

Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 18th November 2013 (pm)

Subject: Application for the Renewal of a Sex Establishment Licence for Deep Blue, 36 Wellington Street, Leeds, LS1 2DE

Are specific electoral Wards affected? City and Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.4 (1, 2 & 3)		
Appendix number: B		

Summary of Main Issues

Members are requested to consider an application received for the renewal of a sex establishment licence. The premises intend to operate under the terms of the licence as a sexual entertainment venue providing lap dancing.

Details of the application and the relevant appendices are provided within the report.

This application has attracted representations from members of the public.

Recommendations

Members are asked to consider and determine the application.

Furthermore Members are asked to approve the external appearance of the premises and all advertising material used to promote the business as set out at Appendix D.

1.0 Purpose of this Report

- 1.1 To advise Members of an application made under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for the renewal of a sex establishment licence for the premises known as Deep Blue, 36 Wellington Street, Leeds, LS1 2DE.

2.0 Background Information

- 2.1 In 2010 the Government introduced a new category of sex establishment called a "sexual entertainment venue". This reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues. The intention was to give local people greater say over the number and location of lap dancing clubs in their area.
- 2.2 In January 2011 the Council made a resolution to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act as amended by the Policing and Crime Act 2009, effective from 1st October 2011. The Council adopted its first Statement of Licensing Policy for Sex Establishments in September 2011.
- 2.3 All seven premises that provided sexual entertainment in the form of lap dancing which existed at that time were granted licenses that came into effect on the 1st October 2012 and expired 30th September 2013.
- 2.4 Following the issue of these licences a review of the Statement of Licensing Policy took place. A working group was set up and a new policy was approved before Executive Board on the 17th July 2013, coming into effect on the 1st September 2013.

3.0 History of these Premises

- 3.1 These premises have held a licence under the Licensing Act 2003 for the provision of regulated entertainment and sale of alcohol since 7th January 2006. It is understood that lap dancing has been held at the premises since then.

4.0 The Application

- 4.1 Members are required to consider this application for the renewal of a sex establishment licence to authorise the activity of sexual entertainment in the form of lap dancing.
- 4.2 The application is made by Ruby May (1) Ltd, Unit 40, Low Friar House, Low Friar Street, Newcastle Upon Tyne, NE1 5UF.
- 4.3 The application is for the premises known as 'Deep Blue', 36 Wellington Street, Leeds, LS1 2DE. The basement level, ground floor and first floor are to be covered under the provisions of the licence.

- 4.4 The hours of operation are:
22:00hrs until 04:00hrs Sunday to Thursday
22:00hrs until 05:00hrs Friday and Saturday.
- 4.5 A partial copy of the application together with a full copy of the licence as effective from 1 October 2012 may be found at **appendix A** to this report. It should be noted that certain information submitted within the application is potentially exempt information under Access to Information Procedure Rule 10.4 (1, 2 and 3) as it includes information which relates to individuals, is likely to reveal the identity of an individual and/or relates to the business affairs of any particular person. As a consequence Members are provided with a full copy of the application contained within a separate **appendix B** and will be asked to consider exclusion of the press and public from the hearing if those matters are to be discussed.
- 4.6 Members will also find attached to this report at **appendix C** additional documents supplied with the application, which includes:
- Dancers Welfare Policy
 - Dancers Code of Conduct
 - Customers Code of Conduct
 - Fines Policy
 - Pricing Policy
 - Trade Union Details
- 4.7 A consideration for Members is the external appearance and all methods of advertising (written, visual or auditory) which must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature. Attached at **appendix D** Members will find the information supplied in this respect. Due to printing quality, original samples will be available at the meeting.
- 4.8 It is confirmed that the business does not intend to provide vehicles to transport customers or performers to and from the premises and therefore information relating to the licensing of such vehicles is not provided.
- 4.09 A map of the location of the premises can be found at **appendix E**.
- 4.10 A plan showing the layout of the premises including stage, bars, cloakroom, WCs, performance area, dressing rooms and CCTV has been supplied and will be available at the meeting.
- 4.11 The West Yorkshire Police and all ward members have been notified of this application.
- 4.12 A public notice advertising the application has been displayed at the premises for a period of 21 days and published in the local press as required by the legislation.

5.0 Objections

- 5.1 In considering any application for the grant of a licence the authority shall have regard to any observations submitted by the chief officer of police and any other objections received.
- 5.2 Any objections must be provided in writing to the authority, stating in general terms the grounds, and this should be provided no later than 28 days after the date of the application.
- 5.3 Members should note that objections may be accepted following the 28 day notice period. This is as a result of a case (Miss Behavin' Ltd v Belfast City Council) where the House of Lords held that while the Act required an authority to take account of objections lodged in time, it did have discretion to take into account late objections if these brought significant relevant information. At the time of writing this report all objections had been received within the notice period.
- 5.4 Parties will not be permitted to raise new matters in evidence at the hearing without the consent of all other parties.
- 5.5 The Act imposes no pre-qualifications on who may object to an application nor is there any constraint on the grounds upon which objections can be made.
- 5.6 The application has attracted a total of 25 objections, of which all are on behalf of organisations concerned with women's issues and members of the public. A copy of these are attached at **appendix F** for Members consideration.
- 5.7 Members are requested to note that the Act only provides reference to the authority having regard to objections. This application also attracted 1 e-mail expressing support for the application which has been included for Members attention. This can be found at **appendix G**.
- 5.8 No observations have been received from West Yorkshire Police concerning this application.
- 5.9 Members will note that the authors' identity has been omitted from a number of the letters attached. The Act requires the authority to withhold personal identity unless consent to the contrary has been supplied.

6.0 Licence Compliance

- 6.1 On Friday 25 October 2013 the Licensing Authority's Liaison & Enforcement Team, along with West Yorkshire Police conducted a compliance visit to these premises for the purpose of the Licensing Act 2003 (LA03) and Sexual Entertainment Venue (SEV) Licences.
- 6.2 The compliance visit revealed contraventions of the licence issued under the Licensing Act 2003 in that the premises failed to provide a drugs safe (condition 116 of LA03) and an incident book (condition 99 of LA03), and there was no search policy displayed on entry to the premises (condition 115 of LA03).

6.3 A copy of the inspection sheet showing the findings from the visit was given to the manager on site which requires remedy of the matters within a given time.

6.4 Officers will be able to provide Members with verbal confirmation whether these matters have since received attention.

7.0 Statement of Licensing Policy

7.1 The current Statement of Licensing Policy for Sex Establishments (“the Policy” was approved by Executive Board on the 17th July 2013 and came in to force on the 1st September 2013.

7.2 Notable comparable differences to the previous statement of Licensing Policy are:

Section 2 – Included the Citizen Panel results

Section 5 – Added section on Child Friendly.

Section 7 – Added new section on Locality and Numbers.

Section 7 – Added new section on Licence Renewals.

Section 8 – Amended hearing to reflect potential change in the scheme of delegation where all applications are determined by Licensing Committee.

Standard conditions – amended a number of conditions to provide clarification including (amongst others):

- Amended condition to no physical contact.
- Added a condition prohibiting personal solicitation, touting or advertising by promotional staff.
- Updated CCTV conditions to bring them up to date with current practice.
- Added a condition relating to the prohibition of fining.
- Added a requirement that 2 SIA door staff be present.
- Added a condition requiring licensee to check on employment status and criminal record of potential dancers.
- Amended the condition so that private booths and VIP areas do not have curtains.
- Amended the condition in relation to the use of vehicles to bring it in line with the amendments made by Licensing Committee, and clarification that limousines, hummers and novelty vehicles will not be used.

7.3 The Policy sets out a limit and unsuitable locations for sex establishments, although members will consider each application on its own merits. Further information on location and numbers is provided at paragraph 9.3 and 9.4 of this report.

7.4 The Policy includes standard conditions to be applied to all licenses. Members may decide on a case by case basis whether any of the conditions may be dispensed with, added to or modified. The standard conditions as set out in the current Policy may be found at **appendix H**.

7.5 Members attention is drawn to the applicants `Fines Policy' supplied at **appendix C**. The revised standard conditions of licence do not permit any fining policies or similar financial penalties.

8.0 Other Matters Relevant to the Application

8.1 A sex establishment licence will remain in force for up to one year, or for a shorter period should the licensing authority think fit.

8.2 Where, before the date of expiry of a licence, an application has been made for its renewal, it shall be deemed to remain in force notwithstanding that the date has passed until the withdrawal of the application or its determination by the appropriate authority.

9.0 Options Available to Members

9.1 The licensing sub-committee will consider the application under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and it may take any of the following steps it considers necessary:

- Grant the application as requested attaching the standard conditions.
- Grant the application whilst imposing additional conditions and/or altering the standard conditions (or altering in any way the proposed application).
- Refuse the application on the following mandatory grounds;
 - if the applicant is under the age of 18,
 - if the applicant has a disqualification following the revocation of their licence
 - if the applicant is not-resident in an EEA state,
 - if the applicant is a company not incorporated in an EEA state,
 - if the applicant has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the applicant is made, unless the refusal has been reversed on appeal.
- Refuse the application on one or more of the following discretionary grounds:
 - That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
 - That 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;

- That the number or sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
- That the grant of renewal of the licence would be inappropriate, having regard:
 - To the character of the relevant locality; or
 - To the use to which any premises in the vicinity are put; or
 - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

9.2 In paragraph 9.1 “the relevant locality” means:

- In relation to premises, the locality where they are situated; and
- In relation to a vehicle, vessel or stall, any locality where it is desirable to use it as a sex establishment

9.3 Members should note that the Policy states that there is no locality outside of the city centre in which it would be appropriate to license a sexual entertainment venue. Accordingly the appropriate number of SEVs for outside of the city centre is nil.

9.4 Taking into consideration the matters mentioned in the Policy, it states that the appropriate number of SEVs in the city centre is a maximum of four providing these premises are not near properties with sensitive uses or in sensitive locations.

The Policy states that sensitive uses are:

- Schools and other areas of education
- Play area/parks
- Youth facilities
- Residential area
- Women’s refuge facilities
- Family leisure facilities such as cinemas, theatres and concert halls
- Places of worship
- Places used for celebration or commemoration
- Cultural leisure facilities such as libraries and museums
- Retail shopping areas
- Historic buildings

The Policy provides a list of sensitive locations:

- Millennium Square, Calverley Street
- City Square
- The area around the Combined Courts
- The Headrow, Eastgate
- East Parade, Park Row
- New Briggate, Briggate

- Albion Street, Woodhouse Lane
- Merrion Centre, Merrion Street
- Boar Lane
- New Station Street, Wellington Street

10.0 Recommendation

10.1 Members are asked to consider and determine the application.

10.2 Furthermore Members are asked to approve the external appearance of the premises and all advertising material used to promote the business as set out at **appendix D.**

11.0 Appendices

Appendix A	Copy of the Application
Appendix B	Exempt Information
Appendix C	Additional documents supplied with the application
Appendix D	External appearance/advertising information
Appendix E	Location map
Appendix F	Objections received in time
Appendix G	Support received in time
Appendix H	Standard Conditions

12.0 Background Papers

None