

Licensing Act 2003 Sub- Committee



Forest Heath
District Council

Minutes of a meeting of the **Licensing Act 2003 Sub-Committee** held on **Monday 23 November 2015** at **10.00 am** at the **Council Chamber, District Offices**, College Heath Road, Mildenhall IP28 7EY

Present: **Councillors**

Chairman David Bimson
John Bloodworth Carol Lynch

13. **Apologies for Absence**

There were no apologies for absence.

14. **Substitutes**

There were no substitutes at the meeting.

15. **Election of Chairman**

It was unanimously

RESOLVED:

That Councillor David Bimson be elected as Chairman.

16. **Application for the Renewal of a Sex Establishment Licence (Sexual Entertainment Venue) in Respect of Heaven Awaits Ltd, 109-111 High Street, Newmarket (Report No LSC/FH/15/004)**

The Lawyer welcomed all present to the Hearing, reported that no declarations of interest had been received and introductions to the Panel were made by the Chairman.

The Lawyer outlined the procedure for the conduct of Sex Establishment Licensing Hearings which was attached within Appendix 2 of Report No LSC/FH/15/004.

The following parties were present at the Hearing:

(a) Applicant

- (i) Mr Mitchell Clarke, Director, Heaven Awaits Ltd, 109-111 High Street, Newmarket

(ii) Mr Jason Newell, Director, Heaven Awaits Ltd, 109-111 High Street, Newmarket

(b) Interested Parties

- (i) Mrs Sara Beckett, local resident
- (ii) Councillor Rachel Hood, Newmarket Town Council

The Licensing Officer presented the report which explained that an application had been received for the renewal of a Sex Establishment Licence for the Sexual Entertainment Venue Heaven Awaits Ltd, 109-111 High Street, Newmarket. The premises had been trading since April 2006 and had held a Sexual Entertainment Venue licence since 1 October 2012. A copy of the application was attached at Appendix 1.

The application was to licence the premises for use as a sexual entertainment venue during the following hours (as per the current premises licence with no proposed changes):-

Monday to Wednesday: 10.00am to 02.00am
Thursday to Saturday: 10.00am to 03.20am
Sunday: 12.00pm to 03.00am

The application had been served on Suffolk Constabulary as the only statutory consultee; their representation was attached at Appendix 3 and contained no objection to the renewal of the licence.

Following advertisement of the application three representations had been received from interested parties objecting to the application and these were attached at Appendices 4 to 6.

The Officer explained that in addition to the consideration of the renewal application the Committee was also requested to again consider the premises signage. The current and main external sign did not comply with the Council's standard conditions for sex establishments; in that the sign was larger than permitted. A dispensation had been granted by the Council as part of the licence's renewal in January 2015 and the applicant was again requesting this dispensation as part of the application before the Committee.

The Committee then heard the individual submissions from each of the parties present.

Mr Jason Newell (Applicant) advised the Committee that Heaven had been successfully trading since 2006 and that the application before them was simply seeking approval for the times as granted in January 2015, with no changes.

Councillor Rachel Hood, on behalf of Newmarket Town Council, then addressed the meeting in relation to the Town Council's representation set out at Appendix 4. She stressed that Licensing Authorities were entitled to come to a different decision to that which was made before when considering annual renewals for sex establishments, and as such the application should be viewed afresh.

Attention was drawn to the District Council's Sex Establishment Licensing Policy, which stated that:

"6.3 The Council would not normally grant a licence where any premises within the vicinity are used for the following:

- (a) school;*
- (b) place of worship;*
- (c) family leisure;*
- (d) domestic residential buildings;*
- (e) important historic buildings;*
- (f) youth facilities;*
- (g) important public and cultural facilities."*

Councillor Hood argued that (b) – (g) all applied in this case and that the Applicant had not demonstrated any exceptional circumstances as to why the Council should depart from their own Policy.

Lastly, Councillor Hood advised the Sub-Committee of the significant changes to the character of Newmarket High Street which had been made during the last twelve months, as a result of the ongoing work of the Newmarket Vision Steering Group. She considered Heaven to be in an entirely inappropriate location within Newmarket, particularly in light of the recent improvements which had been made to the High Street and she urged Members to refuse the application before them.

Mrs Sara Beckett, a Newmarket resident, then addressed the Committee with reference to her representation which was attached as Appendix 5. Similarly to the submission made on behalf of Newmarket Town Council; Mrs Beckett also spoke upon the items (a) – (g) as set out in Paragraph 6.3 of the Council's Sex Establishment Licensing Policy and asserted that the application was in clear conflict with these.

She stressed that she objected to the location of the premises and not the existence of the business and urged the Sub-Committee to refuse the application.

The applicant was then invited to sum up and have right of reply to the objections raised.

Mr Newell stressed that Heaven was a successful, well run business which provided employment for local people and encouraged patrons into Newmarket. He and the other fellow Directors actively supported various initiatives ran in the town including the Newmarket Vision Steering Group which he spoke in support of.

To clarify, he also explained that the Directors owned and operated both Heaven and Innocence nightclub which occupied the same premises on the High Street. However, Heaven was in the basement, accessed via a flight of stairs with only the signage visible, and the nightclub was in the upper floors of the building. The renewal application before the Sub-Committee purely concerned Heaven.

Lastly, whilst Mr Newell appreciated that the location of the premises was not entirely ideal in some respects, he stressed that it was in fact a perfect location to ensure that the premises was managed by the police when open.

And he highlighted the letter submitted by the police (Appendix 3) which made reference to the good working relationship they had with the licensees.

After hearing the submissions and asking questions of the parties present, the Committee then retired to another room to give further consideration to the application.

It was proposed by Councillor David Bimson, seconded by Councillor Carol Lynch and with the vote being unanimous, it was

RESOLVED:

That the application for the renewal of the Sex Establishment Licence for the Sexual Entertainment Venue Heaven Awaits Ltd, 109-111 High Street, Newmarket be **APPROVED** incorporating the standard conditions and the **CURRENT SIGNAGE BE ALLOWED TO REMAIN** in accordance with Condition 20(iii).

The Committee considered all representations received both in writing and orally. Together with the Council's Sex Establishment Licensing Policy and the Standard Conditions annexed to the Policy.

Issues raised that they considered to be irrelevant:

- Reference to the Newmarket Vision Steering Group; the Sub-Committee gave weight to the fact that no objection was made by the Steering Group;
- The visual impact of the premises in the High Street; and
- The residential status of the Directors.

Particular consideration was given to Policy 6.3 of the Sex Establishment Licensing Policy which states that a licence would not normally be granted if other premises as listed in paragraphs a) to g) of that policy were in the vicinity of the premises.

The Sub-Committee noted that this was not a definitive statement. In this case few representations had been made on the grounds of locality and no evidence was produced to persuade the Sub-Committee to deviate from previous decisions.

The meeting concluded at 11.03 am

Signed by:

Chairman
