

PROPOSED SEXUAL ENTERTAINMENT VENUE

DEEP BLUE WELLINGTON STREET LEEDS

Report by ROGER GUY ETCHELLS :-

I am a Fellow of the Royal Institution of Chartered Surveyors and am a Director of Roger Etchells and Company of The Old Bank Kilwardby Street Ashby de la Zouch Leicestershire.

Over the last 31 years in my own practice, and prior to that within another, I have been dealing with licensed premises of all kinds, including also those licensed for liquor, gaming and entertainment throughout England Scotland and Wales.

I have dealt with numerous cases in Leeds City Centre and have been familiar with it over the period during which I have been practising.

My involvement with licensed premises has been in terms of planning and licensing and I have given evidence at Planning Inquiries, in front of local authority committees, in the Magistrates and Crown Courts in respect of such matters.

Instructed by Bass, I gave evidence at the hearing in 1997 when these premises first became licensed premises.

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WELLINGTON STREET
LEEDS**

1 INTRODUCTION

1.1 I have been instructed to consider the location of the premises in question, their locality and the extent to which their use as a licensed sexual entertainment venue might impact on the character of the locality and premises in the vicinity.

1.2 My evidence deals with the matters set out in paragraph 13 (3) (d) (i) and (ii) of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. In order to prepare my evidence I have revisited the city centre and, through observations, assessed the current impact of the premises.

2 THE APPLICATION PREMISES - LOCATION AND DESCRIPTION

2.1 The application premises are situated on the north side of Wellington Street between City Square and King Street. Its immediate neighbours are the West Riding public house to the west and the Majestic building, undergoing refurbishment, to the east. Wellington Street runs along the southern edge of the city's Professional Office Quarter and is characterised by larger office buildings with some vacant sites awaiting office development.

2.2 There are other uses, particularly on the ground floor, including restaurants, retail, estate agencies and the like and a substantial residential element in new buildings on the south side of Wellington Street to the west.

2.3 Wellington Street is a major thoroughfare leading west from City Square being one way in a westerly direction past the application premises as far as King Street. There are bus stops on the south side opposite.

2.4 It is one of 2 small buildings in the block along with the adjacent public house.

2.5 Neither the building nor the existing use within it is prominent or obtrusive. I understand there is a concern that it is visible from the entrance/exit of the

station on to City Square but the view is oblique and so the use of the premises is not identifiable from that location.

- 2.6 The applicant has plans to make the external appearance still more discreet.
- 2.7 As I shall indicate later in my evidence the Council would have, by condition, complete control over the appearance of the premises in any event.
- 2.8 The premises are in an area described as being the “Prime Office Quarter” in the city centre.
- 2.9 Whilst offices are the main use in the locality it is clear there are other services (see above) and in accordance with the council’s longstanding planning policies (see below) a mixture of uses is encouraged and found in the vicinity. These include uses which serve people who work in the area and the application premises.
- 2.10 From my observations there is no residential accommodation in the immediate vicinity. There are flats to the west on the south side of Wellington Street and there is of course the Queens Hotel in City Square.
- 2.11 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.
- 2.12 From my observations the level of activity generated by the premises is modest, it is not generally boisterous and does not, from those observations, have any material impact on the area as compared with a bar or similar which is the obvious alternative use of the premises; indeed it is the previous use.
- 2.13 It is significant to note from the representations submitted that those who run or work in businesses in the vicinity do not object to it.

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 not taken up the ability it has under the legislation to specify the number (including none) which it will allow in any given locality in 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.

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 draft 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”*. This suggests the Council’s approach is not to exclude such premises from any particular part of the city but rather to ensure that where they are permitted they have an appearance and operate in a way which is not harmful to their locality. The approach to conditions seems to confirm that position (see below).
- 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. None of the arts or cultural activities cited are close to the site.
- 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.
- 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 – specifies that signage may not be illuminated before 10pm or after 6am and that movable signs (presumably "A" boards and the like) are not displayed outside those hours.
- Condition 23 – prohibits sexually 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 not to exclude such premises from any particular part of the city. 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 2006

- 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 and 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 had 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”*.
- 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”.
- 5.12 Leeds 2030
- 5.13 This document sets out in much more general terms than the UDP the Council’s vision for Leeds over the period to 2030. It is a more recent document (2011).
- 5.14 It aspires to make Leeds the “best city in the UK” in relation to business, community, health and wellbeing as well as the best city to live in including world class culture, sport, leisure and entertainment.
- 5.15 I see no conflict between this application and the Council’s vision.

5.16 Looking at these 2 policy documents, the UDP steering land use and the Leeds 2030 steering the strategy for the city I do not see any conflict between them and the application proposal.

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.
- 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. This would include the kind of facility proposed here.
- 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.

6.2 I deal with the relevant issues in this case which I see as being as follows: -

6.3 **Issue 1 – Would the proposal have any amenity or physical effect on the character of the locality?**

6.4 **Issue 2 – Would the proposal otherwise be harmful to the character of the locality?**

6.5 I will deal with each in turn.

6.6 **Issue 1 – Would the proposal have any amenity or physical effect on the character of the locality?**

6.7 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.

6.8 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.

6.9 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.

6.10 In accordance with the Councils 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.

6.11 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.

- 6.12 As I have indicated, whilst the premises are visible from one of the station entrances one cannot detect what the use is from that distance/angle.
- 6.13 That low key appearance would be consistent with the visual character of this area.
- 6.14 **Issue 2 – Would the proposal otherwise be harmful to the character of the locality?**
- 6.15 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.
- 6.16 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.
- 6.17 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.
- 6.18 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.

- 6.19 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.

7 CONCLUSION

- 7.1 The Council has adopted standard conditions to be imposed on licences of premises of this kind to ensure the minimum impact on the locality.
- 7.2 The Council wishes to encourage, through planning and other initiatives, the creation of a 24 hour European city with the facilities one would expect in such cities.
- 7.3 The proposal would be consistent with the general approach to leisure and entertainment, the desire to make the city a 24 hour European city and would in terms of its visual, physical and impact on the character on the area not be harmful to its locality.

8 STATEMENT OF TRUTH

- 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, and that the opinions I have expressed represent my true and complete professional opinion.

9 DECLARATION

- i) I confirm that my report includes all facts which I regard as being relevant to the opinions which I have expressed and that attention has been drawn to any matter which would affect the validity of those opinions.
- ii) I confirm that my duty to the tribunal as an expert witness overrides any duty to those instructing or paying me, that I have understood this duty and complied with it in giving my evidence impartially and objectively, and that I will continue to comply with that duty as required.
- iii) I confirm that I am not instructed under any conditional fee arrangement.
- iv) I confirm that I have no conflicts of interest of any kind other than those already disclosed in my report.
- v) I confirm that my report complies with the requirements of the Royal Institution of Chartered Surveyors (RICS), as set down in Surveyors acting as expert witnesses: RICS practice statement.

Signed _____

R G Etchells FRICS

May 2012

Lap Dancing Clubs In Leeds

Summary Report: Deep Blue



Insight. Strategy. Execution.
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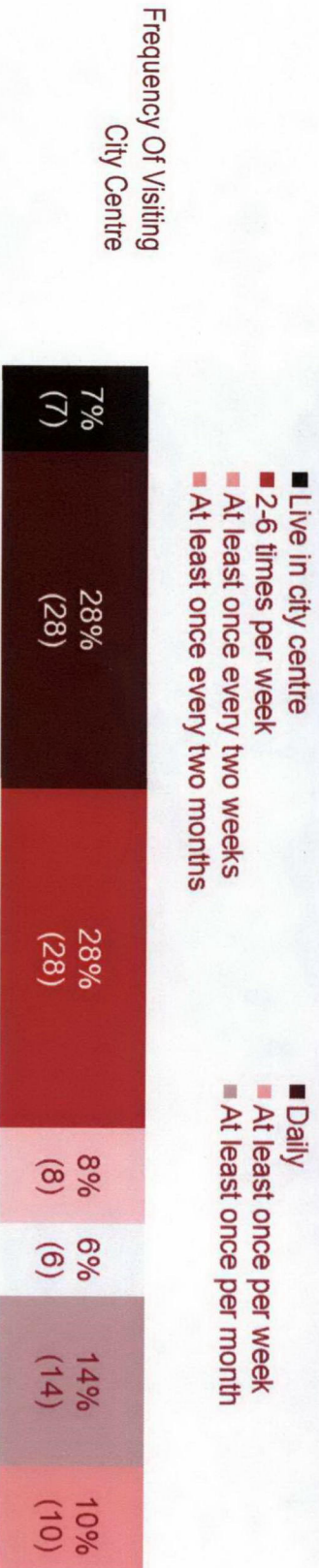
Background & Research Objectives

- Local Authorities across the UK are currently licensing existing lap dancing/gentleman's clubs under the auspices of a Sexual Entertainment Venue licence created by the local Government (Miscellaneous Provisions) Act 1982 as amended.
- In Leeds, three of the clubs, operated by two companies, have commissioned research to measure public opinion on the industry and venue frontage designs, in order to support their application for a new Licence. These venues are:
 - Deep Blue
 - Purple Door
 - Wild Cats
- The main objectives of the research were to:-
 - Highlight any concerns local people have with lap dancing industry per se.
 - Test awareness of the specific venues.
 - Ascertain reactions to proposed new frontage designs for the three venues.
- This report details the findings of 101 interviews carried out with residents and visitors of Leeds (aged 21+) on Quebec Street / Bishopgate Street (in close proximity to Deep Blue) between the 2nd and 9th of May, 2012. Respondents had to live in Leeds city centre or visit the city centre at least once every two months.²



Demographic Profile – Deep Blue

%



Bars In The Immediate Vicinity

Bars/Clubs in the immediate vicinity	%	Count
Wetherspoons	24	24
Slug & Lettuce	12	12
Yates'	7	7
Scarborough Taps	5	5
Wellingtons	4	4
Flares	4	4
Bar & Grill	4	4
The Duncan	3	3
The General Elliot	3	3
Revolution	3	3

- Respondents were asked to name any bars, clubs or pubs in the immediate vicinity to the interview location.

- The most frequently cited venues were 'Wetherspoons' and 'Slug & Lettuce' (located on Park Row) along with 'Yates' (Boar Lane).

- Around 1 in 5 respondents (21%) could not name a specific venue.

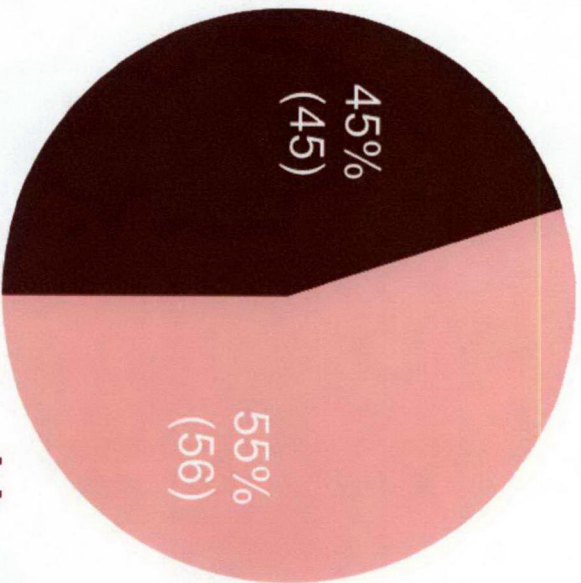
- One person (1%) spontaneously mentioned any lap dancing venue ('Purple Door').

Base: All respondents (101)
Others mention by 2% or less not shown

Awareness Of Lap Dancing Venues



Aware



Unaware

Base: All respondents (101)

- Respondents were asked if they were aware of any lap dancing venues in Leeds.
- Just under half (45%) of respondents were aware of the presence of lap dancing venues.
- Men (55%) were significantly more likely to be aware of lap dancing venues than women (45%).



Number Of Lap Dancing Venues In Leeds

Number	%	Count
1	24	11
2	9	4
3	24	11
4	7	3
5	2	1
6	4	2
Don't know	29	13

- Those aware of such venues in Leeds were asked how many venues they think there are.
- Over a third (38%) think there are three or more lap dancing venues in Leeds. This equates to 17% of all respondents.
- Just under a third (29%) could not give an estimate of how many venues there may be.

Base: All respondents aware of lap dancing venues in Leeds (45)



Names Of Lap Dancing Venues In Leeds

Number	%	Count
Red Leopard Cabaret	27	12
The Purple Door	18	8
Wildcats	13	6
Deep Blue	11	5
Silks	4	2
Blue Coyote	4	2
Blue Leopard	2	1
Blue Door	2	1
Black Leopard	2	1
Don't know	51	23

- Respondents who were aware that Leeds has lap dancing venues were asked to name any they could.
- 'Red Leopard Cabaret' (27%) was the most commonly cited venue along with 'The Purple Door' (18%) and 'Wildcats' (13%).
- Just over half could not name a specific venue (51%).

Base: All respondents who are aware of lap dancing venues in Leeds (45)



The Nearest Lap Dancing Venue

Name of nearest lap dancing location	%	Count
Deep Blue	13	6
Red Leopard Cabaret	11	5
The Purple Door	7	3
Silks	2	1
Black Leopard	2	1
Don't know	64	29

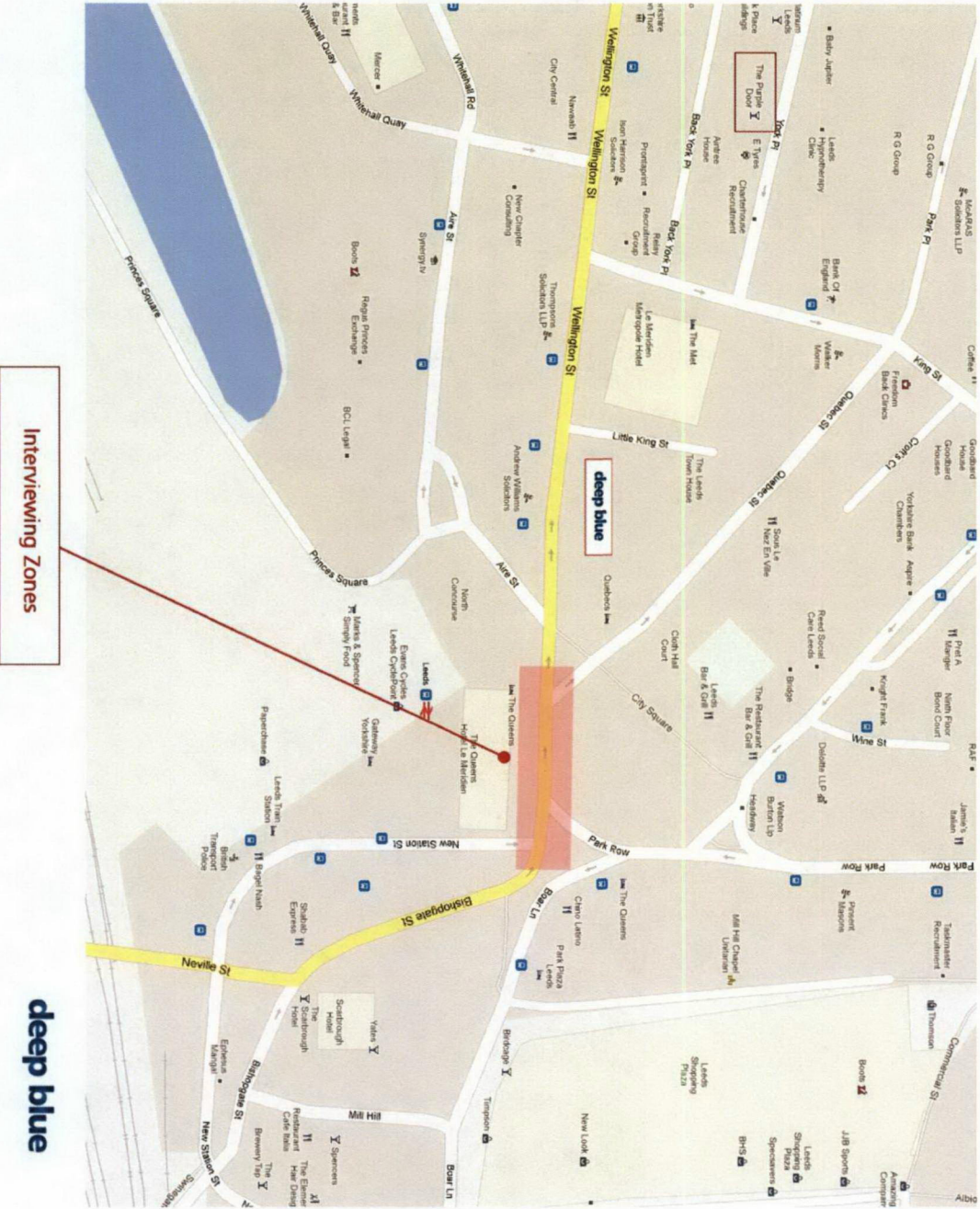
Base: All respondents who are aware of lap dancing venues in Leeds (45)

- Respondents who were aware that Leeds has lap dancing venues were asked to say which they thought was the closest venue.

- The majority of respondents (64%) could not name the nearest venue.



Appendix A – Nearest Lap Dancing Venue

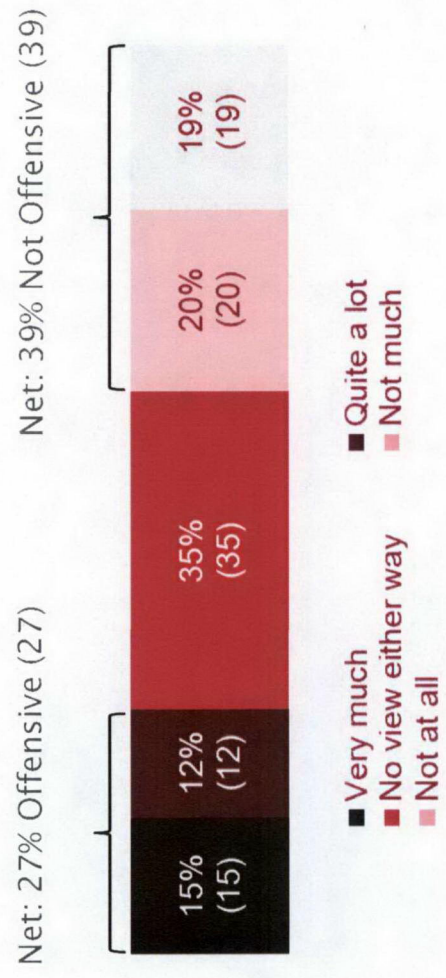


Offensiveness Of Lap Dancing Venues



- All respondents were asked to what extent they find lap dancing offensive.

- Just under three quarters of respondents (73%) did not find lap dancing offensive or had no views either way. Just over a quarter of respondents (27%) find lap dancing offensive.



Base: All respondents (101)

Reasons Why Lap Dancing Is Perceived As Offensive Or Not

Reasons why lap dancing is perceived as offensive

Reasons why lap dancing is perceived as offensive	%	Count
Wouldn't like my partner to go	19	5
Disgusting/nasty/cheap	15	4
Degrading to women	11	3
Seedy	11	2
Takes away people's innocence	7	2
Wouldn't like my daughter to meet people who go/daughter's boyfriend going	7	2
Should not be in city centres	7	2
Not correct for people to do this sort of thing	7	2

Base: All respondents who find lap dancing offensive (27)
Single mentions not shown

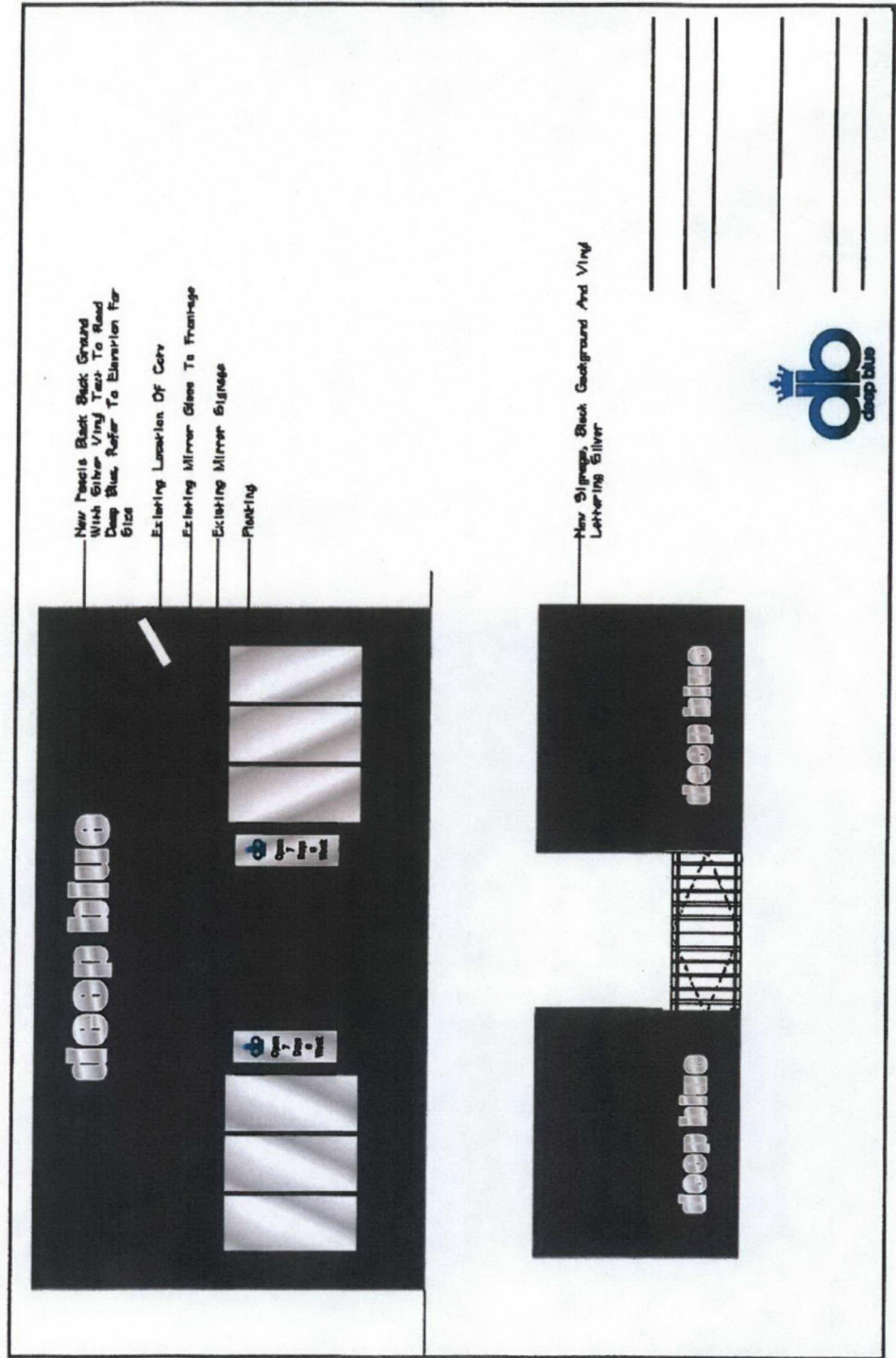
Reasons why lap dancing is not perceived as offensive

Reasons why lap dancing is not perceived as offensive	%	Count
People free to decide for themselves	21	8
Never been in/not interested in it	18	7
Doesn't bother me	13	5
Don't care what other people do	10	4
As long as it's not being pushed in your face	10	4
Everyone has to make a living	5	2
It's discreet	5	2

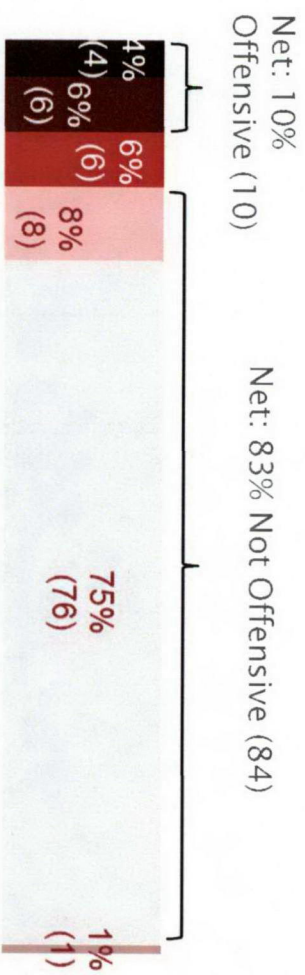
Base: All respondents who do not find lap dancing offensive (39)
Single mentions not shown



Proposed Venue Frontage Shown To Respondents (Deep Blue)



Offensiveness Of Deep Blue Venue Frontage Design

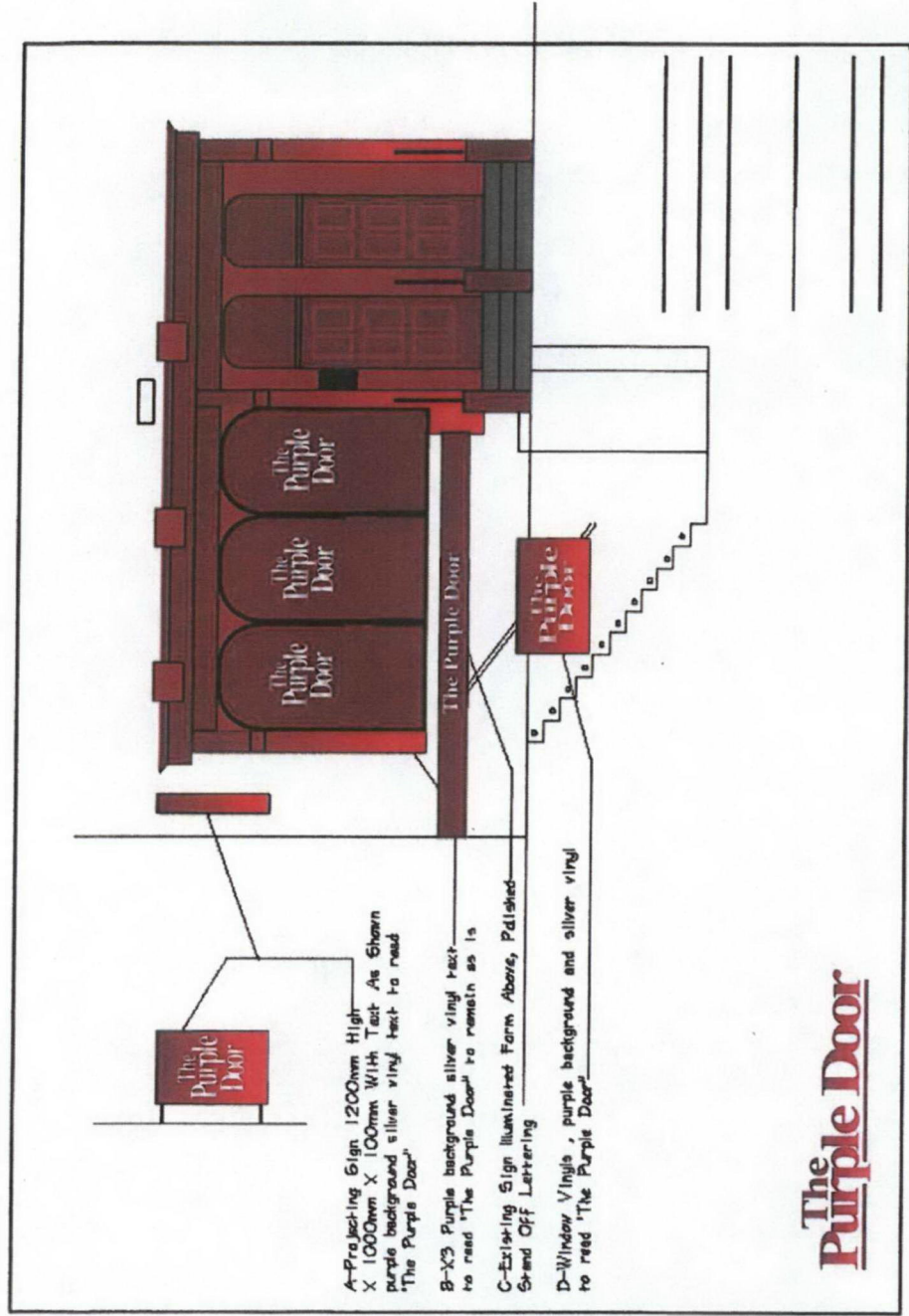


- Very much
- Quite a lot
- No view either way
- Not much

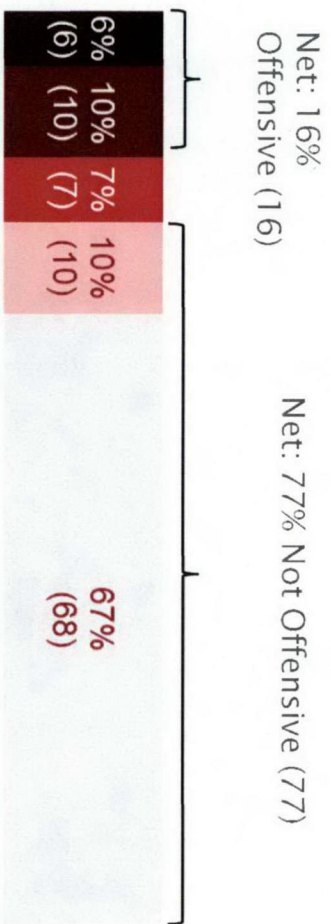
Base: All respondents (101)

- Respondents were shown an image of the proposed frontage of the venue and asked how offensive they would find it.
- The vast majority of respondents (89%) were not offended by the image or had no view either way.

Proposed Venue Frontage Shown To Respondents (Purple Door)



Offensiveness Of Purple Door Venue Frontage Design



Base: All respondents (101)

- Respondents were shown an image of the proposed frontage of the venue and asked how offensive they would find it.

- The vast majority of respondents do not find the image offensive or have no view (84%).


Reasons Why Frontage Is/Isn't Offensive



Reasons why respondent doesn't find frontage offensive	%	Count
Cannot see/ tell what it is	24	20
Looks boring/ plain	13	11
Nothing offensive	13	11
No lurid pictures	12	10
Not promoting what they are	8	7
Looks like a normal pub/ bar/ club	7	6

Base: All respondents (85)
 Others mentioned by 4 or less are not shown

Experience With Problem Customers



Experienced any problems	%	Count
Yes	5	5
No	95	96

Base: All respondents (101)

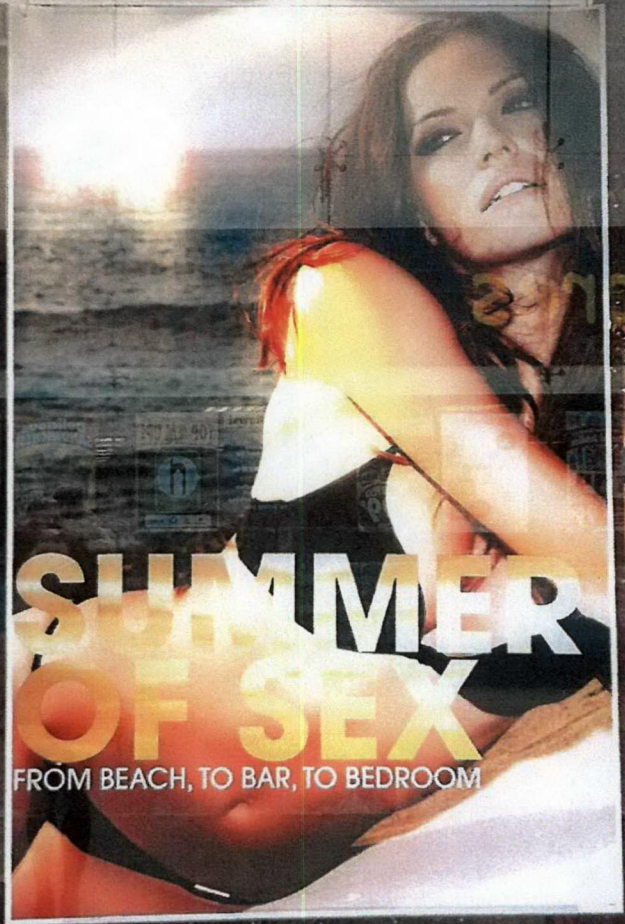
- Respondents were asked if they have previously experienced any problems with customers of lap dancing venues.
- The vast majority of respondents (95%) have not experienced any problems with customers of lap dancing venues.



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