

Licensing and Regulatory Sub- Committee

Minutes of a meeting of the **Licensing and Regulatory Sub-Committee** held on
Thursday 7 November 2019 at **10.00 am** in **Council Chamber, College
Heath Road, Mildenhall, Suffolk, IP28 7EY**

Present: **Councillors**

Roger Dicker
Margaret Marks

Phil Wittam

11. **Apologies for Absence**

No apologies for absence were received.

12. **Substitutes**

There were no substitutes present at the meeting.

13. **Election of Chair**

It was unanimously

RESOLVED:

That Councillor Margaret Marks be elected as Chair.

14. **Application for the Renewal of a Sex Establishment Licence (Sexual
Entertainment Venue - Heaven) (Report No: LSC/WS/19/004)**

The Business Partner (Litigation/Licensing) welcomed all present to the Hearing and drew attention to the procedure for the conduct of Sex Establishment Licensing Hearings which was attached to the agenda.

The Chair then invited introductions from all present.

The following parties were present at the Hearing:

(a) Applicant

- i. Mr Dean Adams, Director, Newmarket Entertainment Ltd, 109-111 High Street, Newmarket
- ii. Mr Gokul Swami, Director, Newmarket Entertainment Ltd, 109-111 High Street, Newmarket

(b) Interested Parties

- i. Councillor Rachel Hood, Mayor of Newmarket Town Council

ii. Councillor James Lay, Deputy Mayor of Newmarket Town Council

The Licensing Officer presented the report which explained that an application had been received from Newmarket Entertainment Ltd for the renewal of a Sex Establishment Licence for the Sexual Entertainment Venue Heaven, 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 of Report No LSC/WS/19/004.

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

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

The Officer explained that in addition to the consideration of the renewal application, the Sub-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 now dissolved) Forest Heath District Council as part of the licence's renewal in previous years and the applicant was again requesting this dispensation as part of the application before the Sub-Committee.

Following advertisement of the application two representations had been received from interested parties objecting to the application, these were attached at Appendices 3 and 4.

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

Dean Adams (applicant) advised the Sub-Committee that he and his fellow Director taken ownership of Heaven in February 2017, prior to which it had been successfully operating since 2006. He was simply seeking a renewal of the licence together with the dispensation for the signage both as granted previously.

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 3.

(Councillor Hood asked that it be formally recorded that she had spoken with the Business Partner (Litigation/Licensing) prior to the meeting and had raised concerns about making her presentation in front of Sub-Committee Member Councillor Roger Dicker.)

Councillor Hood made reference to 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.

Particular reference was made to the nearby property at 113 High Street, Newmarket which was now in the ownership of West Suffolk Council and provided temporary accommodation. Councillor Hood considered it wholly inappropriate for a sex establishment to be in such close proximity to a property housing potentially vulnerable individuals.

She stressed that Newmarket Town Council objected to the signage and the location of the premises at each annual renewal, in light of it being on a historic High Street and in conflict with their Neighbourhood Plan, and urged the Sub-Committee to refuse the application.

Councillor James Lay also addressed the meeting in respect of the Town Council's representation, he similarly made reference to the Council's Sex Establishment Policy and the nearby residents within 113 High Street.

Lastly, he drew attention to the fact that the Town Council had earlier this year invested in the Memorial Garden's play area, with the newly renovated equipment now attracting more families than ever to the facility.

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

Dean Adams stated that the venue was very discrete and that during Heaven's opening hours the footfall within the town was generally quite limited, with facilities such as the Memorial Gardens having closed prior to Heaven opening for business. Furthermore, the entrance door was below street level and did not afford a view of the interior from the door.

The Sub-Committee was advised that the current owners inherited the signage, however, they would replace it with signage that complied if the dispensation was no longer granted by the Licensing Authority.

Gokul Swami also addressed the Sub-Committee and highlighted the excellent relationship the premises had with the local police. He explained that they were part of a Newmarket night-time economy network radio and their door staff had assisted the staff of other premises during incidents.

In answer to a question raised by the Chair, Dean Adams assured Members that trained door staff manned the entrance throughout the entire opening hours of the premises and he would ensure that they were all fully briefed in respect of the residents at 113 High Street.

He concluded by reiterating that he was simply seeking a renewal of the licence, with the dispensation for signage.

Councillor James Lay asked if he could respond to the comments made by the applicant but was advised by the Business Partner (Licensing/Litigation) that the hearing procedure did not permit this, as it allowed the applicant to have the final word.

The Chair assured Councillor Lay that the Sub-Committee recognised the representation from the Town Council and took all points on board.

The Sub-Committee then retired to another room to give further consideration to the application.

With the vote being unanimous, it was

RESOLVED:

That:-

The Sub-Committee considered the application, all representations and the Council's Sex Establishment Licensing Policy, in particular Part 6.

The Sub-Committee recognised that the Policy guided the decision makers but it was not a strict set of rules; it was there to ensure decisions were reasonable, consistent and proportionate. The Policy defined sensitive premises (at 6.3) because, by their nature, they might be particularly sensitive to adverse effects resulting from a nearby Sexual Entertainment Venue.

The Sub-Committee did not feel that the existence of the sensitive premises was sufficient for the rejection of the renewal application. This was due to the distances between the properties, the nature of the High Street environment and actual visibility of the licensed premises, together with the timing of events (in that most of the sensitive premises were not in use when the licensed premises was operating).

Careful consideration was given to the existence of the house in multiple occupancy, recently acquired by the Council to house single persons and couples in emergency need of housing. However, it was acknowledged that this property had previously been a privately owned HMO and the Sub-Committee did not feel this change of circumstance merited the refusal of the application.

The Sub-Committee considered that the licensed premises was sufficiently discrete so as to have little or no impact on historic and cultural buildings in the vicinity.

The Sub-Committee felt that the design and positioning of the sign was such that it was inoffensive and unobtrusive and permission was granted for its continued use despite its size not being in accordance with the Policy guidance.

The decision was to GRANT the renewal of the licence as applied for incorporating the standard conditions and to continue to approve the current signage in accordance with Condition 20(iii) and the amendment to Part V Condition 13.

The meeting concluded at 11.14am

Signed by:

Chair
