

MINUTES OF PUBLIC PROTECTION SUB-COMMITTEE MEETING - TUESDAY, 12 JULY 2022

Present:

Councillor Hutton (in the Chair)

Councillors

Cox	Hunter	Wilshaw
Farrell	D Scott	

In Attendance:

Sarah Chadwick, Democratic Governance Senior Advisor

Sharon Davies, Senior Licensing Solicitor

Ben Williams, Barrister for Blackpool Council

Lee Petrak, Licensing and Trading Standards Manager

1 DECLARATIONS OF INTEREST

There were no declarations of interest.

2 APPLICATION FOR A NEW SEXUAL ENTERTAINMENT VENUE LICENCE - 11-13 QUEEN STREET

The Sub-Committee considered an application by AA Recreation 1 Ltd for a new Sexual Entertainment Venue (SEV) licence for "Dreams", 11-13 Queen Street, Blackpool.

Mr Mark Newton, Director of AA Recreation 1 Ltd, attended with his legal representative, Mr Richard Williams, who presented the case on behalf of the applicant. The Sub-Committee was reminded that it first heard the application at its meeting on 8 September 2021 when it determined to defer its decision pending the outcome of an appeal by Pool Construction Ltd against the refusal to transfer the licence for 15-17 Queen Street due to concerns of potentially having two competing businesses adjacent to each other. That appeal remained outstanding and due to the time elapsed since first consideration the application had been brought back before the Sub-Committee for determination.

Mr Williams summarised the case on behalf of the applicant based on his written submissions, highlighting the Sub-Committee's view from the initial hearing when it had not been persuaded at that time that Mr Newton was unsuitable to hold a SEV licence. Members were reminded that Mr Newton already operated similar venues in the town and had offered to surrender another licence operated by him at 169 Promenade, subject to the new licence being granted for 11-13 Queen Street, as he believed that Queen Street was a more appropriate location for a SEV.

Referring to the Council's Sex Establishment Policy, Mr Williams considered that any decision should be based on the 2016 Policy which was in force when the application was made, not the subsequent 2021 Policy which determined that the number of Sex Establishments should be nil with the exception of renewal applications which benefited

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from grandfather rights. Mr Williams concluded by reminding Members of the four grounds for refusal available to the Sub-Committee under the Local Government (Miscellaneous Provisions) Act 1982. In his opinion, there was no valid reason to refuse the application and he therefore invited the Sub-Committee to grant the licence.

The objector to the application, Mr David Moseley, attended with his legal representative Ms Sarah Clover who presented the representations on his behalf. Ms Clover explained that the focus of the objection was based on the unsuitability of Mr Newton to hold a licence, suggesting that another licence for 15-17 Queen Street had previously been transferred to him in inappropriate circumstances when in her opinion Mr Newton had no right of occupation to that premises and had misled the Council in order to facilitate that transfer, thus making him unsuitable.

Referring to the Council's Sex Establishment Policy, Ms Clover invited the Sub-Committee to base its decision on the current 2021 Policy which allowed for no new licences to be granted and cited case law which she believed stated that was the correct legal position. In regards to the offer from Mr Newton to surrender the existing licence for 169 Promenade subject to the application being granted, Ms Clover believed this was not a relevant incentive, reminding the Sub-Committee that it already had the power to refuse to renew that licence if it was minded that the Promenade was an unsuitable location. In her opinion, it would be inappropriate to have two competing venues next door to each other should the applications for both 11-13 and 15-17 Queen Street be granted and therefore invited Members to refuse the application.

Mr Ben Williams, Barrister on behalf of Blackpool Council, reminded Members that whilst it should have regard to the Policies in force both at the time of application and determination, it was not mandated to apply either policy and had discretionary grounds to grant an application should it be minded to do so.

The Sub-Committee carefully considered the information provided by both parties. It concluded that the application should be determined at the same time as the application for 15-17 Queen Street which had been deferred to a meeting on 2 August 2022 following Counsel advice to request additional information in respect of that case. Members therefore agreed to defer consideration of the application to the same meeting.

Resolved:

That consideration of whether or not to grant a new Sexual Entertainment Venue licence for 11-13 Queen Street be deferred until 2 August 2022.

3 APPLICATION FOR A NEW SEXUAL ENTERTAINMENT VENUE LICENCE - 15-17 QUEEN STREET

The Sub-Committee considered an application by UK Exclusive Entertainment Ltd for a new Sexual Entertainment Venue (SEV) licence for "Mystique", 15-17 Queen Street, Blackpool.

Mr Rafael Suski, Director of UK Exclusive Entertainment Ltd, appeared before the Sub-Committee accompanied by Mr Carl Moore, Licensing Consultant and Mr David Moseley,

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landlord, who was accompanied by Ms Natalie Christopher. The case was presented by the applicant's legal representative, Ms Sarah Clover.

Ms Clover referred the Sub-Committee to the comprehensive policies and plans for the venue that had been submitted with the application and drew Members' attention to the additional written submission provided by her on behalf of the applicant in advance of the meeting. The premises would be managed by Robert and Marie Norton, who had experience in running similar premises, on behalf of Mr Suski whose company had a five year lease for the premises.

In Ms Clover's opinion, the location on Queen Street was appropriate for a SEV licence and she reminded Members that no representations had been made by any of the authorities. Referring to the objection submitted by Mr Newton, the Sub-Committee was advised that Mr Suski had a good relationship with the authorities and the compliance issues highlighted in the objection had been dealt with resulting in no formal warnings, fixed penalty notices or reviews of his other licences. She therefore suggested that there was no evidence that Members could rely on to refuse the application on the grounds of unsuitability. Ms Clover further added that the premises would not be managed by or carried on for the benefit of Mr Moseley, who had previously been deemed unsuitable by the Sub-Committee, as had been suggested in the objection.

Ms Clover referred to the 2021 Sex Establishment Policy and argued that, although the application was for a new SEV licence, the Sub-Committee should consider applying grandfather rights as the premises had benefited from a licence until it had been transferred, wrongly in her opinion, to Mr Newton's company who subsequently withdrew the renewal application prompting the licence to lapse.

Presenting the representations on behalf of Mr Mark Newton, his legal representative Mr Richard Williams referred the Sub-Committee to the issues raised in the original letter of objection and supplementary written submissions. Members were asked to consider in particular the suitability of the applicant and whether the landlord, Mr Moseley, would benefit from the carrying on of the business despite having been previously refused a licence himself. In response to Ms Clover's suggestion that the Sub-Committee could consider applying grandfather rights, Mr Williams believed that the 2021 Sex Establishment Policy did not allow for any exceptions and that it should be considered as a new application and therefore be subject to the nil policy limit.

Mr Williams questioned in detail the applicant's lease for the premises, which had been confirmed by Ms Clover as five years but which the application form stated had been granted for ten years to another of Mr Suski's companies with a sub-lease issued to the applicant, UK Exclusive Entertainment Ltd. Ms Clover presented a copy of the five year lease to the Sub-Committee but was unable to provide a copy of the sub-lease at the time of the meeting. Mr Williams referred to the earlier allegation made towards Mr Newton that he had made a false declaration to the Council in order to facilitate a transfer application and suggested that if Mr Suski had misled the Sub-Committee with regards to the lease then he should similarly be considered as unsuitable.

Following questions from Members as to whether the appropriate fees had been paid in

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respect of the lease and whether failure to pay amounted to an offence, Mr Ben Williams, Barrister on behalf of Blackpool Council, suggested that legal advice should be taken from experts in property law. Ms Clover added that she would need to request further information from Kuits Solicitors, who had been involved with drawing up the lease, as to the exact position.

The Sub-Committee carefully considered the information provided and concluded that in order to make a determination the full circumstances of the lease agreement needed to be clarified. It therefore agreed to defer consideration of the case until a special meeting to be arranged on 2 August 2022. Members requested that any additional documents to be presented at that meeting must be served by 12 noon on 18 July 2022 and the Sub-Committee indicated that time limits for speeches may be imposed on the next occasion.

Resolved:

That consideration of whether or not to grant a new Sexual Entertainment Venue licence for 15-17 Queen Street be deferred until 2 August 2022.

4 DATE OF NEXT MEETING

The date of the next scheduled meeting was confirmed as 19 July 2022.

The Sub Committee noted that an additional meeting would be arranged for 2 August 2022.

Chairman

(The meeting ended 8.37 pm)

Any queries regarding these minutes, please contact:
Sarah Chadwick Democratic Governance Senior Adviser
Tel: (01253) 477153
E-mail: sarah.chadwick@blackpool.gov.uk