

LICENSING PANEL SUB-COMMITTEES

THURSDAY, 11 AUGUST 2016

PRESENT: Councillors Jesse Grey, John Bowden and John Collins

Also in attendance: Councillor Natasha Airey, Councillor Jack Rankin, Councillor Wesley Richards, Sarah Le Fevre (Legal Representative for Pink Gentleman's Club) and Desmond Murphy (Pink Gentleman's Club)

Officers: Neil Allen, Tanya Leftwich, Greg Nelson and Steve Smith

APPOINTMENT OF CHAIRMAN

RESOLVED: That Councillor Grey be elected as Chairman for the duration of the meeting.

It was announced that the meeting was being recorded.

APOLOGIES FOR ABSENCE

None.

DECLARATIONS OF INTEREST

None.

CONSIDERATION OF THE RENEWAL OF A SEXUAL ENTERTAINMENT VENUE LICENCE UNDER SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

The Chairman welcomed all the parties to the meeting, introduced the Sub-Committee Members and explained the procedure, which all indicated they understood.

The Chairman went onto explain that additional information had been submitted by the applicant on the day of the meeting and whilst there were no rules regarding the submission of paperwork he needed to ensure the meeting was being held fairly for all parties involved and that no-one was being disadvantaged. The Ward Councillors all stated that they had not had time to read and digest the additional information which they considered to be deeply unfair. The Chairman explained that if needed the meeting could be deferred to a later date. Ward Councillor Jack Rankin requested a twenty minute adjournment of the meeting to allow everyone present to read the additional information which all parties agreed to.

Meeting adjourned at 6.12pm.

Meeting resumed at 6.25pm.

The Council's Licensing Officer, Steve Smith, introduced the application for Members to consider. He explained that the application was to renew the Sexual Entertainment Venue (SEV) licence for the premises known as Pink Gentleman's Club, Basement,

Darville House, Oxford Road East, Windsor, SL4 1EF. It was noted that the application was required on an annual basis. The Sub-Committee was informed that an SEV was defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or entertainer” and that relevant entertainment was “any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purposes of sexually stimulating any member of an audience (whether by verbal other means). It was noted that an audience could consist of just one person (e.g. where the entertainment takes place in private booths).

The Council’s Licensing Officer went onto explain that the application did not propose any changes to the current hours or conditions of the licence.

The Sub-Committee was informed that the application history was as follows:

- 12.10.2011 - Application for new SEV heard by panel on 17.11.11 - licence granted (with conditions listed on pages 17 & 18 of the agenda).
- 19.01.2012 - Transfer of SEV from Annmarie Harris to Desmond Murphy.
- 05.11.2012 - Renewal of SEV licence renewed.
- 28.01.2014 - Renewal of SEV licence renewed.
- 30.01.2015 - Renewal of SEV licence renewed.
- 21.01.2016 - Renewal of SEV application being considered.

The Council’s Licensing Officer referred the Sub-Committee to page 8 of the agenda which showed that the Thames Valley Police had not objected to this application. It was noted that the three Ward Councillors for the Castle Without Ward (Councillors Jack Rankin, Wesley Richards and Lead Member for Children’s Services Natasha Airey) had all objected and that their objections could be found on pages 19-33 of the agenda.

The Council’s Licensing Officer referred the Sub-Committee to pages 25, 27, 30 & 31 of the agenda which showed photos which he believed would be covered during the meeting by both the applicant and objectors.

The Sub-Committee was reminded that they could, in this case, either:

- a) renew the licence, attaching any conditions they consider reasonable under paragraph 8(1) or,
- b) refuse the application under paragraph 12(2)

The Council’s Licensing Team Leader advised the Sub-Committee to have regard of the Home Office Guidance and the Council’s own Licensing Policy.

Questions to the Licensing Officer

In response to a question, the following point was made –

- That no issues / incidents had been reported by the Thames Valley Police as a result of the location of Pink Gentleman’s Club.
- That a licensing inspection (no notice had been given) had taken place recently (approximately two and a half weeks ago) by both the RBWM Licensing Team and the Thames Valley Police.

Applicant's case

Sarah Le Fevre informed the Sub-Committee on behalf of Desmond Murphy that the application was for the renewal of the Sexual Entertainment Venue (SEV) licence for the premises known as Pink Gentleman's Club, Basement, Darville House, Oxford Road East, Windsor which was required on an annual basis. The Sub-Committee was informed that the premise successfully operated as its current use without any enforcement issues. It was noted that the applicant had an excellent working relationship with the Licensing Team at the Royal Borough and also the Thames Valley Police.

Sarah Le Fevre went onto explain that the venue operated with two S.I.A's on the door. It was noted that if customers were not refused entry they were reminded of the rules of the premises, customer conduct expected and then escorted to the Reception area. The Sub-Committee was informed that the premise had thirty-two CCTV cameras in place that were constantly reviewed by Mr Murphy or a substitute when he was unavailable. It was noted that the layout of the premise was largely open plan with some exclusive areas and a bar area. The Sub-Committee was informed that the bar was constantly staffed and that there were VIP waitresses to serve drinks / bar area.

The Sub-Committee was informed that whilst the premise could hold a maximum of 50 people on a busy night numbers could reach 25.

Sarah Le Fevre informed the Sub-Committee that with regard to the locality of the premise it had a concealed and discreet entrance which could be accessed via the access road.

Sarah Le Fevre stated that there were two issues that were no doubt of concern to the Sub-Committee, one was the photo on page 31 of the agenda which showed the premise in breach of condition 14. It was noted that the promotional photo had been taken when the premise had been closed so was therefore considered a private activity, with permission given to a previous manager, which was then published onto the venues Twitter account. The Sub-Committee was informed that the image would have been prohibited if the premise had been open and that as a result of the image being published the member of staff had been removed from the payroll and the Twitter account had been closed down and remained closed. It was noted that if the Twitter account was ever re-opened it would need a responsible person to manage the account.

The Sub-Committee was informed that the second issue of concern was the promotional vehicle being driven around between 20:30 – 01:00 / 02:00. It was noted that the vehicle was manned by a driver and a member of the dancing team dressed in outside wear when off the premise. Sarah Le Fevre explained that there was nothing to say that this was not allowed because as a lawful business they were entitled to do it, depending on the conditions on the licence which also applied to the leaflets / flyers. The Sub-Committee was informed that the flyers now contained the house rules on them and were also on the company website.

The Sub-Committee was informed that this premise was Mr Murphy's livelihood, that it was a single small premise which conducted a lawful operation and business. It was noted that the licence had been renewed on multiple occasions and therefore should be renewed again.

Objector's case

Councillor Jack Rankin (Ward Councillor for the Castle Without Ward) referred the Sub-Committee to his objection which started on page 19 of the agenda and explained that he objected strongly on two grounds. The first ground being the locality of the premise being inappropriate and the second ground being the need to protect children from harm. Councillor Jack Rankin explained that under Section 3 Control of Sexual Entertainment, Paragraph 12, in 3di, the schedule allowed an authority to reject the renewal of an SEV license if the award would be inappropriate having regard to the character of the relevant locality.

Councillor Jack Rankin stated that Pink was situated in the historic town centre of Windsor. Members were informed that immediately off Peascod Street, this area constituted Windsor High Street, full of historic buildings, where millions of visitors (constituting young families of residents' and tourists' alike) visited each year. Councillor Jack Rankin contested that such an establishment was highly inappropriate if you assessed the character of an area bursting with visitors' attractions and historic importance.

Councillor Jack Rankin went onto explain that furthermore he would contend that the area was residential, and increasingly so. The Sub-Committee was informed that the residential aspect of the area was also increasing; under permitted development rights, a developer could turn an office space into residential space without the planning authority objecting. It was noted that in the area immediately surrounding Pinks' premises, a large capacity of office space was being turned into residential accommodation under these permitted rights, and as the area becoming less business focused and more residential, the location of a Sexual Entertainment venue becoming increasingly inappropriate.

Councillor Jack Rankin went onto explain that when considering the wider area, rather than just the immediate locality, the historic Alexandra Gardens could be found, a visitor attraction and play area for children and young families, and the Holy Trinity Garrison Church, a place of worship and remembrance of our fallen servicemen and women. The Sub-Committee was informed that Councillor Jack Rankin would contend the considering the wider area, as well as the immediate area, would lead to a conclusion that the character of the relevant locality does not suit a SEV license being renewed. It was noted that the character of the immediate relevant locality was an historic, tourist based, family space which was increasingly residential. As such Councillor Jack Rankin felt that the Royal Borough should reject the application for an SEV at this premises under Paragraph 12 3di of the Schedule.

With regard to the protection of Children from Harm Councillor Jack Rankin stated that he was concerned with the increasing level of marketing, taking place on High Street and Peascod Street, which had lead him to object on the basis of protection of children, in addition to my objection on character of the locality. It was noted that at the weekend, there was often a 'Pinks' car sitting at the top of Peascod Street on High Street advertising the existence of a Sexual Entertainment Venue in Windsor. This was in addition to flyers being handed out. This advertisement leaves the casual observer in no doubt as to the existence and nature of Pinks' business. Councillor Jack Rankin went onto explain that as this was an area where children and families were present in great number, he was concerned that children were being exposed to the concept of sexual entertainment and that he was in no doubt that this does

children harm and was also highly inappropriate and highly aggrandising to the Windsor community.

Councillor Wesley Richards (Ward Councillor for the Castle Without Ward) referred the Sub-Committee to his objection which started on page 29 of the agenda and explained that he objected strongly due to the breach to its licence and upon the basis of two grounds under Schedule 3.

Councillor Wesley Richards stated that he felt that the council should refuse to renew this licence on the grounds (Schedule 3 part 12(3)(c) and (4)) that 'the number of sex establishments in the relevant locality at the time the application was made was equal to or exceeds the number which the authority consider was appropriate for that locality.'

The Sub-Committee was informed that Councillor Wesley Richards believed that the council should further refuse to renew this licence (Schedule 3 part 12(3)(d)(i) and (5)(a)) as a 'renewal of the licence would be inappropriate, having regard to the character of the relevant locality.'

Councillor Wesley Richards explained that the venue was approximately 300m from Windsor Castle. As home to Her Majesty the Queen, who was also the Head of the Church of England it was highly inappropriate that such a venue should exist within such a close proximity. This is further highlighted by the fact that the premise has sought to use the Castle in publicity to generate business. Councillor Wesley Richards stated that this was hugely embarrassing to the Monarch and the town and should be brought to an end immediately by the council.

Councillor Wesley Richards stated that he further believed the licence should not be renewed due to the breach of the existing/prior licence as condition 14 was very clear.

Councillor Wesley Richards urged the Sub-Committee to consider how it had ensured the protection of vulnerable adults as it was well documented that it was often vulnerable women who worked in SEVs.

Councillor Natasha Airey (Ward Councillor for the Castle Without Ward & Lead Member for Youth Services and Safeguarding within RBWM) referred the Sub-Committee to her objection which started on page 33 of the agenda and explained that she objected strongly on two grounds. Firstly Councillor Natasha Airey objected on the matter of preventing children from harm, and secondly she believed the character of the locality made it an inappropriate location for a premise to be operating with such a licence.

It was noted that as a life-long Windsor resident Councillor Natasha Airey had seen how Pink engaged in active marketing on the High Street by women who hand out leaflets whilst wearing very little - thus exposing children to the concept of sexual entertainment whilst they were simply out in the town centre environment. Councillor Natasha Airey stated that she believed the public marketing had increased over the years and that the Borough should be committed to safeguarding all children, and exposing them from an early age to sexual entertainment which goes on in the town centre was not in her opinion acceptable, safe or appropriate.

Councillor Natasha Airey stated that Windsor was a historic and cultural landmark in the UK. It was noted that the premise borders the residential part of Windsor with Arthur Road, Ward Royal flats and Darville House residences.

Councillor Natasha Airey informed the Sub-Committee that after spending £10,000's on the MASH hub which had seen an increase in the number of referrals that this application should not in her view be renewed. It was noted that as Councillors were Corporate Parents to vulnerable children in the Borough they should be looking to safeguard them.

Questions to the Objectors

In response to questions, the following points were made -

- That none of the objectors had been in the premise to see how it operated. It was noted that the objectors were not objecting on the ground of morality or what happens inside the premise but about the vicinity and safeguarding issues in the Royal Borough.
- That whilst the premise had clear age policies regarding entry to the venue it was still exposing children in the area to the sexual entertainment industry.

No questions were asked by the applicant.

Questions to the Applicant

In response to questions, the following points were made -

- That the applicant had an incident log book at the premise where details of ejected people were noted. It was noted that none were believed to have been ejected in the last month.
- That whilst anyone over the age of 18 could attend the clientele tended to be of the more mature age bracket (around 40s and 50s).
- That Mr Murphy had worked in security and management for the last thirty years.
- That Mr Murphy took over four years ago on the 19 January 2012.
- That the promotional vehicle was used for advertising purposes. It was noted that the driver sometimes dropped off the dancers so they could hand out flyers for free entry to people interested in visiting the premise.
- That the promotional vehicle/s were used instead of advertising on the outside of the premise which was prohibited as part of a condition on the licence.
- That the applicant was happy to accept an additional condition on the licence to restrict advertising via the promotional vehicle/s from 23:00 – 02:00 Monday – Saturday.
- That the promotional vehicle/s was parked outside the drivers home in Wimbledon, rather than outside the premise.
- That whilst the driver of the promotional vehicle/s was perfectly within his right the applicant noted that the Sub-Committee felt it to be inappropriate for Pink Gentleman's Club to have advertising shots taken of their promotional vehicle/s with Windsor Castle in the background.
- That the dancers at Pink Gentleman's Club ranged from 22 years old to 42 years old.

- That the Twitter account for the premise had been deleted under Mr Murphy's control.
- That Mr Murphy had only been made aware of the promotional photo (on page 31 of the agenda) when he had seen it in the RBWM agenda.

Objector's Summary

Councillor Jack Rankin summarised by stating that the objections raised today were primarily based on the character of the locality. It was stated that the Sub-Committee were today able to refuse the application to renew the licence as he felt he had made it clear regarding the immediate locality of the premise was increasingly inappropriate and the fact that there had been a material change since November 2011. Councillor Jack Rankin went onto explain that an area of Charles Street was now a fully integrated area of the High Street and was a residential area that was on the increase.

Councillor Wesley Richards summarised by stating that he believed the number of sex establishments in the area should be zero and that he believed the 2012 decision to renew the licence to have been made incorrectly. Councillor Wesley Richards requested that the Sub-Committee rejected the application to renew the licence as there were homes directly opposite the premise (re: locality).

Councillor Natasha Airey summarised by stating that this location of the premise was in a family friendly area and that she felt it was therefore inappropriate for the Sub-Committee to renew the licence. Councillor Natasha Airey also stated that she believed the number of sex establishments in the area should be zero.

Applicant's Summary

Sarah Le Fevre summarised by stating that the premise was successful and not a failing premise in need of increased advertising. The Sub-Committee was informed that there was no direct evidence of 'harm' associated with the premise itself or the advertising of it but that Mr Murphy was happy to restrict the promotional van to 23:00 – 02:00 Monday to Saturdays.

Sarah Le Fevre went onto explain that the Thames Valley Police had not objected to this application neither had immediate residents to the premise.

Sarah Le Fevre stated that the subject of setting of the number of sex establishments in the Royal Borough was something that was beyond this Licensing Panel Sub-Committee as the Sub-Committee did not have the power to decide policy on that.

Sarah Le Fevre concluded by informing the Sub-Committee that this was the first time the renewal of this licence had been contested and that the areas of concern (Twitter account and promotional photo) had been dealt with. It was noted that this application was believed to be from a proper, suitable applicant who was seeking to run a suitable establishment.

Licensing Officer's Summary

The Licensing Officer summarised by stating that he felt the areas of concern had been debated fully at this meeting.

It was noted that the applicant was happy to have an additional condition added to his licence to restrict the advertising hours of the promotional vehicle/s.

The Licensing Officer respectfully reminded the Sub-Committee that if they were minded to refuse the application to renew the licence they would need to give reasons for the refusal.

Decision

The Sub-Committee after very careful consideration, decided that the renewal of the sexual entertainment venue licence should be granted for a period of one year with the following conditions:

- To limit the use of promotional vehicle/s for marketing purposes in Windsor (as defined by the ward boundaries for Castle Without, Clewer East, Clewer North, Clewer South, Eton & Castle and Park) the promotional vehicle/s not to be used before 23:00 and no later than 02:00 Mondays to Saturdays and not to be used for promotional purposes on Sundays.
- Whilst performing striptease the dancer may not perform any acts which by themselves or with others are, or clearly simulates masturbation, oral sex or sexual intercourse, including the insertion of any object, including their own finger into any genital opening.
- A customer code shall be prominently displayed and clearly visible throughout the premises advising patrons of the rules of striptease at the venue. A copy of the customer code will be provided to the Police and Licensing Authority and shall not be substantially amended without the consent of the Police.
- The premises licence holder will have an operations manual and performer code of conduct. A copy of these documents will be provided to the Police and Licensing Authority prior to opening and shall not be substantially amended without the consent of the Police.
- Striptease performers shall be aged not less than 18 years.
- No dancer may perform at the premises until such time as photographic proof of identity showing date of birth is provided, confirming that the dancer is aged over 18 years.
- Whilst striptease is taking place no person under 18 years of age shall be permitted within the premises.
- A notice shall clearly be displayed in a prominent position at the entrance of the premises stating that "no person under 18 will be admitted" so that it can be easily read by persons entering the premises.
- Whilst performing striptease, dancers must not be able to be seen by persons outside the premises.
- Striptease may only take place in supervised public areas of the premises or areas covered by CCTV.
- The DPS or a nominated manager shall be present on the premises at all times whilst the striptease entertainment is taking place.
- A nominated person shall be present to oversee the activities of striptease performers.
- Dressing rooms will be provided for striptease performers and access to these will be restricted by management - before, during and after the entertainment.
- Any external advertising at the premises shall be in a form acceptable to the Police and Licensing Authority.

- There must not be any contact by the striptease performer with the patron immediately before, during and immediately after the performance of striptease except:
- (a) The leading of a patron hand in hand to and from a chair or to and from the designated dance area.
 - (b) The simple handshake greeting.
 - (c) The placing of monetary notes or dance vouchers into the hand or garter worn by the performer.
 - (d) The customary kiss on the cheek of the patron by the dancer at the conclusion of the performance.
 - (e) If the contact is accidental.

The reasons for the Sub-Committee's decision are set out below:

The Sub-Committee considered the written submissions provided by the applicant, Officers of the Council and local Ward Councillors. The Panel also heard oral evidence provided by the following:

- Mr Steve Smith (Licensing Officer at the Royal Borough of Windsor & Maidenhead).
- Yourself (Applicant).
- Sarah Le Fevre (Legal Representative for yourself, the Applicant).
- Castle Without Ward Councillor Natasha Airey (also Lead Member for Youth Services and Safeguarding within RBWM).
- Castle Without Ward Councillor Jack Rankin.
- Castle Without Ward Councillor Wesley Richards.

In making their decision, the Sub-Committee also had regard to the Home Office Guidance and the Council's own Licensing Policy.

The Sub-Committee listened very carefully to the objections of their fellow councillors and were grateful for the time and effort taken in raising them. The objections fell into two main parts, those to the location of the premises itself and the effect on the surrounding "relevant locality". This was primarily that the locality was a more residential area than when previous renewals were considered. The other objections mainly related to the marketing activities that occurred, albeit not on the premises, but nearby and within the "relevant locality". This was primarily the use of a pink bus from which leaflets were distributed and customers picked up.

Despite these objections, and noting that Councillor Airey was also the lead Member for Youth Services and Safeguarding, the Sub-Committee was of the view that the licence should be renewed, subject to an additional condition that is meant to address an issue on which the Sub-Committee shared the concern of the objectors and on which the applicant indicated would be acceptable to him.

The Sub-Committee also took account of the fact that the licence had been previously renewed since 2012, and whilst the objectors did not have to prove that the character of the locality had changed, and the Sub-Committee was not bound by those previous decisions as the law required reconsideration every 12 months, it found that in the all circumstances before it that the licence should be renewed.

Therefore the Sub-Committee renewed the licence subject to the conditions listed above as they felt that the location of the premise was discrete and unobtrusive, that

no objections had been received from local residents or the Thames Valley Police, that there had been a recent spot check by the Licensing Team at the Royal Borough of Windsor & Maidenhead & the Licensing Team at the Thames Valley Police where no issues had been reported, there was felt to be no direct evidence of harm to children caused by the premise and it was felt that the character of the immediate locality had not significantly changed / was not necessarily considered a residential area. On the latter issue the Sub-committee considered the submission of the objectors very carefully but could not agree with their assertions applying the Sub-Committees experience on the Windsor Urban Development Panel on which they all serve.

However, the Sub-Committee considered that the premise advertising from 20:30 Mondays to Saturdays in their promotional vehicle/s, in Windsor Town Centre to be inappropriate as it could come into contact with visitors / tourists, young families and children in that area at that time. The Panel considered that the additional condition imposed would help alleviate concerns (for example it would help to protect children, young families and visitors to Windsor from being exposed to the concept of sexual entertainment.

The Sub-Committee stated that they felt it to be highly inappropriate for Pink Gentleman's Club to have advertising shots taken of their promotional vehicle/s with Windsor Castle in the background.

RESOLVED: That the renewal of the sexual entertainment venue licence be granted for a period of one year with the following conditions:

- **To limit the use of promotional vehicle/s for marketing purposes in Windsor (as defined by the ward boundaries for Castle Without, Clewer East, Clewer North, Clewer South, Eton & Castle and Park) the promotional vehicle/s not to be used before 23:00 and no later than 02:00 Mondays to Saturdays and not to be used for promotional purposes on Sundays.**
- **Whilst performing striptease the dancer may not perform any acts which by themselves or with others are, or clearly simulates masturbation, oral sex or sexual intercourse, including the insertion of any object, including their own finger into any genital opening.**
- **A customer code shall be prominently displayed and clearly visible throughout the premises advising patrons of the rules of striptease at the venue. A copy of the customer code will be provided to the Police and Licensing Authority and shall not be substantially amended without the consent of the Police.**
- **The premises licence holder will have an operations manual and performer code of conduct. A copy of these documents will be provided to the Police and Licensing Authority prior to opening and shall not be substantially amended without the consent of the Police.**
- **Striptease performers shall be aged not less than 18 years.**
- **No dancer may perform at the premises until such time as photographic proof of identity showing date of birth is provided, confirming that the dancer is aged over 18 years.**

- Whilst striptease is taking place no person under 18 years of age shall be permitted within the premises.
- A notice shall clearly be displayed in a prominent position at the entrance of the premises stating that "no person under 18 will be admitted" so that it can be easily read by persons entering the premises.
- Whilst performing striptease, dancers must not be able to be seen by persons outside the premises.
- Striptease may only take place in supervised public areas of the premises or areas covered by CCTV.
- The DPS or a nominated manager shall be present on the premises at all times whilst the striptease entertainment is taking place.
- A nominated person shall be present to oversee the activities of striptease performers.
- Dressing rooms will be provided for striptease performers and access to these will be restricted by management - before, during and after the entertainment.
- Any external advertising at the premises shall be in a form acceptable to the Police and Licensing Authority.
- There must not be any contact by the striptease performer with the patron immediately before, during and immediately after the performance of striptease except:
 - (a) The leading of a patron hand in hand to and from a chair or to and from the designated dance area.
 - (b) The simple handshake greeting.
 - (c) The placing of monetary notes or dance vouchers into the hand or garter worn by the performer.
 - (d) The customary kiss on the cheek of the patron by the dancer at the conclusion of the performance.
 - (e) If the contact is accidental.

MEETING

The meeting which began at 6pm, ended at 8.32pm (deliberations started at 8pm).

CHAIRMAN.....

DATE.....