

LICENSING SUB-COMMITTEE

MINUTES OF A MEETING of the Licensing Sub-committee held on Monday, 19 February 2018 at 10.00 am in the executive meeting room, floor 3 of the Guildhall, Portsmouth

Present

Councillor Lee Mason (in the Chair)

Councillors David Fuller
David Tompkins (Reserve Member in place of Cllr
Gemma New)

14. Appointment of Chair

Councillor Lee Mason was appointed chair of this hearing.

15. Declarations of Members' Interests

No interests were declared.

16. Local Government (Miscellaneous Provisions) Act 1982 - Licensing of Sex Establishments - Sexual Entertainment Venue - Application for the grant of a licence – Dungen Ltd - Wiggle 1-3 Surrey Street Portsmouth PO1 1JT

The Licensing Sub-committee hearing procedure was followed.

Present:

Peter Baulf, Legal Advisor
Tracy Blair, Legal Advisor
Nickii Humphreys, Licensing Manager
Mr Paul Ojla, Applicant
Mr Jon Wallsgrove, Solicitor for the Applicant.

Interested parties making deputations

Ms C Dacke
Ms C Storey

DECISION

In the matter of the Local Government (Miscellaneous Provisions) Act 1982

Licensing of Sex Establishments - Sexual Entertainment Venue.

Application for the grant of a licence - Dungen Ltd - Wiggle, 1-3 Surrey Street, Portsmouth, PO1 1JT

The Committee have considered all written material placed before them along with the submissions made by the advocate retained by the applicant company, together with all the comments made by the Licensing Authority and the individual objectors to the application.

Portsmouth City Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 so that as an Authority PCC could regulate Sexual Entertainment Venues - the decision was made by PCC on 22 March 2011.

Portsmouth City Council adopted the Sex Establishment Licensing Policy in October 2012.

This Committee is asked to determine the application by the applying company dated 26 April 2012.

The Policy specifically states that at paragraph 7.10a that the presumption to refuse shall not apply to applications for renewal, transfer or variation of an existing licence or with respect to the grant of a new sex licence whereby the application was made during the transitional period of 1 November to 31 October 2012 to those premises that can demonstrate to the satisfaction of the LA that during the 12 months prior to the commencement of the transitional period they have been regularly providing sexual entertainment that previously was only regulated under the Licensing Act 2003.

The Committee is therefore engaged in considering:

1. The basis of the applicant's ability to qualify as having provided sexual entertainment in a period 12 months before the transitional period commenced.
2. That an application for a licence has been applied for within the requisite period.

The Committee has heard the following evidence and on balance each case being assessed upon its own individual merits and facts is established to conclude that the applicants were providing sexual entertainment and the application was made within the transitional period. The committee rely upon the following:

- That it is clearly the case that the premises was trading at the appropriate point in time.
- No challenge was raised as to the basis of the transitional provisions applying.

Having concluded that the application is within the scope of the policy the committee must consider whether there are any statutory grounds to either refuse the application upon a mandatory basis or whether the evidence would allow refusal upon any discretionary ground.

The submissions made and accepted are such that there are in law no statutory grounds to refuse the application.

The Committee is engaged in considering whether there is any discretionary basis to refuse the application. The Committee is required to consider the current PCC policy paying regard to paragraph 7.3 to 7.17. Having considered all the written evidence and the objections from those attending today the Committee make the following observations using the policy guidance:

- Unsuitability of the applicant looking at 7.3 to 7.6 of the policy:
 - It is clear that the premises is run consistently within the current policy and that the relevant Responsible Authorities are engaged with the management on a regular basis.
- Unsuitable manager of the business or other beneficiary looking at 7.7 of the policy:
 - It is clear that the applicant is an established manager/owner and there is no evidence to suggest that the applicant is not the controlling influence within the company ownership.
- Number of sex establishments looking at 7.8 to 7.10a of the policy:
 - The transitional provisions apply and whilst a policy exists as to sex establishment venue provisions paragraph 10a specifically enables the application to be considered.
- Character of the relevant locality looking at 7.11 of the policy:
 - The Committee were not persuaded that the premises within the vicinity of other premises that are affected by the existence of the establishment or by its continuing existence. The Committee are clear that the premises has traded for 7 years without any complaints from a Responsible Authority and in particular the police.
 - Having considered gender equality and the continuing use of the premises the committee are not persuaded that the mere existence of the premises is such that it would of itself deter usage of the area, particularly by women at night.
- Use of premises in the vicinity/layout character or condition looking at 7.12 to 7.17 of the policy
 - The premises is such that they are acceptable in terms of the PCC policy as to access standard, signage and fitness. Again it is clear that the club has attempted to work with the relevant Responsible Authorities to enable trading to continue with minimal effect upon neighbours and other users of the area.

The Committee is reminded that the Human rights Act applies to this application (Article 10 Right to freedom of expression is engaged along with Article 1 Protocol 1 - protection of property see page 146 of the application).

Whilst the committee have considered the objections they are not of the view that given the above comments and consideration of the policy that the objections are such as to justify the refusal of the application. The Committee also state as follows:

- Whilst the objectors are very articulate and commendably engaged, the committee could not accept the evidence as being directly applicable to the application.
- The Committee could not see nor accept any link as to the premises and other forms of potentially criminal activity as being made out.

The application is therefore granted with the standard conditions.

17. Local Government (Miscellaneous Provisions) Act 1982 - Licensing of Sex Establishments - Sexual Entertainment Venue - Application for the grant of a licence – Wellhot Ltd - Elegance 1 Granada Road Southsea PO4 0RD

The Licensing Sub-committee hearing procedure was followed.

Present:

Peter Baulf, Legal Advisor
 Tracy Blair, Legal Advisor
 Nickii Humphreys, Licensing Manager
 Mr Paul Ojla, Applicant
 Mr Jon Wallsgrove, Solicitor for the Applicant.

Interested parties making deputations

Ms C Dacke
 Ms C Storey

DECISION

In the matter of the Local Government (Miscellaneous Provisions) Act 1982

Licensing of Sex Establishments - Sexual Entertainment Venue.

Application for the grant of a licence - Wellhot Ltd - Elegance, 1 Granada Road, Southsea, PO4 0RD

The Committee have considered all written material placed before them along with the submissions made by the advocate retained by the applicant company, together with all the comments made by the Licensing Authority and the individual objectors to the application. The Committee has looked at the specific objections from page 333 of the bundle to page 443.

Portsmouth City Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 so that as an Authority PCC could regulate Sexual Entertainment Venues - the decision was made by PCC on 22 March 2011.

Portsmouth City Council adopted the Sex Establishment Licensing Policy in October 2012.

This Committee is asked to determine the application by the applying company dated 24 April 2012.

The Policy specifically states that at paragraph 7.10a that the presumption to refuse shall not apply to applications for renewal, transfer or variation of an

existing licence or with respect to the grant of a new sex licence whereby the application was made during the transitional period of 1 November to 31 October 2012 to those premises that can demonstrate to the satisfaction of the LA that during the 12 months prior to the commencement of the transitional period they have been regularly providing sexual entertainment that previously was only regulated under the Licensing Act 2003.

The Committee is therefore engaged in considering:

1. The basis of the applicant's ability to qualify as having provided sexual entertainment in a period 12 months before the transitional period commenced.
2. That an application for a licence has been applied for within the requisite period.

The Committee has heard the following evidence and on balance each case being assessed upon its own individual merits and facts is established to conclude that the applicants were providing sexual entertainment and the application was made within the transitional period. The committee rely upon the following:

- That it is clearly the case that the premises was trading at the appropriate point.
- No challenge was raised as to the basis of the transitional provisions applying.

Having concluded that the application is within the scope of the policy the committee must consider whether there are any statutory grounds to either refuse the application upon a mandatory basis or whether the evidence would allow refusal upon any discretionary ground.

The submissions made and accepted are such that there are in law no statutory grounds to refuse the application.

The Committee is engaged in considering whether there is any discretionary basis to refuse the application. The Committee is required to consider the current PCC policy paying regard to paragraph 7.3 to 7.17. Having considered all the written evidence and the objections from those attending today the Committee make the following observations using the policy guidance:

- Unsuitability of the applicant looking at 7.3 to 7.6 of the policy:
 - Whilst trading over a 16 year period and whilst currently shut, it is clear that the premises has been run responsibly with a fully engaged management team.
- Unsuitable manager of the business or other beneficiary looking at 7.7 of the policy:
 - The applicant is an established manager/owner and there is no evidence to suggest that the applicant owner is not the controlling influence within the company ownership.
- Number of sex establishments looking at 7.8 to 7.10a of the policy:

- The transitional provisions apply and whilst a policy exists as to sex establishment venue provisions paragraph 10a is specifically engaged.
- Character of the relevant locality looking at 7.11 of the policy:
 - The Committee were not persuaded that the premises within the vicinity of other premises that are affected by the existence of the establishment or by its continuing existence. The Committee are clear that the premises has traded for many years without any complaints from a Responsible Authority and in particular the police.
- Use of premises in the vicinity/layout character or condition looking at 7.12 to 7.17 of the policy
 - The premises is such that it is acceptable in terms of the PCC policy as to access standard, signage and fitness. Again it is clear that the club has attempted to work with the relevant Responsible Authority to enable trading to continue with minimal effect upon neighbours and other users of the area.

The Committee is reminded that the Human rights Act applies to this application (Article 10 Right to freedom of expression is engaged along with Article 1 Protocol 1 - protection of property see page 146 of the application).

Whilst the committee have considered the objections they are not of the view that given the above comments and consideration of the policy that the objections are such as to justify the refusal of the application. The Committee also state as follows:

- Whilst the objectors are very articulate and commendably engaged, the committee could not accept the evidence as being directly applicable to the application.
- The Committee could not accept any link as to the premises and other forms of potentially criminal activity as made out.

The application is therefore granted with the standard conditions.

The meeting concluded at 12.40 pm.

Councillor Lee Mason
Chair