor Miss Grainger.

7. **Declarations of Interest**

Minute Number 8 – Renewal of a Sex Establishment Licence for Shades Gentleman’s Club, 6a High Street, Royal Leamington Spa

Councillor Mrs Stevens declared an interest because she was a member of Royal Leamington Spa Town Council but advised that she was not a member of the Planning Committee where this item had been discussed.

Councillor Mrs Falp declared an interest because the applicant’s lived in her Ward.

Councillor Gill declared an interest because he had been a founding member of the Khalsa Hockey Club who had premises in the vicinity of the application site.

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

The Committee received a report from Health & 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 renewal application was received in August 2015 from Shades Snooker Club Ltd for an SEV licence for Shades Gentleman’s Club. The hours applied for had not changed since those granted when the licence was last reviewed in October 2014. These were:

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

The Chairman introduced himself and invited the officers present and the client's representative to introduce themselves.

The applicants, Mr & Mrs Ransford were present and were represented by their solicitor Mr Besant. The interested parties who had registered to speak were Warwickshire County Councillor Weston and Councillor Morrison representing the views of Royal Leamington Spa Town Council.

The Council's legal advisor outlined the procedure for the meeting.

The Chairman advised that a site visit had taken place prior to commencement of the meeting and he confirmed that Councillors Ashford, Edgington, Mrs Falp, Gill, Illingworth, Quinney, Mrs Redford, Mrs Stevens and Weed had attended.

Councillors Mrs Bunker and Davies advised that although they had not attended the site visit, they knew the area that the premise was located in.

The Licensing Officer outlined the report and advised that 33 objections had been received on standard forms, 10 of which were from local residents. All of the local residents had objected due to the proximity of the premises to the Hindu Temple located in Crown Terrace.

There had also been an objection received from Warwickshire County Councillor Weston and one from Royal Leamington Spa Town Council.

The Licensing Officer advised that one representation had been received after the deadline date and, through the Chairman, asked if the Committee were happy to consider this. The Committee agreed and copies were distributed accordingly.

The Licensing Officer also made reference to a petition that had been received containing 69 signatures, objecting to the proximity of the premises to the Hindu Temple. Due to the restrictions in the Licensing Act, the signatures and addresses of the signees had to be redacted but a copy was circulated for information.

The Chairman confirmed that all parties had received the report and no further questions were raised at this stage.

Mr Besant outlined his client's application and advised that his client had operated for the past seven years with no problems. He highlighted the opening hours that were being asked for along with the conditions attached to the existing licence.

Councillor Morrison then presented Royal Leamington Spa Town Council's objection on page 49 of the report. She explained that their objection was based on the locality of the premises which they felt went against section 3.2 of Warwick District Council's policy. She advised that residents living close to the premises had raised objections with her but felt there was little point in objecting because they would not be listened to. She stated that the Town Council looked at all licensing applications and were obliged to take the wishes of residents into account. In addition, Councillor Morrison advised that the Town Council were looking into how to regenerate South Town and felt that, based on the policy, Members should look to refuse the application.

Councillor Mrs Redford asked Councillor Morrison to point out where the play areas, schools and nurseries were located in relation to the premises. Councillor Morrison advised that the nearest schools were Cashmore, St Anthony's and Shrubland Street and children often walked past the premises to get to school. She also made reference to a SureStart nursery that had recently closed down and various community groups such as dance clubs and martial arts groups that met nearby.

In response to questions about the regeneration of South Town, Councillor Morrison explained that the area had difficulty establishing itself over many years and was often described as 'sleazy' in the press. She also stated that a number of businesses would have opened there but had chosen to locate in the north of the town. Councillor Mrs Morrison stated that the existence of the sex club contributed to the reputation of the area.

The Committee asked about the location of schools in the area and Councillor Mrs Morrison referred to the 'condition' that SEV's should not be located near to schools. In response, the Legal Advisor reminded Members that this was not a 'mandatory condition' but was referred to in the policy, which Members should have regard to when reaching their decision.

The second objector, Councillor Weston, outlined his representation on page 48 of the report. He felt that efforts to regenerate South Town had failed because of the reputation of the area. He made reference to a number of businesses who had left the area, including the local MP, and those that had chosen to move to the north of the town due to the 'sullied' area.

Councillor Weston felt that the crime rates in the area were relevant, although he appreciated that the Police had not objected. He also referred to a request that he had made to the Police regarding up to date crime data but he had not received a response as yet. He also felt that the proximity of the Hindu Temple was a relevant factor because it was so close to the premises. Councillor Weston felt that the number of objections received had fallen due to a general feeling of fatigue amongst residents, who felt that their comments would not be listened to.

In response to the comments relating to crime rates, the Chairman assured Councillor Weston that the Committee were fully aware of the difficulties that the Police encountered in the town. In addition, he asked Councillor Weston if he was aware of any instances of anti-social

behaviour or crime and disorder, when Shades featured. Councillor Weston did not know of any instances.

Mr Besant summed up his client's application and advised that Councillor Weston had not referred to an issue of Crime and Disorder in his original representation and reminded Members that he had no evidence to support these comments. He also reminded the Committee of the reasons detailed in the Local Government Miscellaneous Provisions Act 1982 which outlined the grounds for refusal of an application. Mr Besant highlighted relevant case law with regard to the application and felt that due weight should be given to the existence of the licence. In addition, he advised that there had been no significant changes had taken place in the area or to the premises since last year.

In summary, Mr Besant accepted that the Hindu Temple was close to the premises but closed substantially before the club opened and that any schools were some distance away. In addition, there were no objections from the relevant authorities and no evidence to support the interested parties objections. He therefore, invited Members to renew the licence for a further twelve months, on the same terms and conditions as last year.

Prior to deliberation the Council's legal advisor outlined the advice that she would be providing the Committee with, namely the grounds for refusal as detailed by Mr Besant and how Members needed to take into account the character of the locality. In addition, she explained that the case law quoted was relevant and, although Members were entitled to reach a different decision, due weight should be given to the decision made last year.

At 11:25am the Chairman asked all parties, other than the Legal Advisor, the Committee Services Officer and the Democratic Services Assistant to leave the room whilst the Committee made its deliberations.

At 12:25pm all parties were invited back into the room and the Chairman asked the Legal Advisor to read out the decision as follows:

The Shades Snooker Club Ltd ("the Applicant"), applied on 11 August 2015 to renew the Sexual Entertainment Licence for premises known as Shades Gentleman's Club at 6a High Street, Leamington Spa ("the Premises").

There were 36 separate written objections and a petition with 69 signatures objecting to the renewal of the licence.

The Licensing and Regulatory Committee ("the Committee") heard oral representations on behalf of the Applicant and representations made by Councillor Western (WCC Leamington Willes ward) and Royal Leamington Spa Town Council (represented by Councillor Morrison) who both objected to the renewal of the license.

The Committee considered the statutory framework relating to the renewal of the licences for sex establishments. The Committee also considered the Warwick District Council Statement of Licensing Policy for premises to be licensed as sex establishments ("the Policy").

Having examined the substance of the objections the Committee determined that the discretionary grounds of refusal as set out in Schedule 3, para 12 (3) (d) (i) and (ii) of the Local Government (Miscellaneous Provisions Act) 1982 were engaged. The Committee therefore asked itself whether the renewal of the licence would be inappropriate having regard to the character of the locality or the use to which any premises in the vicinity are put. The Committee specifically noted and considered the factors listed at paragraph 3.12 of the Policy.

The Committee noted that this was a renewal and not a new application. The Premises had been trading as a sexual entertainment venue, more or less continuously since 2008 (they did not require a licence until 2011) and that in October 2014 the licence was renewed following consideration of the character of the locality and the use of nearby premises. The Committee understood that they were not bound by earlier decisions and were entitled to consider the application afresh but noted that due weight should be given to the renewal of the licence the previous year and that there was a duty to give rational and adequate reasons for refusal.

All Members of the Committee were familiar with and had visited the locality of the Premises.

The Committee specifically considered the proximity of the Hindu Temple and associated Community Centre. The petition and all of the objections referred to the proximity of a place of worship and community facilities to the Premises as a reason why the application should be refused. It was noted that the opening hours of the Temple and Community Centre and the times when sexual entertainment would take place would not often coincide but nevertheless did take into account that the presence of the Premises close to a place of worship was not appropriate in the opinion of many people. The Committee noted that the Premises could not be seen from the Temple and Community Centre and were located in a different street.

A number of objections referred to the on-going regeneration of the area and Royal Leamington Spa Town Councillor Morrison and Warwickshire County Councillor Western both commented about the effect that the Premises had on the perception of the area and stated that they believed it was a barrier to regeneration. The Applicant stated that the reverse was true and the high number and type of visitors to the Premises supported re-generation.

There were a number of residential dwellings near to the Premises including some sheltered housing and student accommodation. Within the objections there was reference to complaints about noise and crime and disorder in the area. The Applicant had emphasised that there was no objection to the application by the police or environmental health and no evidence of any incidents taking place at the Premises or arising from activity at the Premises. The Applicant stated that the premises were well run and fully complied with the license conditions.

The Premises were situated on a busy road. The Committee noted that the road was used widely by a diverse range of people including children and vulnerable people. It was noted that the Premises were discreetly signed and furthermore that the hours when sexual entertainment would

take place would be unlikely to coincide with the use of shops or other premises used by children in the vicinity.

Therefore, having considered the competing arguments the Committee, by a majority decision,

Resolved to renew the licence with the conditions already attached. This was because the premises had operated for a further 12 months without incident and the Committee did believe that the renewal of the licence would be inappropriate having regard to the character of the locality and the use to which other premises in the vicinity are put.

All parties were advised that the detailed decision would be circulated within the next five working days.

(The meeting ended at 12.30 pm)