

## **MAIDSTONE BOROUGH COUNCIL**

### **LICENSING COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 9 MAY 2013**

**Present:**            **Councillor Parvin (Chairman), and  
Councillors Barned, Mrs Gibson, Mrs Gooch,  
Mrs Grigg, Mrs Hinder, Mrs Joy, B Mortimer, Moss,  
Naghi and Mrs Parvin**

120. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Yates.

121. NOTIFICATION OF SUBSTITUTE MEMBERS

The following substitution was noted:-

Councillor Moss for Councillor Yates

122. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

123. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

124. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

125. EXEMPT ITEMS

RESOLVED: That the Item on Part II of the Agenda be taken in public, but the information contained therein remain private.

126. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982,  
SCHEDULE 3 - RENEWAL APPLICATION FOR SEX ESTABLISHMENT  
LICENCE FOR PLAYERS, 57 HIGH STREET, MAIDSTONE, KENT ME14 1SY

The Committee considered the report of the Head of Democratic Services regarding the renewal application for a Sex Establishment Licence for a Sexual Entertainment Venue for Players, Gentlemen's Club, 57 High Street, Maidstone, Kent ME14 1SY.

The Legal Advisor to the Committee outlined the order of considerations to be made, dealing with early objections received and to consider and determine the application.

The Chairman requested those persons participating in the hearing to identify themselves, this included the Members of the Committee, the Head of Democratic Services, the Legal Advisor, the Committee Clerk, the applicant and his representatives and those making representations who wished to speak.

The Head of Democratic Services introduced his report, highlighting the fact that due to a mistake with the original Notice, the application was re-advertised for a further 28 days. The 107 objections received were in response to the first Notice and, therefore, are early objections in relation to this application. He sought the Committee's agreement to accept them as such. The applicant had no objection to the recommended course of action. The Committee agreed to accept the early objections for consideration.

He outlined the mandatory and discretionary grounds for refusal. He indicated that the premises had operated since 2007, prior to amendments to legislation requiring sex establishment licences for this type of premises. He made reference to the locality, its character and uses of premises in the vicinity. He indicated that if Members were minded to grant then he would suggest that existing conditions should remain in place.

The Applicant's representative then presented his case. He stated that this was an established venue, having been in existence since 2007 and only operates at times when shops are closed. He stated the frontage of the venue was very discreet and was not obvious to passers-by as well as being situated at the bottom end of the high street. Although a number of objections had been received, he felt that in relation to the population of Maidstone, it was very low. Prior to the current legislation and licensing requirements, people had been unaware of the premises use. As a concession to the objections the applicant would be willing to remove the words, "Gentlemen's Club", from the signage.

He stated that there had been no breaches of the current licence, no incidents with the police and all advertising was with the prior approval of the Council. They employ 57 staff (full and part-time) and provide a different type of premises and entertainment for a large town which has a cosmopolitan make-up. A number of letters from local businesses supporting the renewal of the licence had been sent in, as well as Town Centre Management in support, and HSBC have recently opened next door. With regard to locality, numbers and vicinity, he felt that the previous decision is still appropriate and they are not affected by the regeneration of the lower end of the High Street. He informed the Committee that their decision should be based on the situation today and not what might be in the future.

Mr Pemble, the applicant, was then called as a witness. In response to questions, he stated he had a good relationship with the Council and the police and that they have complied with all conditions relating to the venue. He explained that there is always a minimum of two door staff

outside the front door, one in the bar area and one upstairs watching the CCTV cameras to ensure the dancers are safe. He mentioned that they have helped other venues and the police with any incidents elsewhere, whilst keeping the appropriate number of staff at their venue.

Mr Pemble stated that the only other venues open when Players opens are all restaurant/food venues apart from Chicago Rock Café. Mr Pemble informed Members that they are now actually only open from 9.30pm-2am on Tuesdays, Wednesdays and Thursdays and from 8.30pm-2am on Fridays and Saturdays. He said he would be happy for the hours on his licence to be amended to reflect this, if Members wished. He said that he had undertaken his own survey between the hours of 8 and 10 pm over 4 week nights and saw 3 children under the age of 12 in the area. After 20:00 during the week, in the locality of the premises, it was a ghost town with only his customers and some for Chicago Rocks on a Tuesday, otherwise it was quiet with no families. Thursday to Saturday it was club central with clubbers moving from Lockmeadow to the town centre. If the application were not granted then his employees would lose their work as the premises could not continue as a club or bar as it is too small. There are already empty restaurant premises and this premise has failed 3 or 4 times as a bar.

Mr Pemble stated that his understanding of the regeneration of the lower high street is that the area outside Players will be tarmac. He said there were a number of other towns who had Gentlemen's Clubs in the main part of the town, e.g. Covent Garden, Rochester (opposite the Cathedral), Windsor and Ashford's was in the middle of the shopping centre. Mr Pemble also offered to remove the words "Gentlemen's Club" from the front of the venue and from all advertising, if Members wished.

Mr Pemble confirmed that he had never received any complaints about his Club, they operate an Over 21 policy and do not allow anyone entry if they are inebriated or aggressive.

The objectors' representative was then given the opportunity to ask questions of the witness.

In response to those questions, Mr Pemble stated that his survey had been undertaken on Tuesdays and Wednesdays between the hours of 8pm and 10pm; they are not planning to move to other premises, they have been offered premises closer to the main town but they have refused; and he confirmed they are a member of the Night Net, for which payment is made to Town Centre Management. He confirmed that there were sufficient door staff to assist police because the premises were over staffed for their needs.

Members were then given the opportunity to ask questions of the witness.

In response to those questions, Mr Pemble confirmed that on Tuesdays and Wednesdays he has 3 door staff, Thursdays 4, Fridays 4 or 5 and Saturdays 5. Mr Pemble himself is normally at the venue 4 nights a week and is also SIA registered. They do cater for stag nights and will allow

groups of 8 or 10 entry, but only with discretion and judgement on their behaviour. Mr Pemble explained their closing process, stating that the dancers finish at 2am, they will call last orders at 1.45 am and, although the licence allows them to stay open until 4am, they do not serve drinks after 2am but do allow time for people to finish their drinks and leave. If people get drunk in the Club, they are asked to leave. Customers do not need to pre-book and they do not offer food, just bar snacks. There were usually 30-40 customers who drink up and drift out gradually. The licence is for up to 100 but usually 60 would be the maximum, only more 2 or 3 times at Christmas.

He stated they do have flyers agreed by the Council that they hand out at the bottom end of the High Street and outside Muggletons. They avoid areas where families may be. He said that the building is Grade II listed and therefore facilities for disabled guests are difficult. There is nowhere on the ground floor where they can put a disabled toilet and the stairs are not suitable for a stair lift. There are some customers who are wheelchair users but they can be taken upstairs in their wheelchairs. He would be happy to consider better provision if possible.

He stated that they do not cater for hen parties, but do encourage women and they do have couples who visit the Club. He is not aware of any male dancers who provide lap dancing.

The average age range of their dancers is 22-43, although they do have one dancer who is 19/20. The majority (70%) of their dancers are local and the Assistant Manager has worked at the Club for 3 years. They have a smoking area at the rear of the premises which is also covered by CCTV.

The applicant's representative then called a further witness, Emma Sexton, House Mother at Players.

Miss Sexton confirmed that the statement she provided in support of Mr Pemble's application was true. She stated that a lot of the dancers have children, enjoy working at Players as it is a safe and fun environment and helps them to provide for their families. They have a good interaction with the door staff and if a customer started to cause any trouble, they just let the security/door staff know.

The objectors' representative was then given the opportunity to ask questions of the witness but he had none.

Members were then given the opportunity to ask questions of the witness.

Miss Sexton confirmed that she was previously a dancer at Players and became the House Mother one year ago.

The applicant's representative then called Mr Reid, a member of the door staff at Players, as a witness.

In response to questions from the representative, Mr Reid stated that he categorised the area as having a lot of clubbers who travel to and from Lockmeadow. He stated that staff take pride in where they work and ensure the dancers are kept safe.

The objectors' representative was then given the opportunity to ask questions of the witness. In response to those questions, Mr Reid clarified the positioning and number of door/security staff at the premises.

Members were then given the opportunity to ask questions of the witness. In response, Mr Reid stated that it is on discretion as to whom they allow entry and it is from experience that they know how to spot those who could cause trouble and they certainly do not allow anyone who was already inebriated to enter the premises.

There were no questions of clarification from Members or Objectors.

At 11.50 am the Chairman adjourned the meeting for 10 minutes.

The Applicant's representative asked questions of clarification of the Head of Democratic Services. In response to those questions, the Head of Democratic Services confirmed that the Committee should consider the situation as at the date of the decision. The Council's legal adviser stated that case law shows, when considering character and locality, changes to the area can be considered if they are imminent. The Head of Democratic Services also confirmed that the resident situated at 39 High Street had not written to the Council in support or otherwise of the application; there had been no problems or breaches of conditions and advertising material had been agreed with the Council before use.

He also confirmed that the two other applications for SEVs were for a different locality and the Legal Adviser stated that the decisions made are a matter of public record.

The Objector's representative asked the Head of Democratic Services how many inspections had been undertaken at the premises in the last 12 months. The Head of Democratic Services did not know the exact number, but mentioned that inspections were done on a priority basis, i.e. the more problems there are, the more visits there will be. As there had not been any problems at Players, it was likely that there had only been visits approximately every 3 months.

The Objector's representative was then given the opportunity to make his representations.

He stated that written submissions had been provided and circulated prior to the meeting which outlined the basis of the objections that he represents and that, although they agree there is no basis for mandatory refusal of the licence, they believe there are discretionary grounds for refusal, based on location of the premises, the use of other premises in the area and the character of the area.

The objector's representative informed the Committee that he would call 2 objectors to give their view of the character of the area.

Objector 106 at page 90 of the agenda gave his name as Neil Patterson, Chairman of Celebrate Maidstone. In response to questions from the Objector's representative, the Objector stated that the lower High street is the gateway into the town from the river, there are local church communities, schools and secondary schools that walk past the premises to the river. He felt the sexual nature of the club was inappropriate for the Town Centre. He stated Maidstone should be a family friendly town where families and teenage children could come into town. He was thrilled with the continuing improvement but this made his premises in a less appropriate venue.

The applicant's representative was then given the opportunity to ask questions of the objector. In response to those questions, the objector confirmed he felt the area was a commercial area, that the venue had been used for the same type of entertainment for almost 6 years and that local businesses had written in to support the application.

Members were then given the opportunity to ask questions of the objector. In response to those questions, the Objector stated that he was not aware, as Chairman of Celebrate Maidstone, of any family events planned currently that are likely to go on past 8 or 8.30 pm.

There were no questions of clarification.

Objector 100 at page 181 of the agenda gave his name as Mr. Ghinn – In response to questions from the Objector's representative, the Objector stated that he loved Maidstone as a place to live, work and do business from. He stated that the overall character of Maidstone Town Centre, as it is today, is not appropriate for this type of venue. He said he felt whether you were dining on The Barge (on the river) or in Jubilee Square, you were in the "heart" of Maidstone. He feels that the town is now seeing the fruit of a process of improvement in the town centre.

The applicant's representative was then given the opportunity to ask questions of the objector.

In response to those questions, the objector stated that he would not know if the venue was thriving, but agreed it is a part of Maidstone's night time economy and that the area is different now to years ago. He felt the locality should cover Gabriels Hill, Week Street and down to Lockmeadow.

Members were then given the opportunity to ask questions of the objector.

In response to those questions, the objector stated, in his personal opinion, Maidstone can cope with the number of clubs that it currently has and confirmed that his objection was a personal one.

The Objector's representative then went on to state that the building is Grade II listed and in a conservation area that is there to promote and enhance the local area. The objection is on the basis of locality and the objectors ask that the same considerations given to the previous two applications that were declined, be given to this application in that the number appropriate for this area should also be nil.

There were no questions of clarification.

With regard to the possibility of further conditions, the applicant's representative confirmed that the applicant would be happy to accept a change to the opening hours, the removal of the words "Gentlemen's Club" from all advertising and to look at the possibilities for better disabled access.

The objector's representative stated that no condition would satisfy their objection to this application.

The Objector was then given an opportunity to sum up, following which a lunch break was taken at 1.05 pm. He said that objections were significant and the public did not want the premises here. They had not been aware of the first application but just because there had been a grant before it did not necessarily mean there should be a renewal. The area was changing already with HSBC having arrived and the improvement works beginning. Little weight should be given to letters in support as they had been pursued by the applicant. This would be the time to capitalise on previous resolutions. The results of the applicant's survey should be taken with a pinch of salt and the premises be considered as unsuitable as it is on a main thoroughfare and incompatible with uses in its vicinity.

The meeting re-convened at 1.45 pm and the applicant's representative was then given the opportunity to sum up. He said that the decision taken must be proportionate if an existing licence were to be removed. There are wider implications for the applicant and his employees. Local businesses have not objected and some weight should be given to support, comments from staff and the survey. There has been no change to the locality since grant and regeneration works have not fully begun. The earliest suggested completion is October, a considerable portion of a 1 year licence, and if there has been a change of character in one year there is again an opportunity to reassess the position. There has been no police observation and no evidence of crime and disorder. The character of the area is predominantly commercial and schools and churches are some distance away. People are generally unaware of the premises and its impact is not significant. It is a responsibly run premises.

The Committee then retired to consider the application and

**RESOLVED:** That the application made by Mr. James Elliott Pemble on 26 March 2013 for renewal of a sexual entertainment venue licence for premises at 57, High Street, Maidstone, under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, would be granted.

The Committee considered; the report and oral presentation of the Head of Democratic Services, the application and all accompanying documents provided by the applicant, the submissions by Mr. Wilson of counsel for the applicant and the evidence of his witnesses; Mr. Pemble, Ms. Sexton and Mr. Reade, the 107 objections received early in relation to an identical application made on 04, March 2013, (the Committee having exercised their discretion to have regard to them), the submissions of Mr. Payne representing 6 objectors, whose objections are at pages 181, 190, 32-33, 37, 161-162 and 132-133 of the agenda and the evidence of Mr. Pattison and Mr. Ghinn, whose objection are those at pages 190 and 181 of the agenda respectively.

Members found that the nature and content of the relevant entertainment proposed was, lap dancing, pole dancing, performances of dance in a dance area and striptease. The hours applied for were Monday to Sunday 19:00 to 02:00 the following day and New Years Eve 19:00 – 03:00. In the course of the hearing the applicant indicated that they would be content to accept a commencement hour of 20:30. There were, during a conditions discussion, further amendments stated to be acceptable. The applicant stated that he would be prepared to remove the words, "Gentlemen's Club" from the premises frontage and any advertising signs and that he would be happy to review the possibility of providing disabled access to first floor toilet facilities, although he was not sure if this could be achieved due to the nature of the premises.

In considering their decision Members considered the statutory grounds for refusal of such applications and all other relevant considerations :-

#### MANDATORY GROUNDS

There was found to be no evidence that any of the mandatory grounds under Schedule 3, paragraph (1) were engaged and none were raised by the Police or objectors.

#### DISCRETIONARY GROUNDS

##### SUITABILITY OF APPLICANT ETC. AND LAYOUT ETC. OF PREMISES.

No evidence was found to be relevant to engagement of discretionary grounds for refusal in Schedule 3, paragraph 12(3) (a), (b) and they were not raised by objectors. In relation to (a), the evidence available indicated that the applicant managed the premises well and had not caused issue to the licensing department, there were no Police observations. Whilst d) (iii), was raised in the submissions of Mr. Payne, referring to paragraph 12.13 of the Council's policy, on the basis that the character of the premises were inappropriate having regard to their visible position adjacent to a retail thoroughfare. Members considered that their visual impact in this particular location, for this operation, together with a later commencement hour and reduced signage would be minimal and not such as to render renewal of the licence inappropriate.

#### THE RELEVANT LOCALITY

Submissions from objectors on what was the relevant locality for the premises referred to Maidstone town centre and at the hearing particularly



to the area from the River to Jubilee Square as the heart of the town. The locality being characterised by its mixed uses including shops, restaurants, cafes and other businesses, residential, entertainment venues, bus stops and a thoroughfare into and out of town linking with the river area also numerous places of worship, as a conservation area and an area of regeneration.

The applicant submitted that the premises were in the relevant locality decided on the original grant of his licence, with a determination of one SEV as appropriate for that locality, in relation to the specific location of the site and specific operation. He referred to being at the far end of the High Street and not being at the heart of the town centre. The applicant characterised the locality as predominantly commercial and different in the daytime to night time. In their submission the locality was a retail thoroughfare during the day but at night in this part of town the focus becomes a thoroughfare for bars and nightclubs and other entertainment for adults. The people using the thoroughfare of the High Street are using the night time economy.

Although members noted their previous decision in respect of this premises they nonetheless considered that each application is to be decided on its own merits and at the time it was being heard. Accordingly Members took the view that it was necessary to consider the relevant locality afresh.

Members found that the relevant locality is, the High Street area between Mill Street and the bridge area, (Bishops Way/Fairmeadow). This being characterised by being predominantly commercial mixed uses, a number of which are not part of the night time economy, but none of which are particularly family orientated. At this time there have been no significant changes since their last decision but they note that phase II of the High Street regeneration project had recently commenced with completion due in the autumn, therefore the position may change as use of the new area develops.

#### CHARACTER OF THE RELEVANT LOCALITY

Members further considered the character of the relevant locality finding it to be being predominantly commercial mixed uses, a number of which are not part of the night time economy, but none of which are particularly family orientated. It is a thoroughfare during the day but at night in this locality it is mainly a thoroughfare for bars and nightclubs and other entertainment for adults, not frequented by children. At this time there have been no significant changes since their last decision but they note that phase II of the High Street regeneration project had recently commenced in this locality, with completion due in the autumn, therefore the position may change as use of the new area develops.

An SEV of the type applied for, with an entrance on the highway, would not be inappropriate in this locality out of the heart of the town and of this character. Impact in this particular location, for this operation, together with a later commencement hour and reduced signage would be minimal and not such as to render renewal of the licence inappropriate.

Members sought to carefully limit their consideration to such representations and submissions as directly assisted in the determination of the character of the relevant locality and placed to one side those submissions and representations that were based on understandable but none the less inadmissible moral grounds.

Members also considered submissions that crime and anti-social behaviour would increase but did not find they had sufficient evidence to support this view, independent of perception or fear of increased issues attributable to the proposed premises.

#### USE OF PREMISES IN THE VICINITY

Consideration was then given to the vicinity of the premises and it was found that this was a smaller area than relevant locality, being the more immediate area around the premises at the far end of the lower High Street, (Mill Street to the bridge area). The SEV was not considered to be inappropriate to the vicinity at this time. It was noted that phase II of the High Street regeneration project had recently commenced in this locality, with completion due in the autumn, therefore the position may change as use of the new area develops.

Members also considered submissions from objectors about the effect on, places of worship and schools but these did not fall within what members considered to be the vicinity of the proposed SEV, being some distance away and unlikely to be directly affected.

#### NUMBER OF SEVs APPROPRIATE TO THE RELEVANT LOCALITY

Members, having found that the relevant locality is the High Street area between Mill Street and the bridge area,(Bishops Way/Fairmeadow) then went on to consider what is the number, if any, of appropriate sex establishments in the relevant locality. Members considered specifically whether a sex establishment of the type applied for is appropriate to the relevant locality. The number of SEVs considered appropriate for this locality is one. Members were of the view that one SEV for this locality would be appropriate, at this time, as it was not in the heart of the town centre and changes which may occur to the character of the area when regeneration is complete are not yet evident . No more than one such premises would be appropriate as the locality should not be an area with a concentration of such premises which could have an impact collectively that one would not have alone. They did feel that the current premises had minimal impact on the locality and its current character, as evidenced by their own knowledge and letters from businesses, and would have even less with the hour's amendment and signage condition imposed.

#### OTHER CONSIDERATION

Human rights issues were considered and the rights of the licence holder as against objectors and the general public interest. Whilst members did not give great weight to the rights of the licence holder as these may be interfered with in the public interest and as allowed by law they did not feel that the public interest generally required refusal of a licence renewal at this time, for all the reasons given. Members did not feel it necessary to

give consideration to employment issues and effects on employees to reach their decision.

CONCLUSION

FOR ALL THESE REASONS THE APPLICATION WAS GRANTED.

TERMS/CONDITIONS.

The licence will be granted for the activities applied for Monday to Sunday 20:30 – 02:00 hours the following day, New Years Eve 20:30 to 03:00 the following day.

To further minimise any impact upon the use of the locality as a thoroughfare.

An additional condition will be imposed upon the licence, that:-

The words, "Gentlemen's Club" will be removed from signs on the premises frontage and from any advertising signs for the premises within one month from the date of receipt of this decision.

To further minimise any impact upon the use of the locality as a thoroughfare.

INFORMATIVE:

The licence holder should review and use his best endeavours to improve the disabled access to toilet facilities at the premises. He should demonstrate to the Licensing section within 3 months that he has explored possibilities with relevant officers at Maidstone Borough Council.

127. DURATION OF MEETING

10.00 a.m. to 3.30 p.m.