

Licensing and Regulatory Sub-Committee



Forest Heath
District Council

Minutes of a meeting of the **Licensing and Regulatory Sub-Committee** held on **Monday 7 November 2016** at **10.00 am** at the **Council Chamber, District Offices**, College Heath Road, Mildenhall IP28 7EY

Present: **Councillors**

Chairman Carol Lynch
John Bloodworth Nigel Roman

26. **Apologies for Absence**

There were no apologies for absence.

27. **Substitutes**

There were no substitutes at the meeting.

28. **Election of Chairman**

It was unanimously

RESOLVED:

That Councillor Carol Lynch be elected as Chairman.

29. **Application for the Renewal of a Sex Establishment Licence (Sexual Entertainment Venue - Heaven Awaits Ltd) (Report No: LSC/FH/16/004)**

The Business Partner (Litigation/Licensing) welcomed all present to the Hearing, reported that no declarations of interest had been received and introductions to the Panel were made.

The Business Partner (Litigation/Licensing) then outlined the procedure for the conduct of Sex Establishment Licensing Hearings which was attached to the agenda.

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) Mr Warwick Hirst, local resident
- (iii) Councillor Rachel Hood, Newmarket Town Council
- (iv) Councillor Justin Wadham, Newmarket Town Council
- (v) PC Lee Sampher, Suffolk Constabulary
- (vi) Malcolm McKessar, Suffolk Constabulary

The Licensing Team Leader 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; two objecting to the application and one in support, 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 last 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 November 2015, with no changes.

Mr Warwick Hirst spoke on his representation as attached at Appendix 6. He supported the application and explained that since De Niro's nightclub had ceased operating in Newmarket, there had been marked reduction in anti

social behaviour on the High Street. He did not believe that Heaven's patrons caused any disturbance in the town.

Mr Hirst also stated that there was no conflict with Heaven's proximity to premises offering children's activities as Heaven did not open until 9.00pm.

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 as the prior approvals were irrelevant.

Newmarket Town Council continued to object to the licence renewal on the basis that it opposed 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.

Councillor Hood advised the Hearing that a Member of Newmarket Town Council had attended the premises and observed non compliance with conditions (as set out in their representation).

The Business Partner (Litigation/Licensing) requested that Councillor Hood bring her address to a close. Councillor Hood objected and was given the opportunity to summarise.

Councillor Hood considered Heaven to be in an entirely inappropriate location within Newmarket, particularly in light of recent improvement plans made as part of the Newmarket BID project.

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, on a historic High Street, 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 an established, well run business which provided employment for local people and encouraged visitors into Newmarket.

He advised the Hearing that the premises had a good working relationship with the police, and despite a number of attempts to engage with the Town Council to discuss their concerns they had never been taken up on their offer.

The Licensing Team Leader advised the Sub-Committee that the Council's Licensing Officers visited the premises in response to the operational concerns raised by Newmarket Town Council and Officers were content that no breach of conditions was taking place.

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.

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.

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 were satisfied that the buildings referred to in Paragraph 6.3 suffered no adverse impact from the application premises.

The meeting concluded at 11.01am

Signed by:

Chairman
