

Licensing and Regulatory Sub-Committee

Minutes of a meeting of the **Licensing and Regulatory Sub-Committee** held on **Wednesday 31 January 2024 at 10.00am** in **Conference Room, Mildenhall Hub**, Sheldrick Way, Mildenhall IP28 7JX

Present **Councillors**

Carol Bull
Pat Hanlon

Ian Houlder

In attendance
Marilyn Sayer (observing)

65. **Election of Chair**

It was proposed, seconded and

RESOLVED:

That Councillor Carol Bull be elected Chair for this Sub-Committee meeting.

66. **Apologies for absence**

Apologies for absence were received from Councillor Marilyn Sayer.

67. **Substitutes**

The following substitution was declared:

Councillor Pat Hanlon substituting for Councillor Marilyn Sayer

68. **Declarations of interest**

There were no declarations of interest made.

69. **Application for the Renewal of a Sex Establishment Licence (Sexual Entertainment Venue - Heaven Awaits Ltd) (Report No: LSC/WS/24/001)**

The Lawyer (Regulatory and Information Governance) welcomed all present to the Hearing, reported that no declarations of interest had been received and introductions to all parties were made. He also drew attention to the procedure for the conduct of the Hearing as attached to the agenda.

The following parties were present at the Hearing:

Applicant

- i. Gokul Swani (Applicant/Director, Newmarket Entertainment Limited, 109 High Street, Newmarket)
- ii. Gary Grant (Barrister representing the applicant)
- iii. Mike Hayward (Solicitor representing the applicant)
- iv. Christopher Kenningham (Trainee Solicitor representing the applicant)

Witnesses for the applicant

- v. Kyla Clarke
- vi. Becky Hall
- vii. Bruno Tavares
- viii. Luke Watson

The Food Safety and Licensing Manager presented the report which explained that an application had been received from Newmarket Entertainment Limited for the renewal of a sex establishment licence for the sexual entertainment venue, Heaven, 109 High Street, Newmarket. The premises had been trading since April 2006 and had held a Sexual Entertainment Venue (SEV) licence since 1 October 2012. Any SEV licence granted was held for a period of one year and was renewable annually. A copy of the application was attached at Appendix A to Report No LSC/WS/24/001.

The application was to licence the premises for use as a sexual entertainment venue during the following hours, which were in accordance with the current premises licence granted under the Licensing Act 2003. No changes had been proposed:

Monday to Wednesday: 7.00pm to 02.00am
Thursday to Saturday: 7.00pm to 03.20am
Sunday: 7.00pm to 03.00am

One representation had been received following the advertisement and consultation held on this application from Newmarket Town Council, this was attached at Appendix C.

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

Speaking on behalf of the applicant, Gary Grant (Barrister) drew attention to the following:

- That Heaven had held an SEV licence since October 2012 and every year since then it had been renewed for another year. No significant changes had been made to the application since then.
- That only one objection had been received, and notably that none had been received from any responsible authority or business. Furthermore, the content of the representation from Newmarket Town Council largely centred on moral grounds which was irrelevant to the determination of the application.

- Responding to specific elements of the Town Council’s objection it was stated that:
 - Children were highly unlikely to walk past the premises when it was open from 9pm and the Memorial Gardens Play Area was closed prior to the opening hours of the venue.
 - The adjacent property had largely been in residential use for many decades.
- That the entrance and fascia to the venue was very discrete with no advertising provided.
- That the venue, which offered a lawful form of adult entertainment, attracted a significant number of customers (both local and visitors from outside Newmarket) per year and was an integral contributor to the night-time economy of Newmarket. Many other businesses such as the adjoining nightclub, pubs, restaurants and taxi operators in the locality thrived off the back of the success of Heaven. Heaven was a member of the Newmarket Business Improvement District (BID) and the BID had supported the renewal of the licence. It was therefore considered to be situated in an ideal, discrete location and its viability, together with many other businesses that greatly depended on Heaven’s success, would suffer significantly, if it were to close or be relocated.

In the absence of any party representing Newmarket Town Council, the Chair drew attention to their representation as attached to the agenda.

The applicant was then invited to sum up, however, they declined to add anything further to their opening statement and confirmed that they did not wish to call upon their witnesses in attendance.

Following which all parties for the applicant, the Licensing Officer and the observing District Councillor left the meeting to allow the Sub-Committee to give further consideration to the matter.

Following all parties return to the meeting room the Lawyer (Regulatory and Information Governance) advised on the Sub-Committee’s decision.

With the vote being unanimous, it was

RESOLVED:

That the renewal of the Sex Establishment Licence for the Sexual Entertainment Venue, Heaven, 109 High Street, Newmarket, be **GRANTED** as applied for, incorporating the standard conditions.

Reasons for decision:

Although two Members of the Sub-committee had sat on previously constituted Sub-Committees to determine applications for the renewal of the SEV licence for the current premises, the Sub-Committee was at pains to point out to all parties present that it had not closed its mind to permissible outcomes, had considered all issues without the presence or appearance of bias or pre-determination, had had regard to all relevant considerations and acted in accordance with the law.

Whilst considering both written and oral representations, the Sub-Committee had had regard to such legal criteria as set out within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act") and the Council's Sex Establishment Licensing Policy ("the Policy").

Having regard to representations made regarding the location of the premises, regard was given to Part 6 of the Policy ("Location of Licensed Premises"); particularly, the test as set out to determine vicinity at paragraph 6.3.3 and thereafter.

The Sub-Committee considered Appendix D of the Policy – Refusals and Revocation of Licences, particularly, the grounds for refusal as set out within paragraph 3 (d).

Accordingly, having considered all relevant facts, with due regard to the application, the representations received, the Act and the Policy, the Sub-Committee unanimously resolved to grant the renewal of the licence as applied for incorporating the standard conditions.

The meeting concluded at 10.46am

Signed by:

Chair
