



DECISIONS OF THE LICENSING SUB COMMITTEE

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13 June 2019

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	WARD	DECISION	OFFICER CONTACT
		<p>Licensing Sub-committee Decision Meeting - 10 June</p> <p>The Sub Committee took the following decisions:-</p>	<p>Joanne Wildsmith, Democratic Services Tel: 9283 4057 Democratic@Portsmouthcc.gov.uk</p>
3		<p>Local Government (Miscellaneous Provisions) Act 1982 - Licensing of Sex Establishments - Sexual Entertainment Venue - Application for the renewal of a licence – Wellhot Ltd - Elegance 1 Granada Road Southsea PO4 0RD</p> <p>In the matter of the Local Government (Miscellaneous Provisions) Act 1982 and the application for the renewal of a sexual entertainment venue licence in respect of Elegance, 1 Granada Road, Southsea, PO4 0RD</p> <p>The Sub Committee considered very carefully an application for renewal of a sexual entertainment licence at Elegance, 1 Granada Road, Southsea.</p> <p>It paid due regard to the Local Government (Miscellaneous Provisions) Act 1982, the Licensing Manager's report, written representations and oral evidence given at the hearing from the Applicant's representative as well as the adopted statement of licensing policy and the Home Office Sexual Entertainment Venues Guidance for England and Wales.</p> <p>Human Rights legislation was borne in mind whilst making the decision - this included the right to freedom of expression, protection of property</p>	<p>Nickki Humphreys Licensing Manager Tel: 9283 4604</p>

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		<p>balanced with rights of objectors.</p> <p>Particular consideration was given to the public sector equality duty in accordance with s.149 of the Equality Act 2010 and whether any representation could be raising issues relevant to the protected characteristics. Gender equality was considered so far as appropriate to the representations.</p> <p>It was noted with significance that no representation was made on behalf of the police or any other responsible authority.</p> <p>The Sub Committee heard that a number of representations had been received after the expiry of the prescribed statutory period. The Sub Committee accordingly had to determine whether those representations ought to be properly considered and taken into account. The Sub Committee accepted advice that has a discretion to accept late representations and in making such a determination it should consider the following (as well as any other relevant factor):</p> <ol style="list-style-type: none"> 1) How late are the representations? 2) Is there any particular reason for their lateness? 3) Would their admission create prejudice for the applicant (e.g. insufficient time to respond)? 4) To what extent do the late representations add anything significant to the strength of the objection argument? <p>It was noted that the Guidance indicates that the discretion may be exercised where the applicant is given the opportunity to deal with objections (paragraph 3.26).</p> <p>The Sub Committee heard from the Applicant on the issue in particular stating:</p> <ul style="list-style-type: none"> - that the Applicant had been served with the late objections in advance of the hearing, but did not wish to adjourn the proceedings today in the event that the objections were admitted; - But that there was nothing in the content of these late objections which had not already been stated in the objections received on time; 	

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		<ul style="list-style-type: none"> - And that the consultation period expired in March and these objections had been made extremely late. <p>The Sub Committee agreed to hear a summary outline of the late objections from the Licensing Manager, this summary included the suitability of the area, safety issues, allegations of criminal activities and the sexual objectification of women.</p> <p>Having heard the summary and considered the Applicant's representations, the sub-committee determined not to accept and consider the late representations.</p> <p>Having taken account of all of the above, and for the reasons which follow, the Sub Committee has determined to grant the licence as applied for.</p> <p><u>Reasons</u></p> <p>The Sub Committee noted that objection to the renewal of the licence generally focussed (but not necessarily exclusively) upon the following:</p> <ul style="list-style-type: none"> - The area is mainly residential - Parking / infrastructure - The effect upon issues relating to drink and drug abuse in the area - A school and church being in close proximity - Safety - House prices - Other areas being more suitable - Nuisance <p>In support of the application the Sub Committee heard the following from the Applicant:</p> <ul style="list-style-type: none"> - that there was no evidence before the Sub Committee that the applicant is unsuitable; - that there was no evidence before the Sub Committee that there will be an unsuitable manager of the business or other beneficiary; - that the policy of the Licensing Authority of a presumption of refusal for new sexual entertainment venues does not include those in place at the time the policy was made; 	

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		<ul style="list-style-type: none"> - that the character of the locality, use of premises in the vicinity and layout, character or condition has not changed since the licence was renewed in 2018; - that allegations of criminal activity at the premises are not true and no evidence has been produced to support these serious allegations and no objections have been received by the police in respect of this renewal. <p>The Sub Committee noted that the Guidance indicates that objections must be relevant to the grounds set out in paragraph 12 of Schedule 3 to the 1982 Act (set out at paragraph 3.23 and 3.27-3.28 of the guidance). Accordingly, issues raised by objectors, not relevant to the grounds set out therein (e.g. where relating to moral grounds or values), were not taken into consideration.</p> <p>The Sub Committee noted and accepted the Licensing Officer's report and submissions of the Applicant that there are no statutory grounds to refuse the application upon a mandatory basis.</p> <p>The Sub Committee considered all the grounds for a discretionary refusal of licences. It found that there is no basis to refuse the licence due to the unsuitability of the applicant, particularly given that none of the Responsible Authorities have made representations about the applicant in this respect.</p> <p>Similarly, the Sub Committee found there were no reasonable grounds to refuse the licence on the basis of there being an unsuitable manager of the business or other beneficiary.</p> <p>In light of the relevant grounds raised the Sub Committee focussed its mind upon the grounds set out at paragraph 3.28 (c) and (d) of the guidance and the appropriate number of sex establishments of a particular kind in the relevant locality, the character of that locality and the use to which premises in the vicinity are put. Paragraphs 7.11 - 7.17 of the adopted statement of licensing policy were also taken into consideration.</p> <p>The Sub Committee was referred to the adopted statement of licensing policy, particularly paragraph 7.10 which indicates that there is no place within the</p>	

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		<p>City of Portsmouth of which it could be said that it was situated in a locality in which it would be appropriate to licence a sex establishment. However that is clarified at paragraph 7.10a where it is confirmed the presumption to refuse shall not apply to renewals of existing licences (amongst other things).</p> <p>The Sub Committee therefore accepted it could reconsider the nature of the area in which the premises is located and to what extent its continued operation in that area presents a risk to the specified grounds, along with the appropriate number. The Sub Committee did take account of the fact that its policy had already considered the issue of numerical control and no significant change to the area since the formation of that policy was identified. Clearly policy can change but there was no compelling reason to depart from adopted policy in this case.</p> <p>Whilst the Sub Committee had considered the objections they were not of the view that given the above comments and consideration of the policy that they are such as to justify the refusal of the application. The Sub Committee state in particular:</p> <ul style="list-style-type: none"> - They were not of the view that women would be deterred from using the area/the existence of the club would give rise to a fear of crime having considered the existence of the club in its current location over a number of years and the lack of direct evidence of such. - They have considered the equality issues raised by objectors and given due consideration to the Public Sector Equality Duty contained within the Equality Act 2010 which requires that decisions which may have a negative impact on equality are taken after due consideration of any such negative impact and the ways in which such impact may be mitigated. - That the licence being applied for has full and extensive conditions attached to it which provides comfort to those residents and persons visiting, working or otherwise in the locality of the premises and satisfies the Sub Committee that the venue has a safe, professional and secure operating system in 	

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		<p>place.</p> <ul style="list-style-type: none"> - The Sub Committee noted in addition that the licence is renewable on an annual basis and will therefore be reconsidered again at renewal in 12 months. <p>The application was therefore granted.</p>	
5		<p>Licensing Act 2003 - Consideration of Personal Licence</p> <p>Following the exclusion of press and public the personal licence matter was held in exempt session and the personal licence under consideration was revoked.</p>	<p>Derek Stone Principal Licensing Officer Tel: 9268 8462</p>