

PART A

Report to: Licensing Sub-Committee
Date of meeting: 7 October 2013
Report of: Head of Community and Customer Services
Title: Application for renewal of a Sexual Entertainment Venue licence:
Beavers, 9 Market Street, Watford, WD18 0PA
13/00928/SEX

1.0 SUMMARY

1.1 An application has been made by Wizard Sleeve Bars Limited for renewal of its Sexual Entertainment Venue licence for Beavers in Market Street. A valid objection has been received from Hertfordshire Constabulary who are the only statutory consultee.

2.0 RECOMMENDATIONS

2.1 That the Licensing Sub-Committee determines whether to refuse the Sexual Entertainment Venue Licence for Beavers, 9 Market Street, Watford under paragraph 12(3)(a) and (b) of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009).

Contact Officer:

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Report approved by:

Alan Gough, Head of Community and Customer Services

3.0 **APPLICATION**

3.1 Type of authorisation applied for
Renewal of Sexual Entertainment Venue Licence (SEV)

3.2 Description of premises
The premises are situated on a main road in the town centre. The premises consists of two floors with separate bars on both. Lap dancing/table dancing and strip shows are permitted on both floors.

3.3 A map of the location of the premises is attached at appendix 1.
Plans of the ground and first floors of the premises are attached at appendix 2.

3.4 Licensable activities
A SEV licence can allow “relevant entertainment” as defined in schedule 3 of the 1982 Act (as amended by section 27 of the Policing and Crime Act 2009):

“Any live performance or live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).”

Relevant entertainment is considered to be:

1. lap dancing
2. pole dancing
3. table dancing
4. strip shows
5. peep shows
6. live sex shows

The applicant has specifically mentioned lap dancing, table dancing and strip shows in the application.

3.5 Licensable hours

The currently permitted hours for licensable activities and premises opening are detailed in the table below. As this is a renewal application the applicant has not proposed any changes in those hours.

	Hours for lap dancing, table dancing & strip shows	Hours premises open to the public for activities permitted under SEV licence
Monday	21:00 – 02:00	21:00 – 02:00
Tuesday	21:00 – 02:00	21:00 – 02:00
Wednesday	21:00 – 02:00	21:00 – 02:00
Thursday	21:00 – 03:00	21:00 – 03:00
Friday	21:00 – 04:00	21:00 – 04:00
Saturday	21:00 – 04:00	21:00 – 04:00
Sunday	None requested	None requested

3.6 If granted, the renewed SEV licence will continue to authorise the activities set out in paragraph 3.4 above. Other licensable activities (the sale of alcohol, provision of music and late night refreshment) will continue to be regulated by the premises licence granted under the Licensing Act 2003.

4.0 **BACKGROUND INFORMATION**

4.1 The following background information is known about these premises:

4.2 Applicant

Wizards Sleeve Bars Limited. The persons responsible for its management will be:

1. Zoe Turpin (director)
2. Sharon Weatherstone (director)
3. Deborah Caulfield (director)

It is understood that Zoe Turpin has resigned from the company.

4.3 Current licences held

The premises have been licensed for the sale of alcohol for a large number of years. The Council granted a waiver to its then public entertainment licence in June 2003 to initially allow pole-dancing and it is understood similar entertainment has been provided since that date. Wizard Sleeve Bars Limited has operated at the premises since June 2010.

In August 2011 the Sexual Entertainment Venue licence (11/00040/SEX) was granted following a Licensing Sub-Committee hearing to decide the application. This was renewed on 13 August 2012 (12/00778/SEX). This licence is attached at appendix 3.

The premises also has the benefit of a premises licence under the Licensing Act 2003 (12/01673/LAPRMV), held by Punch Taverns plc. At the time the

SEV application was made, the designated premises supervisor was Zoe Turpin. On 18 September 2013 an application was made to vary the premises licence to name Michael Short as the premises supervisor.

4.4 Punch Taverns, the Licensing Act 2003 premises licence holder has indicated that they may attend the hearing as they have a commercial interest in the sub-committee's determination. The sub-committee is advised there is no rule to prevent them from them giving evidence on the applicant's behalf should it feel it is relevant. However Punch Taverns may not at this stage make any separate representation as they have not made representations within the statutory consultation period.

4.5 Closing date for representations
6 September 2013

4.6 Public notice published in newspaper
16 August 2013

4.7 Visits and Enforcement action
The premises undergoes routine yearly inspections by Licensing Enforcement Officers with the last inspection on 17 August 2010 when the premises were found to be complying with the premises licence. There is no history of service requests (complaints) regarding this premises since it started operating as a lap/table dancing venue.

5.0 **OBSERVATIONS OR OBJECTIONS FROM THE POLICE**

5.1 An objection has been received from the Police regarding this application. Some of their evidence falls within the scope of schedule 12A to the Local Government Act 1972 (i.e. exempt information) in that it either relates to an individual, or allows an individual to be identified, and/or contains information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. For this reason copies have only been supplied to the applicant and the sub-Committee, and will not be made publicly available. The sub-committee may therefore hear some of the evidence relating to this matter in private.

6.0 **DETAILS OF OBJECTIONS**

6.1 Hertfordshire Constabulary are requesting that the renewal application be refused under paragraph 12(3)(a) and (b) of schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009). This allows for applications to be refused where the applicant is unsuitable to hold a licence following conviction for a relevant offence or for any other reason. It also allows for the refusal of a licence if 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 themselves be refused a licence if they had made the application.

6.2 The objections received from the police against the renewal application have been made due to their concerns regarding the way in which the premises are being operated and the sexual activity that is being offered.

6.3 Hertfordshire Constabulary alleges that the following conditions of the licence have been breached since the licence was last renewed:

“17. The licensee must ensure that during the performance of a table dance:

(3) for the purpose of restraint only, performers may only touch a customer above the customer’s chest with their hands only;

(4) performers must not sit or straddle the customer;

(5) performers must not place their feet on the seats.

18 The Licensee must ensure that during performances to which this licence relates:

(1) performers may not perform any act that clearly simulates any sexual act;

(2) performers may not intentionally touch a customer any time during the performance unless absolutely accidentally or due to a third party;

(3) performers may not use inappropriate, suggestive or sexually graphic language at any time;

(4) performers must never intentionally touch the genitals or breasts of another dancer or to knowingly permit another dancer to intentionally touch their genitals or breasts;

(5) performers must not engage in communications that could be deemed as acts of prostitution or solicitation, even if the performer has no intention of carrying out the act.

6.4 These breaches were witnessed during a police operation at the premises on 28 August 2013. Further detailed statements from those officers have been provided separately to the applicant and the Sub-Committee. The applicant has been given the opportunity of viewing the covert recording made at the time. The officers at the premises at the time will be made available to give evidence to the Sub-Committee.

6.5 The objection details other concerns relating to the management of the premises. The police detail a current investigation in to an allegation of conspiracy to pervert the course of justice. This relates to an interview regarding unauthorised licensable activity (sale of alcohol beyond the hours of the premises licence) which came to light after a fight between customers at the premises.

6.6 There are also references to an individual whom the police believe is actually in control of the premises but is not named on the application. Details of a fight that took place at Beavers are given at which this individual was allegedly present. It is claimed that he later denied all knowledge of the

event.

- 6.7 Details are given of an agreement by the venue to introduce a computerised “membership scheme” by June 2013. This police evidence is that that this was not in operation when the police visited on 28 August 2013. This particular issue does not constitute an offence but has been detailed by the police to demonstrate the attitude of the premises management.
- 6.8 The police have submitted additional evidence specifically relating to the ID Scanner or computerised membership scheme. This information consists of a number of documents which are listed below:

- (1) Minutes of a meeting held at Watford Police Station on 22 February 2013 in which an ID scanner was discussed. This document confirms that on this date the management of Beavers agreed to look into this possibility.
- (2) Minutes of a meeting held at Watford Police Station on 7 March 2013 in which the ID scanner was discussed. At point 12, “A”, the legal representative for Beavers, describes a system to be operated instead of the Scannet proposed by the Police. “B” on behalf of the company explained how this would work. It was agreed that this would be part of the SEV renewal but would be implemented sooner. “A” confirmed that the implementation of the membership scheme would take approximately 8-12 weeks.
- (3) Email sent to “A” and Zoe Turpin on 8 March 2013 including the minutes. This demonstrates that both the legal representative and one of the Directors of the applicant company were given the opportunity to read the minutes of the meeting and dispute them if they wish.
- (4) Email to Zoe Turpin on 21 May 2013 asking for an update on the progress of the ID scanner request.
- (5) Email reply from Zoe Turpin on 23 May 2013 stating that she hoped the new ID scanner system would be in place by 31 May 2013.
- (6) Email from Zoe Turpin on 22 August 2013 confirming that the membership scheme is in operation and had been for some time.

The police state that this evidence indicates that the agreed procedure for the membership scheme was being ignored despite claims to the contrary.

- 6.9 In summary the police state that they believe if the renewal were granted that the premises would continue to operate outside the terms of SEV licence.

7.0 LEGAL CONSIDERATIONS

7.1 The following provisions of schedule 3 apply to this application (see appendix 5):

- (1) paragraph 10 (*Grant, renewal and transfer of licences for sex establishments*):
paragraph 10 details the process which the applicant must have followed for the application to be considered valid.
- (2) paragraph 12 (*Refusal of licences*):
paragraph 12 describes the grounds under which an application shall not be granted, the relevant ones for this application being:
 - (a) the applicant is unsuitable to hold the licence due to having been convicted of an offence or for any other reason
 - (b) that if the licence were to be granted, renewed or transferred the business to which it related would be carried on for the benefit of a person other than the applicant who would have themselves been refused the application

7.2 Appeals against the refusal to renew an SEV under paragraph 12(3)(a) may be made by the applicant to the magistrates' court within 21 days of being notified of the decision. The sub-committee's decision does not come into effect until the end of the 21-day appeal period. If an appeal is lodged during that time the SEV remains in force until the appeal is either determined or withdrawn. A further right of appeal against the magistrates' decision lies to the crown court.

8.0 POLICY CONSIDERATIONS

8.1 Watford Borough Council Sex Establishment Licensing Policy
(see appendix 6):

Paragraphs 3.1-3.7 of the policy deals with who can comment on licence applications and how this should be done.

Paragraph 3.6 states that objections will be considered by a Licensing Sub-Committee of three Councillors. Both applicants and objectors are given an equal opportunity to state their case in accordance with our protocol.

8.2 Paragraph 7.11 details that where it is reasonable and necessary to do so, the Licensing Committee will impose additional proportional conditions on a licence. Wherever possible, these will be discussed in advance with operators by our licensing officers.

8.3 The Sub-Committee is reminded of its duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and

the authority's responsibility to co-operate in the reduction of crime and disorder in the Borough.

- 8.4 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.
- 8.5 The Sub-Committee will be aware that its determination is only in relation to the SEV, and that it has no power to make a determination in relation to the premises licence under the Licensing Act 2003.

9.0 **RELEVANT TRADE OR OTHER GUIDANCE**

The Association of Lap Dancing Club Operators, whose code of conduct was reproduced as special conditions on the Sexual Entertainment Venue licence following the previous hearing, was dissolved on 22 August 2013. Officers are not aware of any other relevant trade body or guidance.

10.0 **CONDITIONS**

- 10.1 The applicant has requested as part of the renewal that the following conditions be included on any renewed SEV licence issued as a result of this application:

1. An ID system will be installed and operated to ensure that every customer's ID is known. Details of customers ID are recorded and made available to the Police upon request subject to the Data Protection Act 1998. Data from the ID system to be retained for a minimum period of 31 days. In the event of a system malfunction, or for any other reason the system is not operating, the duty manager of the premises shall inform the police immediately upon being made aware of the fault and the system shall be repaired and operating within 7 days thereafter.
2. Any disturbance, assault, theft, ejection from the premises or refusal of alcohol that takes place at the premises is to be recorded in a logbook to be kept for that purpose. The log must take the form of a paginated book and must be retained for a period of one year and made available immediately upon request to a member of Hertfordshire Constabulary or Watford Licensing Authority.

Appendices

Appendix 1 – map of the premises' location

Appendix 2 – plan of the premises

Appendix 3 – Sexual Entertainment Venue Licence (12/00778/SEX)

Appendix 4 – objections from Hertfordshire Constabulary [NB: Part of objection published separately for the sub-committee and applicant only]

Appendix 5 – extracts from the Local Government (Miscellaneous Provisions) Act 1982 (as amended)

Appendix 6 – extracts from Watford Borough Council's Sex Establishment Policy

Background Papers

The following background papers were used in the preparation of this report. If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009)

Watford Borough Council Sex Establishment Policy October 2010

File Reference

Beavers renewal 2013