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## **Deep Blue Supplementary Information**

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# Agenda Item 5

## APPLICATION FOR PROPOSED SEXUAL ENTERTAINMENT VENUE

DEEP BLUE  
36 WELLINGTON STREET  
LEEDS  
LS1 2DE



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**Martin James Nicholson**  
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**6<sup>TH</sup> November 2013**

# Proposed Sexual Entertainment Venue – Deep Blue, Leeds

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## **ABOUT THE SURVEYOR**

My name is Martin Nicholson, I am a Chartered Surveyor and Registered Valuer who has been practicing in the Licensing and Leisure world since 1990 qualifying as a Chartered Surveyor in 1994. I became Managing Director in 2003 at BROWNILL VICKERS LTD, 82 QUEEN STREET, SHEFFIELD S1 2DW which is a firm of Chartered Surveyors and Commercial Agents based in Sheffield but working throughout the Midlands and the North. Brownill Vickers were established in 1884.

My work involves a range of commercial activities including rent reviews, lease renewals, valuations for purchase and disposal and lending as well as marketing. A specialism that I have, having worked for Brownill Vickers for over 20 years is in property aspects related to licensed and leisure. On a daily basis Brownill Vickers are involved in all aspects surrounding public houses, bars, restaurants, hotels and other leisure property.

Brownill Vickers are corporate members of the BII (British Institute of Inkeeping) website [www.bii.org](http://www.bii.org) and also corporate members of the FLVA (Federation of Licensed Victuallers Association) website [www.flva.co.uk](http://www.flva.co.uk), and indeed I received a great accolade in February 2013 receiving a Certificate of Merit from the FLVA for work undertaken in assisting them over the years.

In addition and something that I think is particularly relevant for this report is that in Sheffield I am also a Best Bar None Assessor website [www.bbnuk.com](http://www.bbnuk.com). The Best Bar None Organisation was set up originally by Manchester Police to help promote and ensure safety in Manchester City Centre. The group has been successful and Best Bar None has now extended into many towns and cities across the country carrying out the same work which in basic terms is to ensure that each premises that receive Best Bar None Accreditation is safe for use by staff and patronage. I have been an Assessor in the Sheffield City area for four years and see all types of licensed property. I believe that I am very qualified to help with this application for relicensing of a sexual entertainment centre.

I, Martin James Nicholson, hereby confirm this Report has been undertaken by me in accordance with the version of the Practice Statement & Guidance Notes issued by the Royal Institution of Chartered Surveyors in respect of Surveyors Acting as Expert Witnesses and effective from the 1<sup>st</sup> January 2009.

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## 1. INTRODUCTION

- 1.1 I have been instructed to consider the location of the premises in question, the locality and extent to which their use as a licensed sexual entertainment venue might impact on the character where the premises are sited. However, from the outset it should be noted that these premises have traded in a similar fashion here since at least 2003 to my knowledge and there have been no reported issues here for the period of the last license, i.e. for the last 12 months.
- 1.2 In order to prepare my evidence I have visited the city centre and assessed the current impact of the premises.
- 1.3 One of the first things I saw when entering the property was a Challenge 25 Poster which means that the door and bar staff try to ensure that people are 25 or above. There are well established staff here including door staff control. Whilst at the property I was informed that they cannot recall a single incident in the property within the last 12 months of the existing licensing period.

## 2. THE PREMISES TO WHICH THE APPLICATION APPLIES LOCATION AND DESCRIPTION

- 2.1 The application and premises are situated on the north side of Wellington Street, between City Square and King Street. It is an established location which has developed over the last 10-15 years and is in the southern area of the professional quarter of Leeds City Centre. The property is sited between the West Riding Public House to the west and the Majestic Building to the east (which was formerly a nightclub). Wellington Street itself is a busy thoroughfare, being one way immediately outside the property and also a busy arterial public transport route. Wellington Street is also a thoroughfare for taxis of an evening which gives safe well lit passage to customers.
- 2.2 As stated the property is situated in an area where over the last 10 years or so many office developments have been built and it should be noted that many of these developments have occurred and been occupied whilst the subject premises have been in existence. I am not aware of any lettings having not occurred because of the established use of this property and therefore see no reason why a re-license application should not be favourable. There is a major office development yet to occur immediately across the road and this has been frustrated because of the economic turmoil that has prevailed since 2008, but I am sure will be redeveloped in the next 2-5 years.
- 2.3 There are other uses in the area including ground floor restaurants and service providers and a few public houses as well as the Queens Hotel. I do not feel that the use of the subject property distracts from any other use in the locality. I consider the passing view of the subject premises, on Wellington Street, to be quite opaque. There is no particular aspect of the front of the property that dictates this is a sexual entertainment venue or particularly a lap dancing venue. I think the present owner and applicant has done rather well in creating an 'understated' signage for such a business and I might expect this to be rewarded. This can be seen from the photograph above.
- 2.4 The premises are in an area described as being a 'prime office quarter' in the City Centre. The point I would wish to make here is that the majority of

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workers who come into the area work typically normal office hours, Monday to Friday 8.00am to 6.00pm. This venue only opens as per the existing licensing conditions from 10pm through to 4am or 5am. Therefore it should be noted that the people who come to this venue invariably do not mix with those who work in the area, other than on odd occasions. It should also be noted that clearly this venue being sited where it is has not stopped the offices being built and occupied in the immediate locality.

- 2.5 The subject premises are situated in a substantial Conservation Area which encompasses most of the city centre stretching from Crown Point Bridge in the south east to the Infirmary in the north west. It is a Conservation Area which includes areas with different characters.
- 2.6 It is a significant point to note that from the representations submitted that those who run or work in businesses in the vicinity do not object to the subject premises.
- 2.7 The property comprises a licensed unit which I first visited professionally in 2003. The property comprises a small forecourt and main entrance into a reception area with a waiting area and then two steps which lead into a very nice bar area with a long wall bar servery with dance booths off the ground floor level along with a disabled w.c. and there are more dance booths at first floor level used for overflow office accommodation, ladies and gentlemen's toilet accommodation and a manager's flat.
- 2.8 The rateable value of the property is £28,000. The rateable value is based on the square foot of the venue as witnessed by the District Valuer and is what the District Valuer believes that the notional rental should be as of 1<sup>st</sup> April 2008. Therefore this venue has been in operation for a long time and contributes a significant amount of taxation which would be lost if the license was not renewed.
- 2.9 In my experience this is a particularly well run unit run by competent operators who have traded from here themselves for over five years. Using my experience and also being a Best Bar None Assessor I would say that the policies are in place for this to receive good accreditation and I note that there are a significant number of CCTV cameras around the property including one in every booth area which promotes clear safety for both staff and patronage. I also noted that in each dance booth there was a set of rules and code of conduct to be abided by customers.

### **3. THE NATIONAL POLICY AND GUIDANCE – SEXUAL ENTERTAINMENT VENUES**

- 3.1 The Home Office issued National Policy Guidance in March 2010. Although not bound by the guidance the document urges Licensing Authorities to have regard to it in exercising their functions.
- 3.2 In formulating its own policy Leeds City Council has specified that they will allow four such establishments within the city. It would appear, therefore, that there is no 'in principle' objection to this kind of establishment in any particular part of the city centre.

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3.3 Paragraph 3.23 of the guidance dealing with objections to applications makes it clear that, in order for objections to be taken into account, they ‘... should not be based on moral grounds/values’. In this context it cites R V Newcastle upon Tyne CC Ex Parte The Christian Institute (2001).

3.4 It follows, therefore, that the effect on the character of the locality which has to be assessed in applying paragraph 13 (3) (d) (i) and (ii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 cannot be based on the possibility that an individual or group finds the activities proposed morally offensive. Much of the objection in this case takes what I would characterise as a moral objection to this proposal.

3.5 Clearly what is envisaged is a broader more objective assessment of the possible impact on the character of the area.

### **4. LOCAL POLICY ON THE LICENSING OF SEXUAL ENTERTAINMENT VENUES**

4.1 The Council produced a Statement of Licensing Policy and consulted widely before adopting the policy it has in its Statement of Licensing Policy for Sexual Entertainment Venues.

4.2 The aim is to ensure that such premises that are permitted operate in a ‘...safe, fair and discreet matter and are sensitive to the local area in which they are situated’.

4.3 The statement of Licensing Policy describes the entertainment and residential roles of the city centre and the benefit of the City Council’s general objective of creating a ‘vibrant 24 hour city’ (paragraph 4.3).

4.4 In terms of arts and heritage reference is made to the Grand Theatre, City Varieties, The West Yorkshire Playhouse, Opera North, The Northern Ballet Theatre, Phoenix Dance, Harewood House and the Henry Moore Institute.

4.5 Cultural activities are referred to in Section 6 and include the Town Hall, Millennium Square, Leeds Art Gallery, The City Museum and the Carriageworks Theatre.

4.6 The statement (Appendix 1) sets out how the Council will use conditions to control the impact of such premises. The kind of conditions envisaged will enable the Council to exert a considerable degree of control over the conduct and appearance of any premises which are licensed.

4.7 Of relevance to my evidence concerning impact on the locality the following are of considerable significance:-

- Condition 8 – ensures that the name of the premises is approved by the Council and cannot be changed without the Council’s prior approval.
- Condition 10 – allows the Council to control trading hours.
- Condition 19 – leaves the external appearance of the premises entirely in the control of the Council by requiring the appearance to be approved in writing.

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- Condition 20 – ensures that any change of appearance would require the prior approval of the Council.
  - Condition 21 – requires the entrance to be lobbied to ensure the activity inside is not visible to the exterior.
  - Condition 22 0 specifies that signage may not be illuminated before 10 pm or after 6 am and that movable signs (presumably 'A' boards and the like) are not displayed outside those hours.
  - Condition 23 – prohibits sexuality explicit or suggestive signage.
  - Condition 24 – controls the distribution of leaflets and flyers to prevent public offence including a 'flyer distribution policy' which must have the prior approval of the Council.
- 4.8 The high degree of control the conditions enable over the potential impact of the premises is consistent with the Council's decision. Conditions can be imposed in such a way as to reflect and acknowledge the character of the area in which the premises are situated. A more overt or brash appearance may be appropriate and consistent with the character of some localities whereas a more subdued and low key appearance more appropriate elsewhere.
- 4.9 It seems to me that by judicious use of the conditions such premises could be permitted in most parts of the city centre without adversely affecting the character of the locality in which they are situated; certainly at this application site.

### **5. OTHER RELEVANT DOCUMENTS**

- 5.1 The Leeds Unitary Development Plan Review 2008
- 5.2 Whilst it is said in a planning context about leisure facilities that '... it is important for the city centre to be receptive to changing social needs and involving demands of leisure and the leisure industry...' (paragraph 10.2.2 – page 234) there is a clear desire on the part of the City Council to ensure the provision of a full range of leisure facilities in the city centre, including venues of this nature.
- 5.3 The advantages of encouraging a mixture of uses for general interest and in particular to encourage tourism is noted (paragraph 10.3.1) which says '... the heritage of the city centre and especially its historic buildings make an attractive and important contribution towards the range of tourist attractions. These elements provide a focal point for business tourism and shopping for visitors wishing to experience the distinctive character of the city and its culture, entertainment and leisure facilities ...'.
- 5.4 Further, one of the characteristics seen as making Leeds a 'European City' is (paragraph 13.1.5) that it should '... include a full range of leisure, social, cultural and shopping facilities to bring life and vibrancy into the centre and to attract residents and visitors throughout the day'.
- 5.5 The City Council has a longstanding desire to attract more people to live in the city centre and has a good deal of success in achieving that objective. Paragraph 13.1.8 indicates it is also important to consider the quantity and quality of leisure facilities in the city centre in order to enable '... life and activity to continue throughout as much as possible of the 24 hour day'.



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- 5.6 As part of this process and setting out its approach to land use the plan says (paragraph 13.2.2 – page 264 and 5) ‘The main objectives are to achieve a greater mix of uses throughout the City Centre, to avoid the creation of large single use areas which may be ‘dead’ at certain times of the day, to contribute to a livelier and more vibrant City Centre at all times ...’.
- 5.7 This is to be achieved by the following method: ‘The approach proposed is to seek to achieve the advantages of some concentration, but with an increased variety of use across the City Centre. The well-established main land uses form the basis for the identification of ‘quarters’, in which these uses will be encouraged as the principal use. However, other uses, ancillary to the principal use will also be sought to serve the principal use and also to provide greater variety and life in the Centre...’. This approach is to be implemented by ‘...encouraging more mixed use...’ in the context of the principal use of the ‘quarters’ reflecting their traditional role.
- 5.8 It is an approach that has been adopted by the Council over a period of 15 years or more; that is to identify ‘quarters’ of the city centre by reference to their primary use and character but to encourage a mixture of other uses (residential, leisure, entertainment etc) in addition to that primary use to maintain life and activity as far as possible over a 24 hour period consistent with the Council’s objective of a 24 hour city.
- 5.9 So important is that mix and diversity of uses that the UDP has a policy to prevent diversity of use in a given area being reduced which says ‘... development will be resisted which would individually or cumulatively prejudice or reduce the diversity of uses which already exist in an area’ (paragraph 13.7.7 – page 291).
- 5.10 The Proposals Map of the UDP shows the property in what the Council defines as the ‘Prime Office Quarter’ but the Council says (paragraph 13.7.14 – page 293) that in this area it is seeking to ‘... achieve a greater range and mix of uses ... to add variety and life to the city centre throughout the day ...’. A broad mix of uses such as this proposal is seen as supportive of the principal role of the area, not as undermining it.
- 5.11 The plan defines a ‘Entertainment Quarter’ at the top of Briggate within the ‘Prime Shopping Quarter’ but acknowledges (paragraph 13.7.47) that there are entertainment uses elsewhere, which reflect its desire to see a mix of uses throughout the city centre, including in this ‘Prime Office Quarter’.

## **6. ISSUES**

- 6.1 In examining the issues to be considered in applying paragraph 13 (3) (d) (i) and (ii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 in this case there are a number of factors to be taken into account:-
1. Notwithstanding the individual character of this office quarter or locality of the city centre the Council’s land use planning policies encourage a mix of uses including leisure and entertainment.
  2. The Council has, over a considerable period of time, made it clear that it has a desire to encourage a broad mix of uses in the city centre to create a 24 hour city.

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3. Given the Council's desire to maintain Leeds as a major European city it needs, in addition to its particular distinct characteristics, to provide the range of leisure and entertainment facilities one finds in such cities.
4. A religious or in principal objection does not justify a refusal of a licence to premises of this kind. Accordingly a refusal based on the possibility that it may offend the religious or other similar sensibilities of those who work in or pass through the locality cannot be a good reason to refuse.
5. The Council has extremely wide powers to control the impact of the use on the character of the locality through conditions controlling trading hours, the appearance of the premises, advertising and the dissemination of advertising material.

### **7. WOULD THE PROPOSAL HAVE ANY AMENITY OR PHYSICAL EFFECT ON THE CHARACTER OF THE LOCALITY?**

- 7.1 From my observations this is not a use which generates noise which is audible outside or in adjoining or nearby properties. The external environment is noisy through traffic.
- 7.2 Further, the limited number of customers using the premises do not cause disturbance which impacts adversely on this area which experiences a good deal of activity anyway. From my observations customers are not boisterous or badly behaved.
- 7.3 Therefore, the effect of the premises in terms of noise and disturbance which might be likely to affect the character or perception of the locality is less than if they were to be used as a public house or bar (the obvious alternative and the previous use of the premises). Accordingly, I do not see how exception can be taken to the use of the premises on this count.
- 7.4 In accordance with the Council's policies the exterior could not have signage, advertising material or any other manifestation which would be overtly explicit or suggestive. Indeed, the appearance is restrained and is proposed to be more so.
- 7.5 From a visual point of view, the low key appearance of the premises controlled by stringent conditions does not and would not look out of place in this locality. The standard conditions would ensure that the appearance would not change in a way that would have adverse visual effects.
- 7.6 That low appearance would be consistent with the visual character of this area.

### **8. WOULD THE PROPOSAL OTHERWISE BE HARMFUL TO THE CHARACTER OF THE LOCALITY?**

- 8.1 The character of the area is noisy from traffic and experiences considerable activity during the day time and in the evening. The application premises do not open in the daytime and whilst visible have no adverse impact on the character of the area. In the evening and overnight when the premises are open the modest size of the premises and the modest volume of business attracted with generally well behaved customers there is no adverse impact on the character of the area.

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- 8.2 This is a busy pedestrian and traffic thoroughfare. However, the building and the premises themselves are not prominent and their appearance is, as set out above, low key.
- 8.3 The primary use of the area is for offices but it cannot be said that the office uses and the proposal are mutually exclusive. Some of those who work in the area are likely to be interested in other leisure pursuits including premises such as those which are the subject of this application.
- 8.4 Even if people in the vicinity or passing through the area were potentially susceptible to offence from premises of this nature it seems to me that their appearance would be so low key that it would be hard to take offence. It seems clear (from their lack of objection) that those who work in the area are not offended to any material extent by the premises and they do not suggest its continued trading would harm the character of the area.
- 8.5 Given the low key impact and the extent of the Council's control of the impact through conditions I do not see how it could be suggested that anybody would be likely to be put off from working in or using Wellington Street. This is now one of a range of uses which is to be found in major city centres and it is not a use which is prominent or intrusive particularly when controlled as set out above.

### **9. CONCLUSION**

- 9.1 I have over 20 years' experience in valuing all sorts of leisure and licensed property and I visited this property on this basis in 2003 when it first opened and traded as a lap dancing club. The property has been here for many years and has traded alongside its neighbours and other local business users throughout this time.
- 9.2 It is clear that the property is particularly well run with an established partnership that has experience in running this type of venue. The venue itself in my opinion is to a good standard and fitted out for its customers and staff very well. It strikes me that there is a good policy for almost every aspect that the management would come across. I also would point out and reiterate that the business operates a Challenge 25 Policy meaning that anybody who looks younger than 25 will be challenged to prove that they are 25 or over. This type of venue invariably does not attract drunks or people coming out to drink excessively as the pricing policy invariably prevents that. This venue is a type that is not used by many customers when compared to other licensed units in the city centre. This is a specialised trading venue and one that has very little extra noise compared to general road and street level noise.
- 9.3 As I have already stated I am also a voluntary Best Bar None assessor and do recognise the efforts that have been put in by the operator in making sure that this venue is safe for customers and for members of staff. I would reiterate this unit has over 30 CCTV cameras around the premises including every dance booth.
- 9.4 I would reiterate that to the best of my knowledge there has not been a single objection with regards to this application including from the police, fire or other statutory bodies. I believe that there has not been one single individual objection from a member of the public.

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- 9.5 Having a broad range of licensed and leisure facilities within a city is very much a requirement now and the fact that this property has traded for such a length of time obviously indicates that there is a market or need for this type of venue in this location. I would reiterate that the rateable value is set quite high and this is money available to local or national taxation.
- 9.6 The property is opaque to casual people passing by or people driving their cars or on public transport. The outside of the property does not identify itself as being a Sexual Entertainment Venue without very close inspection and I think making the outside look so attractive and yet opaque for the business that it is of credit to the applicant.

### **10. STATEMENT OF TRUTH**

- 10.1 I confirm that, insofar as the facts stated in my report are within my own knowledge, I have made clear which they are and I believe them to be true. The opinion I have expressed represent my true and complete professional opinion.



Signature

Date 06/11/2013

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