

Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: 12th June 2012

Subject: Application for the grant 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 a sex establishment licence. The premises intend to operate under the terms of the licence as a sex entertainment venue.

1.0 Background Information

- 1.1 The Policing and Crime Act 2009 amended the Local Government (Miscellaneous Provisions) Act 1982 Section 2 and Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brings to lap dancing, pole dancing and other “relevant entertainment” into the same regime that has licensed sex shops and sex cinemas in the Leeds area since 1982.
- 1.2 Until now, premises have operated within the Leeds district providing sexual entertainment, primarily lap dancing under the terms of the Licensing Act 2003.
- 1.3 Leeds City Council adopted the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 on 19th January 2011 with effect from 1st October 2011.

- 1.4 In September 2011 Leeds City Council adopted its Statement of Licensing Policy for the Licensing of Sex Establishments. Members have been provided with a copy of the approved policy and this will be available for reference at the meeting.
- 1.5 From 1 October 2011 until 31 March 2012 operators of sexual entertainment venues were able to apply for a sex establishment licence for their business. Applications received before 31st March 2012 must all be determined at the same time.
- 1.6 All licences granted for sexual entertainment venues will come into effect on the 1st October 2012 unless immediate effect has been requested. Until that time all existing premises may continue to provide sexual entertainment under the provisions of the Licensing Act 2003.
- 1.7 Those premises which do not have a sex establishment licence on 1st October 2012 must cease trading.

2.0 Purpose of this report

- 2.1 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 grant of a sex establishment licence for premises known as Deep Blue of Wellington Street LS1 to be used as a sexual entertainment venue.

3.0 History of premises

- 3.1 This is the first application for a sex establishment licence due to the implementation and adoption of new legislation.
- 3.2 The premises have operated and provided sexual entertainment under the provisions of their premises licence issued under the Licensing Act 2003 authorising the sale of alcohol and regulated entertainment. Licensing records confirm that the premises have held a premises licence since 31st March 2008.

4.0 The Application

- 4.1 Members are required to consider this application for the grant of a sex establishment licence to authorise the activity of sexual entertainment.
- 4.2 The application is made by Ruby May Holdings (1) Limited of Unit 40 Low Friar House, Low Friar Street, Newcastle Upon Tyne, NE1 5UF.
- 4.3 The application is for premises known as `Deep Blue', 36, Wellington Street, Leeds LS1 2DE. The basement, ground and first floors are to be covered under the provisions of the licence.
- 4.4 The proposed hours of operation are 10:00 until 06:30 seven days per week.
- 4.5 A partial copy of the application 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 identify of an individual and 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:

- Welfare Policy
- Dancers Code of Conduct
- Customers Code of Conduct
- Fining Policy
- Pricing Policy
- Trade Union Details

4.7 A consideration for Members is the external appearance and all methods of advertising. This may include advertising to be displayed on any vehicles used to promote the business.

4.8 Any written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature.

4.9 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.

4.10 It is confirmed that the business does not intend to provide vehicles to transport customers or performers to and from the premises.

4.11 A map of the location of the premises can be found at appendix E.

4.12 A plan showing the layout of the premises including stage, bars, cloakroom, wc's performance area, dressing rooms, and CCTV has been supplied and will be available at the hearing.

4.13 The West Yorkshire Police and all ward members have been notified of this application.

4.14 A public notice advertising the application has been displayed at the premises for a period of 21 days and published in the local press.

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 objections received.

- 5.2 Any objection must be provided in writing to the authority, stating in general terms the grounds of the objection, 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 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 a discretion to take into account late objections if these brought significant relevant information.
- 5.4 The Act imposes no pre-qualifications on who may be objectors nor is there any constraint on the grounds upon which the objection is made.
- 5.5 The application attracted a total of 32 objections, 4 of which are from elected members, and one which has been received from a member of parliament. These are attached at appendix F.
- 5.6 A further objection has been received from Councillor Rebecca Charlwood this has been counter signed by a further 19 elected members, 8 members of parliament, 1 member of European parliament, and 4 leaders of religious groups. This is attached at appendix G.
- 5.7 Members are requested to note that the Act only provides reference to the authority having regard to objections. This application also attracted 4 letters of support which have been included for Members attention. These are attached at appendix H.
- 5.8 No observations have been received from the police concerning this application.
- 5.9 Members will note that the author's 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.
- 5.10 Members should note that a further letter of support has been received following the 28 day notice period. However, officers reviewed the contents and can confirm that it did not bring any new significant and relevant information to that already provided in those letters attached.

6.0 Other matters relevant to the application

- 6.1 A sex establishment licence will remain in force for up to one year, or for a shorter period should the licensing authority think fit.
- 6.2 The Leeds City Councils Statement of Licensing Policy for Sex Establishments does not set a limit or desired location for sex establishments but instead each application will be considered on it's own merits.
- 6.3 The Statement of Licensing Policy includes standard conditions to be applied to all licences. Members may decide on a case by case basis whether any of the conditions may be dispensed with, added to or modified. Members attention is

drawn to appendix I which sets out the standard conditions, which includes matters such as :

- conduct on the premises,
- external appearance and layout of the premises,
- advertising
- management,
- safety and security
- staff welfare, including fining and pricing policies, codes of conduct for customers and entertainers,
- use of vessels, stalls and vehicles,

7.0 Options available to members

7.1 The licensing sub-committee 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 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

8.0 Recommendation

- 8.1 Members are asked to consider and determine the application in accordance with paragraph 7 above.
- 8.2 Furthermore Members are asked to approve the external appearance of the premises and all advertising used to promote the business as set out at Appendix D.

Appendices

- 9.1 Appendix A – Copy of Application
- 9.2 Appendix B – Exempt Information
- 9.3 Appendix C – Additional documents supplied with application
- 9.4 Appendix D – External appearance / advertising information
- 9.5 Appendix E – Location map
- 9.6 Appendix F – Objections received in time
- 9.7 Appendix G – Objection received from Councillor Rebecca Charlwood
- 9.8 Appendix H – Letters of Support received in time
- 9.9 Appendix I - Standard Conditions

10.0 Background papers

- 10.1 Leeds City Council Licensing of Sex Establishments – Statement of Licensing Policy.
- 10.2 Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.