

# Notice of Decision

## of the Licensing Sub Committee



<b>Date of Hearing:</b>	14th June 2012
<b>Determination Date:</b>	15th June 2012
<b>Notice of Decision:</b>	18th June 2012
<b>Members:</b>	Cllr S Armitage (chair) Cllr B Gettings JP Cllr B Selby
<b>Legal Officer:</b>	Richard des Forges
<b>Committee Clerk:</b>	Stuart Robinson
<b>Licensing Officer:</b>	Nicola Raper Philomena Carville Matthew Nelson Susan Holden
<b>Premises:</b>	Black Diamond, 68 New Briggate, Leeds, LS1 6NU
<b>Application:</b>	Sex Establishment Licence authorising the activity of sexual entertainment
<b>Attendees:</b>	Paddy Whur Applicant's representative Chris Rees-Gay Applicant's representative Mihaela Nita Applicant Sgt Fullilove West Yorkshire Police PC K Sanderson West Yorkshire Police

This application was brought before the Licensing Sub Committee as it is the first application for a grant of a sex establishment licence and due to the receipt of relevant objections.

The Licensing Sub Committee considered:

1. The report from the Head of Licensing and Registration
2. Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009
3. Sex Establishment Statement of Licensing Policy
4. Any objections received from members of the public
5. Any observations received from West Yorkshire Police

### Background

The Policing and Crime Act 2009 amends the Local Government (Miscellaneous Provisions) Act 1982 and Schedule 3 to introduce a new classification of sex establishment, namely sexual entertainment venues. This brought a new licensing regime for lap dancing, pole dancing and other relevant entertainment venues.

Leeds City Council adopted the provisions of Schedule 3 on 19 January 2011. Extensive research and consultation with the trade, academics, action groups and the public resulted in a policy document that was passed by Executive Board in September 2011.

The policy adopted by Leeds City Council did not choose to place a limit on the number of permitted lap dancing venues within the city but instead set out the approach of encouraging the responsible promotion of licensed activities through frank discussions with the trade, the imposition of conditions and effective enforcement to address problems in partnership with key agencies.

The council does have the mandatory and discretionary grounds open to it to refuse any application for a licence. If it does not refuse it can impose appropriate conditions. The council's policy document contains 56 standard conditions which can be added to or varied at the discretion of the licensing sub committee on the granting of a licence.

The council received seven applications, all from premises which presently provide lap dancing under the terms of their existing licence issued under the Licensing Act 2003. If granted, these licences will take effect from 1 October 2012 and last for 12 months at which time an application will have to be made to renew

Objections have been received from members of parliament, councillors, Leeds Object, Support After Rape and Sexual Violence Leeds and anonymous members of the public. These objections were primarily of a general nature dealing with all lap dancing clubs in Leeds, with a small number of objections specific to certain establishments.

Many objections received raised moral objections against lap dancing establishments in general.

Other objections received raised concerns about the numbers of lap dancing establishments in Leeds and asked for the number to be arbitrarily halved or capped. The policy adopted by Leeds City Council does not set a limit on the numbers of establishments as each application will be judged on its own merits. The licensing sub committee notes that the policy is to be reviewed in approximately 18 months time. Any change to impose an overall limit on numbers can be considered at that time.

Further objections received raised concerns on the subjects of:

- Licensing of lap dancing was contrary to the Equality Act 2010.
- The unsuitability of the locality of the proposed establishments.
- Offensive signage, imagery, and littering of flyers.
- Length of opening hours applied for including daytime hours.
- Women's safety - both leaving work at night and going to work early morning.
- Dancers' welfare and their commercial exploitation.
- Licensing would be detrimental to the Vision of Leeds 2011-2030 as it undermines the "fair, open and welcoming" vision.

The licensing sub committee has considered all of these further objections when considering its decisions.

The sub committee has also read the Eden reports of 2003 (Lilith Report) and 2007 relating to studies in London boroughs and those studies that seek to reevaluate those studies. Also considered has been the work by Dr Teela Sanders specific to Leeds.

## **Application**

Observations were made by the police who were worried about management control with the premises. The licensing sub committee were satisfied that most of these concerns were in relation to previous management and ownership and, although they had concerns regarding inappropriate touching in the bar area, these were reduced by the applicant confirming that a further experienced manager from a Sheffield club was to assist the running of the premises. The licensing sub committee are assured that the police and enforcement officers will continue to monitor the running of this premises.

Black Diamond occupies a small premises on New Briggate. The immediate locality is predominantly office buildings, bars and taxi ranks with the Grand Theatre being the closest sensitive location. There are no other lap dancing clubs in the area.

The dancer welfare pack was considered sufficient to satisfy the required Equality Act considerations as set out in the council's screening document as published on the web site. The dancer welfare pack was also sufficient safeguard on the concern of dancer's welfare and commercial exploitation.

The locality was not considered unsuitable given that the opening hours suggested by the applicant places this premises operating in the late hours of the night to the early hours of the morning. The licensing sub committee were of the opinion that appropriately set hours could ensure that the premises could operate without impacting upon the surrounding area. The concession by the applicant regarding opening hours was sufficient to address the concerns raised relating to the perceived risk to women's safety.

The logo and imagery proposed to be used at the venue and on flyers were not considered offensive. Flyer distribution was said to take place at distribution points which may or may not exceed 100 metres of the establishment.

Dancers when smoking are not visible from the street and are separated from customers and members of the public. They are further to be wrapped in gowns of at least knee length so are not portraying an indecent image when seen by the public outside the venue.

The application made it clear that vehicles were not to be used and consented to a condition that they not be permitted.

## **Decision**

The sub committee resolved to grant a licence in this application subject to the following conditions:

1. All standard conditions be applied subject to the following amendments:
  - a. Condition 10 - hours of opening will be: 10pm - 4am Sunday to Thursday, 10pm - 5am Friday and Saturday.
  - b. Condition 24 - leafleting/distribution of flyers will be extended to require the licensee to remove any leaflets from the highway within a 100 metre radius of the distribution point by 6 am in addition to the area surrounding the premises.
  - c. Conditions 51 to 53 - The conditions relating to vehicles will be replaced by one condition not permitting vehicles to be used for personal solicitation, touting or advertising but allowing the transport of customers to or from the premises but only by the use of licensed taxi and private hire vehicles.

2. The designated terrace area only will be used as a smoking area for the dancers who will be covered up at all times with the knee length robes supplied by the applicant. No unsupervised contact to take place between dancers and customers when on smoking breaks.
3. Panic alarms to be fitted to all booths and VIP performance areas.

### **Right of Appeal**

The following people have a right of appeal:

- (a) The applicant for a grant, renewal or transfer of a licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 whose application is refused;
- (b) An applicant for the variation of the terms, conditions or restriction on or subject to which any such licence is held whose application is refused;
- (c) A holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held;
- (d) A holder of any such licence whose licence is revoked.

to the Magistrates Court should they be dissatisfied with the decision made by the sub committee. This appeal must be made within 21 days of receiving this notice.

This right of appeal does not extend to decisions made on the grounds of:

12(1) A licence under this Schedule shall not be granted -

- (a) to a person under the age of 18; or
- (b) to a person who is for the time being is disqualified under paragraph 17(3) below; or
- (c) to a person, other than a body corporate, who is not resident throughout the period of 6 months immediately preceding the date when the application was made; or
- (d) to a body corporate which is not incorporated in an EEA state; or
- (e) to a person who 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 application is made, unless the refusal has been reversed on appeal;

Unless the applicant shows that the ground did not apply to him.

This right of appeal also does not extend to a decision made on the grounds of

- 12(3) (c) that the number of 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;
- (d) that the grant or renewal of the licence would be inappropriate, having regard -
  - (i) to the character of the relevant locality; or
  - (ii) to the use to which any premises in the vicinity are put; or
  - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Appeals should be addressed to the Magistrates Court and be accompanied by a copy of this notice of decision:

Clerk to the Justices  
Leeds Magistrates Court  
Westgate  
Leeds  
LS1 3JP

There is a fee payable details of which can be obtained from the Magistrates Court.  
Cheques should be made payable to HMCS.

Please note that persons making appeals should be aware that the Magistrates have the power to award costs against any party as a result of appeal proceedings.