

LICENSING & PUBLIC SPACE PROTECTION ORDER (PSPO) SUB COMMITTEE

WEDNESDAY, 7 APRIL 2021

PRESENT: Councillors Gurpreet Bhangra, Mandy Brar and David Cannon

Also in attendance: Councillors John Baldwin, Gerry Clark, Gurch Singh and Donna Stimson, John Sennett (Applicant), Sarah Taylor (Applicant's Agent) and Bijou Dunn (Objector)

Officers: Andy Carswell, Craig Hawkings and Rachel Lucas

APPOINTMENT OF CHAIRMAN

RESOLVED UNANIMOUSLY: That Cllr Cannon be appointed Chairman of the Sub Committee.

APOLOGIES FOR ABSENCE

None.

DECLARATIONS OF INTEREST

None.

PROCEDURES FOR SUB COMMITTEE

The clerk outlined the procedure for the meeting that would be followed. All parties indicated they understood.

CONSIDERATION OF THE RENEWAL OF A SEXUAL ENTERTAINMENT VENUE LICENCE

Officer Reporting's statement

Craig Hawkings, Licensing Enforcement Officer, introduced the item and went through the report. He explained that the Sub Committee had been called to consider the application to renew the Sexual Entertainment Venue licence of the premises known as The Honeypot, 81 Queen Street, Maidenhead SL6 1LT. Such licences were renewed on an annual basis, and the licence for this premises had been renewed each year since first being granted in 2011. There were no proposed changes to operating hours or conditions of the licence. Craig Hawkings said the proposed renewal had been brought to the Sub Committee as objections had been raised on behalf of residents living nearby, which made a hearing necessary. He said no objections to the renewal had been made by Thames Valley Police, and there were no outstanding complaints relating to the venue or vicinity.

Craig Hawkings told the Panel that an application or renewal could not be refused on moral grounds or values. He drew Members' attention to Paragraph 12 Section 3 of the relevant act, which stated that a licence could be refused:

(a) if the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.

(b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;

(c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality.

(d) that the grant or renewal of the licence would be inappropriate, having regard

(i) to the character of the relevant locality; or

(ii) to the use to which any premises in the vicinity are put; or

(iii) to the layout, character or condition of the premises, vehicle, vessel, or stall in respect of which the application is made.

Craig Hawkings confirmed that the applicant had not been convicted of any offence. He stated that the options open to the Sub Committee were to allow the renewal application, attaching any conditions they deemed appropriate, or to refuse it. In the event of a refusal, written reasons for the decision would need to be given.

Member questions to the Officer Reporting

Responding to a question from Cllr Cannon, Craig Hawkings confirmed Thames Valley Police were the only statutory consultee and there was no other responsible authority involved. Regarding the letter of objection from residents, Craig Hawkings said it had been signed by seven people.

Cllr Cannon asked Craig Hawkings if there had been any material changes to the character of the area since the licence was last renewed. Craig Hawkings said there had not been, although he was aware of redevelopment of the town centre that was taking place or planned. Cllr Brar asked if redevelopment would have any impact on the licence, which Craig Hawkings said it would not.

Applicant's questions to the Officer Reporting

Sarah Taylor, the Applicant's agent, said she had no questions of the Officer Reporting.

Applicant's case

Sarah Taylor, the Applicant's agent, said the premises had been operating as a sexual entertainment venue for 21 years and had held a Sexual Entertainment Venue licence since the relevant legislation was introduced in 2011. The licence had been renewed without any issues until this Sub Committee hearing was called.

John Sennett, the Applicant, said the venue had a good relationship with the police. The venue had not been open for the last 12 months due to the Covid19 pandemic.

Sarah Taylor said the nature of the objections related to the locality, and the suitability of the premises to be in that locality. She said she was aware of planned redevelopment work taking place in Maidenhead town centre, but it could be several years before this was completed and therefore the locality had not changed. More bars and restaurants were planned, which would have a place in the night time economy in addition to the existing premises. She said that neighbouring blocks of flats had only been built in the last few years, and the premises had been there before the flats were constructed.

Sarah Taylor said there were no windows on the ground floor of the premises that would allow passers-by to see inside, and the exterior signage was discreet and did not indicate the nature of the business. Although it was in close proximity to other commercial premises, the venue did not open until after the majority of these businesses had closed for the day. As it was a town centre location, there were other routes to avoid walking past it. John Sennett said when

the premises was open there were always two door staff on duty and there were two sets of double doors, which prevented passers-by being able to see in. It was noted that the premises was near to a church. John Sennett said the premises was closed on a Sunday, and there had never been any conflict between the two venues.

Sarah Taylor reminded Panel members that they should not make a moral judgement on the premises, and should treat it as a legitimate business venture in an industry that was heavily regulated.

It was noted that two incidents had been reported to police, in 2016 and 2019. However the police had not raised either of these as an issue in their submission to the licensing authority. John Sennett explained the 2019 incident had taken place outside on the taxi rank after the premises had already closed. He said the premises had been used as a reference point to allow police officers to attend to the incidents. John Sennett said the premises did not operate a happy hour or drinks promotions, and the clientele was generally of an older demographic to other town centre establishments. Sarah Taylor said establishments with a Sexual Entertainment Venue licence generally attracted less crime and disorder than those venues with an alcohol licence.

John Sennett said the venue's performers would wait inside the premises when waiting to be picked up in either a car or taxi, and many had specific drivers who could take them to and from the venue at discounted rates. They would not wait outside on the rank waiting to be picked up. In addition customers would be told to wait inside the foyer rather than outside.

Member questions to the Applicant

Cllr Bhangra asked about safety and security procedures in place at the venue. John Sennett said performers would be walked either to cars, taxis or the railway station by members of the door staff and would never be left unaccompanied. Some performers travelled to the venue from London and would have their own driver from a taxi company local to them, who they knew.

Responding to questions from Cllr Cannon, John Sennett confirmed there were no unresolved complaints and no other complaints had been made, and that the venue had been closed for the last year. John Sennett said there had been no new buildings in the area in the last year.

Craig Hawkings stated he had no questions for the applicant. He reminded Members of the 14 conditions of the venue's licence.

Other persons' representations

Bijou Dunn, objector, introduced herself and explained she was representing the views of residents living nearby and said she was a resident herself. She said there had been increased footfall in the area and schoolchildren would walk past the premises, although she accepted this was not something the Panel could take into consideration. However she explained this was indicative of the changes to the locality of the area and stated her belief that objections to the premises had not been raised in the past as it was considered to be in keeping with the locality, and this was now no longer the case due to number of new residential units that had been built.

Bijou Dunn drew the Panel's attention to Section 149 of the Equality Act, relating to the Public Sector Equality Duty. She stated that as the premises was a Sexual Entertainment Venue there was a possibility that women were being undermined. She also drew Members' attention to the closure of a branch of Spearmint Rhino in Sheffield as an example of changing localities around the UK, and how Sexual Entertainment Venues could be bad for other businesses in certain locations. Bijou Dunn stated residents disagreed that the character of the area had not changed, and it was planned for new restaurants and bars to open in the new Waterside

Quarter. She said this had been marketed as a desirable location, which therefore made certain other premises no longer appropriate for the locality.

Member questions to other persons

Cllr Brar said she knew the area as a resident and said she did not feel the character of the locality had changed recently. Bijou Dunn said residents did not agree with this and said some buildings in the vicinity of the premises had been demolished as part of the regeneration of the area.

Cllr Cannon asked if anything had changed to the premises themselves that meant it was no longer appropriate for the locality. Bijou Dunn said the premises had not changed its way of operation or the way it regulated itself. She reiterated the objections from residents related to its inappropriateness to the changing character of the area. She said it was possible for the locality to change further during the lifespan of the one year of the licence, if it were to be granted. Rachel Lucas, legal advisor, stated that the Panel had to have regard for the locality at the present time and they could not take into account speculative changes to the character of the area.

Applicant's questions to other persons

Sarah Taylor said she did not have any questions.

Any further questions or anything any party wishes to add

Bijou Dunn asked if gender equality issues were something the Panel could take into account. Cllr Cannon said he believed this was potentially a moral objection, and restated the grounds that the Panel could take into account if they were minded to refuse the application. Rachel Lucas advised the Panel needed to have regard for the Public Sector Equality Duty, and whether granting a Sexual Entertainment Venue licence would unlawfully discriminate against someone of a protected characteristic; in this case, women. Bijou Dunn stated the example of Spearmint Rhino in Sheffield had been referred to Judicial Review, and it had not been demonstrated that gender equality issues had been taken into account by the licensing body. Cllr Cannon said this would be taken into consideration during the Panel's deliberations and Members would be advised by the legal officer.

Applicant's summary

Sarah Taylor said the regeneration of the area was a large project that could take many years, and it was for the Panel to make a decision based on the character of the locality as it stood now. She stated there had been no significant material changes to the locality since the last licence renewal. The premises had been in situ for 21 years and it was for new residents to do their own due diligence on the area before moving there. Sarah Taylor said her client had not had cause to have regular meetings with residents, as may be the case with other premises, as no complaints had been raised. She said her client was a responsible operator and no issues had been raised with the police. Sarah Taylor submitted there was nothing that had been put forward that would justify the refusal of the licence renewal.

Officer Reporting's summary

Craig Hawkings restated the options open to the Members of the Sub Committee. He added there was a potential financial implication in the event of the Panel voting to refuse to renew the licence, in that the applicant had recourse to appeal the decision to the magistrates court and this could incur additional costs.

Decision

After careful consideration of all the evidence, the Panel unanimously voted in favour of renewing the Sexual Entertainment Venue licence, subject to the 14 pre-existing conditions continuing to be met.

The Panel took into account Paragraph 12 of Schedule 3 of the Act and were satisfied that the applicant was a suitable person to hold a licence, and that the licence would not be transferred to any unsuitable person. It was also considered that the number of sex establishments in the locality did not exceed the number that the local authority considered to be appropriate; therefore they were of the view the only possible reason not to allow renewal would be based on the character of the locality. The Panel were unanimous in their view that although the wider area was in the process of being redeveloped, this was ongoing and not anticipated to be completed for some years. They felt the concerns were speculative, and this was therefore not something that could be taken into consideration as a possible reason for refusal. It was also noted there was no history of disorder at the venue. The Panel agreed there was nothing in the relevant Schedule that would provide an adequate reason for refusing the renewal of the licence.

The Panel were advised that they had to have regard to the Public Sector Equality Duty. This needed to be considered when making any decision on behalf of the authority, having regard to the three elements of Section 149 of the Equality Act 2010. The Panel understood that gender was a protected characteristic, and the fact that the dancers were female was relevant to this.

The Panel considered it must be right that the approval of any venue of this nature could not automatically be in contravention of the duty set out in Section 149, by virtue of the fact that Parliament allowed such venues to operate.

Exploring the case referred to by Bijou Dunn, Rachel Lucas advised that it appeared that the case, relating to Sheffield City Council and Spearmint Rhino, was not actually binding authority. It appeared not to be reported and was in fact relating to permission for Judicial Review. Sheffield City Council settled before the case came to Judicial Review, and as such, the legal argument was never tested.

On balance, the Panel considered that granting the application, as sought, would not contravene the Public Sector Equality Duty.

The meeting, which began at 2.30 pm, finished at 4.14 pm

CHAIRMAN.....

DATE.....