

MAIDSTONE BOROUGH COUNCIL

Licensing Committee

MINUTES OF THE MEETING HELD ON MONDAY 19 OCTOBER 2015

Present: Councillor Mrs Hinder (Chairman), and Councillors Mrs Blackmore, Greer, Mrs Grigg, Mrs Joy, Naghi, Newton, Mrs Ring, Mrs Robertson, Springett and Vizzard

57. APOLOGIES FOR ABSENCE

Apologies for absence were received from:

- Councillor McLoughlin
- Councillor B Mortimer
- Councillor Mrs Parvin

58. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

- Councillor Ring for Councillor Mrs Parvin
- Councillor Vizzard for Councillor B Mortimer

59. NOTIFICATION OF VISITING MEMBERS

There were no visiting members.

60. DISCLOSURES BY MEMBERS AND OFFICERS

Councillor Naghi declared he had visited the premises the subject of the hearing in the past but had not discussed this application with anyone.

61. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

62. TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.

RESOLVED: That the items on the agenda be taken in public as proposed.

63. LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, SCHEDULE 3 – APPLICATION FOR SEX ESTABLISHMENT LICENCE – FOR PLAYERS, GENTLEMENS’ CLUB, 57 HIGH STREET, MAIDSTONE, KENT,

The Chairman requested those persons participating in the hearing to identify themselves. Those present included:

- Members of the Committee as listed
- Jayne Bolas, Legal Advisor, Mid Kent Legal Services
- John Littlemore, Head of Housing and Community Services
- Tessa Ware, Democratic Services Officer
- Stephen Thomas, Legal Representative for the Applicant
- Emma Sexton, the Applicant
- Benjamin Williams, Assistant Manager, Players Gentlemen's Club
- Kimberley Jones, House Mother, Players Gentlemen's Club
- Sara Alam, Objector
- Carlos Aguilar, Objector's companion
- Josh Couper, Kent Messenger

The Chairman directed those present to the procedure for the Hearing laid out on pages 91 and 92 of the agenda papers.

The Chairman explained, two sets of supporting information had been received since the publication of the agenda on 8 October 2015. One from the solicitors for the Applicant, distributed to Members via email on 13 October 2015. The second from the Objector, received the on afternoon of 19 October 2015, yet to be circulated to Committee Members.

The Council's Legal Advisor referred to paragraph 11.6 of the Council's policy in respect of the Licensing of Sex Shops, Sex Cinemas and Sexual Entertainment Venues. She advised the Committee they could use their discretion when deciding whether to accept these documents.

The Committee was also informed they could adjourn the hearing for a short period of time to read the representations or they could adjourn the hearing to a future date or they could refuse to take the representations and continue with the hearing.

Both Applicant and the Objector confirmed they were happy for the Committee to accept both representations and for the Committee to adjourn for a short period to read them and then reconvene the hearing, neither preferred a future date.

RESOLVED: That the Committee adjourn from 6:11pm to 6:30pm in order to read the representations received from both the Applicant and the Objector.

The Hearing reconvened at 6:33pm.

The Head of Housing and Community Services presented his report and drew the Committee's attention to the licensing history of the venue. He pointed out that the licence for a Sexual Entertainment Venue in respect of Players, 57 High Street, Maidstone, had been transferred to Emma Sexton from James Pemble at the Licensing Committee meeting on 11 June 2015. The Committee was reminded this hearing was for the

renewal application for this licence, received on 16 April 2015, from Emma Sexton.

The Head of Housing and Community confirmed there was one objector, who was present. He went on to confirm that the Committee should consider the Mandatory and Discretionary grounds listed on page 4 of the agenda when reaching their decision.

He went on to point out the following:

- Mandatory, point 2.12 of the report - none applied to this application;
- Discretionary, point 2.3 of the report, of which:
 - a), b) and d)iii – were not engaged in the case of this application there being no evidence that they applied and they had not been raised by the objector;
 - c) and f) i and ii were engaged relating to the number of premises, if any considered to be appropriate for the locality and whether grant of renewal would be appropriate to the character of the locality or the use to which any premises in the vicinity are put.

The Committee was reminded they were not considering the number of Sexual Entertainment Venues (SEVs) in the Borough or the issue of a nil policy, raised by the objector, this evening. When the current policy was adopted in March 2011 it was agreed not to set a limit or a nil policy for SEVs because each case had to be considered on its merits at the time of the application in any event. If the policy was to be changed any proposal would need to go out to consultation, and following consideration of any responses amendments adopted.

The Committee's attention was drawn to their options when making their decision on page 13 of the agenda, point 3.

The Head of Housing and Community Services ran through the procedure for the hearing and explained the Committee would make the decision at this meeting and the reasons for their decision would be published within seven days of the meeting.

The Chairman invited the Applicant to address the Committee.

Mr Stephen Thomas, legal representative for Players, addressed the hearing and asked that the licence application for Players be considered on its own merits. He explained the negative statements received from the Objector regarding SEVs did not apply to Players. The Police had described the venue as one of the safest, quiet and well run venues of this kind they knew of.

Mr Thomas went on to explain the venue was first granted a SEV licence, unopposed, in 2011. The licence was renewed in 2013. Following hearing

numerous objections it was approved and considered to be in a suitable area with mixed use retail and commercial units where there could be one premises as appropriate. It contributed to the diverse night time economy of the town and had been well run by Ms Sexton, who was House Mother before becoming the licensee in April 2015.

Ms Sexton explained the role of House Mother was to provide support for the dancers, independent from the venue's management, and to help protect the welfare of the dancers.

Ms Sexton went on to explain the Players rules published with the agenda were out of date. The pole for pole dancing had been removed and it was never the case that dancers were fined for not dancing on the pole. She did confirm that dancers were fined for lateness if it became a regular occurrence or they were particularly late. Ms Sexton said she felt the objections raised regarding the renewal of the licence demonstrated the Objector misunderstood how the venue was run. She went on to explain that dancers paid £40 to the venue for performing or 25% of their nightly earnings, whichever was greater. Average nightly earnings for a dancer were around £400-£600, the club could earn just £400 from dancers on a typical Saturday night when 10 dancers were working.

Mr Thomas explained the rules included in the papers were approved by the Council when the licence was last renewed and were provided for best practice, but stated he and his client understood the concerns raised.

Mr Thomas went on to explain the dancers were self-employed and if the licence was not renewed they would lose their income. Mr Thomas and his clients were happy to discuss and clarify any of the points raised by the Objector.

Mr Thomas told the Committee when Ms Sexton received the agenda papers for the Hearing she contacted all the businesses in the area which were open the same hours as Players. Virtually all had written in support of the licence renewal as a result of this contact.

Mr Thomas described Players as a fun night out with clientele which varied from individual men and groups of men, to couples and groups of women. He went on to state the letter of objection demonstrated a substantial misunderstanding of the nature of the business. Mr Thomas pointed out the letters of support from some of the dancers describing their reasons for working as a dancer and how they felt about working at the venue. Mr Thomas explained there were many more letters of support from other dancers but it was decided to just submit a few as an example to avoid repetition.

Mr Thomas said he and his clients were more than happy to meet with the Objector to discuss her experiences when walking past the venue. Her experience was unacceptable and any clients or door staff found behaving in this manner would be barred from the venue. He went on to say this was the one and only time he and his clients were aware of this happening.

Mr Thomas introduced Ms Jones, Dance House Mother and dancer at Players who then went on to explain her role. She explained she and the other dancers found the objection distressing to read. She explained the dancers were independent women who were in control of what they did and did it through choice in a well supported environment.

Ms Sexton confirmed that the venue ran CCTV in every area of the club including the public and private areas. There were 12 to 13 monitors which were monitored by trained security staff at all times.

Ms Sexton went on to explain that only two girls were permitted in the smoking area at one time for safety purposes and to avoid any unnecessary contact with customers.

Mr Thomas summed up by saying the venue attracted a mix of customers in an area of mixed businesses on the peripheral of the town centre. The business was quiet and did not cause any nuisance and asked the Committee to adopt the recommendation to grant the renewed licence.

The Chairman asked if the Objector had any questions for the Applicant.

In response to questions by the Objector Mr Thomas stated the actions of the previous licensee were nothing to do with Ms Sexton and it would be wrong to hold Ms Sexton or the venue responsible for the actions of a third party.

Ms Jones was asked why it was necessary to have a House Mother. In response Ms Jones explained the role and also explained venues such as Players was traditionally run by a male manager. The House Mother role provided an element of independence from the management which focussed on the dancers' welfare.

In response to further questions, from the Objector, Ms Jones re-iterated the Players House rules included in the agenda papers were in need of updating. She went on to explain that dancers were not allowed to bring alcohol onto the premises and were allowed to have a maximum of two alcoholic drinks while on duty. However, most dancers only drank soft drinks.

The Chairman invited questions from Members of the Committee.

Ms Sexton responded to questions by stating the fines outlined in the House Rules and Private Dance Rules provided in the papers were very rarely given out to the dancers. There would be a fine given to a dancer who was extremely or continuously late, but normally nothing else.

Mr Thomas stated that the dancers were self-employed and as such were responsible for their own tax and National Insurance. This is not something Players would be involved in.

Ms Sexton informed the Committee that Players had its own Public Liability Insurance and dancers were responsible for organising and paying for their own self-employed related insurances.

Mr Williams, Assistant Manager at Players, confirmed that all CCTV records are timed and dated. He stated that legally Players were required to keep all CCTV records for 30 days, but they were able to keep them for up to 90 days.

Mr Williams confirmed that during week nights there are usually around 70 customers through the door. At weekends there could be anything up to 150 customers but not all at the same time.

Mr Williams stated he attended meetings with the Police every three weeks and no issues of concern had been raised.

Ms Sexton explained a misunderstanding on page 5 of the Objectors representation. She confirmed there is CCTV in all areas of the venue including the upstairs room. The red light, referred to being outside of the upstairs room, was switched on when there are six people in the room. No further dancers are permitted to enter because the CCTV could not pick up any more than six people at a time in this room.

Ms Sexton stated that all dancers were aged over 18. At the present time one dancer was aged 18. Customers also have to be over the age of 18 to enter the venue.

Ms Sexton stated that there had been no fire inspection in the last nine months, but they had their own fire risk assessment and Maidstone Borough Council Licencing Department had last visited on the evening of 17 October 2015.

The Chairman invited Ms Sara Alam, the Objector to address the Committee.

Ms Alam explained she had objected to the renewal of the licence because every time she had walked past the venue she had been leered and jeered at by men outside. She explained this had happened to her in other places, but never more so than outside this venue.

Ms Alam stated that women should be able to walk past venues such as this without being harassed. Venues such as this encouraged sexual harassment.

Ms Alam informed the Committee she felt that sexual harassment was so much a part of our every-day life, when she saw the Licence Renewal Notice outside the venue, she saw this as her opportunity to do something about it.

The Chairman invited the Applicant to question the Objector.

Mr Thomas stated that he and his clients wanted to deal with the issues raised by Ms Alam and urged her to contact them if she ever experienced harassment outside the venue again. It should not be a normal part of daily life. It would be dealt with by his clients. Customers caught harassing anyone outside of the venue would be banned and staff caught doing it would be dismissed. The Objector confirmed that she would make contact if she experienced further problems. She said that she had not reported the matter to the Police as she felt it was such a part of everyday life it would not be dealt with.

The chairman invited the Committee Members to ask the Objector questions.

Ms Alam responded to questions by stating the harassment had been in the form of shouting, whistling and intimidating behaviour. She had not reported it to the Police as she had felt it would be a waste of time. She stated she should not have to cross the road or change her route to avoid being harassed.

Ms Alam explained she had based her objection statement on the information set out in the agenda papers, her own personal experience and studies of sexual abuse and exploitation. It had been established this evening that the House Rules provided in the papers were out of date and were in need of updating.

Ms Alam told the Committee she had experienced the harassment when she had walked past on her way out in the evening between 8pm and 10pm and on her way home between 12 midnight and 2am. She was mainly on her own at these times. She said she saw not noticed anyone who looked like door security outside of the venue during these times.

The Chairman asked if anyone had any further questions.

In response to a question from a Committee Member Ms Sexton confirmed the venue had no female door security staff but this would be something they would consider for the future.

In response to a further question Mr Williams confirmed there were three door security staff on duty during week night opening and four during weekends. He confirmed that all door staff were Security Industry Authority (SIA) trained by external trainers.

The Council's Legal representative set out the legal advice which clarified the discretionary grounds for refusal of the licence (c) and explained that there could be a decision for nil SEVs appropriate in a locality, but nil SEVs borough wide would need to be consulted on to change the existing policy. She went on to explain that each application should be judged on its own merits. Even if the policy did advocate nil SEVs throughout the borough, the Committee would still have to consider each application on its own merits. The Committee was reminded that this licence had been renewed before, but the Committee did not have to renew it again. However, they would need to have a good reason, not necessarily a change in

circumstances, for a refusal. The Committee would need to consider the locality of the SEV, its character and how many other SEVs were in the locality (if any) and whether granting the licence renewal would be appropriate.

The Chairman asked all to leave the hearing, with the exception of the Committee and their legal representative in order for them to make their deliberations.

The Chairman confirmed that a decision would be made at this meeting and the reasons for the decision would be published within seven days.

RESOLVED:

That the Committee decided the application made by Ms. Emma Louise Sexton, on 16, April 2015, 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 on the existing terms and conditions together with additional conditions.

That the Policy remain as it is without predetermining localities and numbers of Sexual Entertainment Venues.

The full decision notice published within seven days of the meeting is attached.

**MAIDSTONE BOROUGH COUNCIL
LICENSING COMMITTEE
19, October 2015.**

Decision on Application for Renewal of a Sexual Entertainment Venue Licence – Players, 57, High Street, Maidstone. (Local Government (Miscellaneous Provisions) Act 1982, Schedule 3.

The Committee decided that the application made by Ms. Emma Louise Sexton, on 16, April 2015, 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 on the existing terms and conditions together with additional conditions.

The Committee considered; the report and oral presentation of the Head of Housing and Community Services, the application and all accompanying documents provided by the applicant, the submissions by Mr. Thomas solicitor for the applicant and the evidence of his witnesses; Ms. Sexton, Ms. Jones and Mr. Williams, the objection of Ms Alam at page 36, Appendix C of the agenda and supporting documents dated 19, October 2015 together with her submission at the hearing.

Members found that the nature and content of the relevant entertainment proposed was, lap dancing, performances of dance in a dance area and striptease. The hours applied for were Monday to Sunday 20:30 to 02:00 the following day and New Years Eve 20:30– 03:00.

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 objector.

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 d) (iii) and they were not raised by the objector. 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.

THE RELEVANT LOCALITY

The objector referred to the premises as central to Maidstone, in a very prominent position and in the Borough's High Street. She referred to The

locality being characterised by proximity to Jubilee Square with its use for civic and community events and nearby restaurants, cafes and a youth club, and being on a main access route for buses and to regeneration of the High Street.

The applicant submitted that the premises were in the relevant locality decided on the original grant of this licence, with a determination of one SEV as appropriate for that locality, in relation to the specific location of the site and specific operation. The premises were referred to as 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 a mixed use area of retail and commercial and different in the daytime to night time. The people using the thoroughfare of the High Street when the premises are open using the night time economy and the premises contributing to the diverse night time economy of Maidstone.

Although Members noted their previous decisions 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, retail during the day and other commercial, including various licensed uses at the time this premises is open none of which are particularly sensitive in nature. At this time there have been no significant changes of character since their last decision and they note that phase II of the High Street regeneration project was completed in October 2013.

CHARACTER OF THE RELEVANT LOCALITY

Members further considered the character of the relevant locality finding it to be characterised by being predominantly commercial mixed uses, retail during the day and other commercial uses, including various licensed uses at the time this premises is open, none of which are particularly sensitive in nature. At this time there have been no significant changes of character since their last decision and they note that phase II of the High Street regeneration project was completed in October 2013. 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 was completed in October 2013.

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 commencement hour of 20:30 and little signage would be minimal and not such as to render renewal of the licence inappropriate.

Members sought to carefully limit their consideration to those representations and submissions that directly assisted in the determination of the character of the relevant locality and placed to one side any that were based on matters irrelevant to the statutory grounds engaged.

Members also considered submission that sexual harassment and exploitation and trafficking generally would increase but did not find they had sufficient evidence to support this view, relating to this application and its specific facts independent of perception of increased issues attributable to premises of this type.

However, Members were concerned by the objector's evidence that she had experienced harassment when passing the premises, by way of shouting and jeering, from persons queuing to enter or leaving the premises, on 6 to 7 occasions in the last year. Any such harassment is not considered acceptable behaviour and not condoned at a licensed sexual entertainment venue premises. Whilst not doubting the objector's account Members had no other evidence over the period of the licence for this premises, no Police observations, or complaints to the council or the Police or reports from CCTV indicating the premises as a source of harassment. There are also other night time economy premises in the locality.

The applicant confirmed that she had no knowledge of any such issues and had received no complaints of such behaviour. She would deal with any such complaints robustly and any customer of the premises found to be involved in harassment of anyone in the immediate vicinity of the premises would not have such behaviour tolerated and would be barred from future access to the premises. The applicant also confirmed that contact details, would be provided to the objector, for premises management and their solicitor to provide a mechanism for reporting any issue for investigation by them and any report would be taken seriously.

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 had been completed in this locality.

Members also considered information in the report about the proximity of, places of worship, schools and other recreational spaces including Jubilee Square 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, particularly during the times the premises would be open.

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 there have been no significant changes to the character of the area. No more than one such premise 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 supplied by the applicant.

OTHER CONSIDERATIONS

Human rights issues were considered and the rights of the licence holder as against the objector 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 had regard to their public sector equality duty under s149 of the Equality Act 2010 and the need to eliminate sexual harassment and advance equal opportunity between the sexes. Members felt that attaching additional conditions to the renewed licence was appropriate and proportionate to protect those in the immediate vicinity of the premises from any harassment and protect equal use of the area.

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 ON THE TERMS AND CONDITIONS APPLIED FOR WITH ADDITIONAL CONDITIONS SET OUT BELOW.

ADDITIONAL CONDITIONS.

- All premises rules documents must be reviewed and updated to correctly reflect current practice, for example removal of reference to pole shows and dancers being involved in promotions as referred to at the hearing. The revised documents should be submitted, within 28 days of the date of issue of this licence, to the Head of Housing and Community Services to confirm approval and form part of the premises information. Any notices displaying these

documents on the premises or handed to employees should be amended within 7 days of the date of confirmed approval.

- A sign shall be placed in a prominent place at each exit from the premises, where it can be easily read, stating that customers are reminded to leave quietly and consider the impact of their behaviour on those in the locality.
- All current and any new door staff shall be specifically advised by management of the premises that those customers awaiting entry to and leaving the premises should be encouraged to behave appropriately and under no circumstances to harass those in the vicinity. Harassment is not to be tolerated.
- A member of door staff at the entrance/exit must have clear sight of the outside of the premises at all times when there is a queue outside or persons leaving the premises.

Members' reason for the additional conditions is to ensure customers enter and leave the premises responsibly and provide appropriate and proportionate protection from any risk of harassment to those in the immediate vicinity arising from the premises.

INFORMATIVE.

The licence holder should consider whether some use of female door staff would encourage the maintenance of appropriate behaviour in the immediate vicinity of the premises should harassment be found.

64. DURATION OF MEETING

6:00pm to 8:30pm