

OBJECTION TO THE TRANSFER OF SEV LICENSE 15-17 QUEEN STREET

APPLICANT DETAILS – David Moseley on behalf of Pool Construction Ltd

DATE OF OBJECTION – 4th May 2021

OBJECTOR DETAILS - Directors and Shareholders of 'AA Leisure1 Ltd', 'AAEntertainment1 Ltd', 'AA Recreation 1 Ltd'.

INTRODUCTION

This objection is based upon concerns we have that the Transfer of licence will be contrary to Blackpool Councils Policy relating to Sex Entertainment Licences, if granted:

1. The applicant is someone without the relevant experience.
2. The applicant has a poor track record relating to compliance of licensed and commercial premises.
3. The applicant would also like it placed on record that he feels that Mr Moseley has used his position as the landlord to make the lease untenable to engineer a position whereby he can make this application to the Council. This was frankly engineered through deception and has caused the applicant much distress as the unreasonable behaviour gradually came to light. In retrospect this was to create a situation that would enable Mr Moseley to make this application.
4. The final observation is that if this is granted to Mr Moseley, and he subsequently breaches regulations this would bring the other license holders into disrepute by association when in reality they wish to comply with all regulations and continue to run venues that are an asset to the prosperity of the area of Blackpool in which they operate.

REASONS FOR OBJECTION

The relevant legislation *Schedule 3 Local Government (Miscellaneous Provisions) Act 1982* states the following.

Section 12 (3) a) The applicant is unsuitable to hold a licence by reason of having been convicted of offence or for any other reason.

The Councils own policy provides more detail on what it considers to be a suitable applicant and conversely an unsuitable applicant, the paragraphs highlighted in bold type are the points we intend to cover in this submission.

SUITABILITY OF APPLICANTS.

The Council will need to be satisfied that the applicants for a sex establishment licence are suitable to operate the business by ensuring:

a) that the operator is honest

b) That the operator is qualified by experience and/or knowledge to run the type of sex establishment That the operator understands the general conditions and will comply with them

c) That the operator is proposing a management structure which will deliver compliance with operating conditions, for example through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and in the case of a sexual entertainment venue, policies for the welfare of performers

d) If the application is for a sexual entertainment venue, that the operator can be relied upon to act in the best interests of the performers e.g., in how they are remunerated, the facilities provided, how they are protected and how and by whom their physical and psychological welfare is monitored

e) That the applicant can be relied upon to protect the public e.g., transparent charging and freedom from solicitation

f) That the operator can show either a track record of management of compliant premises, or that he/she has an understanding of the rules governing the type of licence applied for will employ individuals who have such a track record.

All applications will be considered but they are unlikely to be granted if any of the following apply:

a) The applicant has a criminal record. Offences that will be considered particularly relevant include convictions for:

- Dishonesty
- Violence
- Sexual offences
 - Drugs
- People trafficking

b) The applicant has previously been involved in running an unlicensed sex establishment.

c) If the licence were to be granted, the business to which it relates would be managed by or run for the benefit of a person other than the applicant who would be refused the grant of such a licence if they made it themselves

Mr Moseley has no experience of running a Sex Entertainment Venue and therefore cannot satisfy point b) above in either of the criteria listed. We would point out that one of the objector Directors and a Manager spent a complete season with an existing well respected license holder prior to them acquiring a SEV.

Considering points c) and f) together we feel Mr Moseley has a track record demonstrating serious non-compliance relating to 2 separate properties and businesses namely 15-17 Queen Street, Blackpool, and a Rest Home in South Shore. We believe these demonstrate both a lack of understanding, respect for the law and compliance with the necessary rules and regulations along with a lack of credible management structure and training protocols.

The Licensing Authority had cause to hear evidence from the Police and other Responsible Authorities on several occasions where concerns relating to Crime and Disorder and Protection of Children from Harm were raised.

The Council possess all the historic information regarding these proven breaches but for your convenience they are summarised in the attached appendix

CONCLUSION

Mr Mosely cannot demonstrate that he has a good track record that would satisfy the requirements of the policy, Premises Licence Reviews are not undertaken lightly and there has usually been a series of problems that have led to such a decision being made.

To have a licence suspended again is a rare occurrence usually only given to Licence Holders who leave the Committees with little other option.

The press article relating to the rest home drives home the seriousness of the breaches Mr Mosley was convicted of when it highlights the Judges' comments:

"It must surely stand as a powerful deterrent for anyone who might suppose ensuring fire safety in premises they are responsible for is an option and not an obligation in law"

The Directors of the objectors Companies have spent much time and money developing processes and procedures that comply with and often exceed the stipulations in the SEV. All officers, staff and contractors to the businesses have been fully trained in the relevant processes and this training is regularly reinforced in team training meetings, one-to-ones and appraisals.

The fact is the Licence was issued to 'AA Recreation 1 Ltd' and expires in January 2022. Mr Mosley's attempt to transfer a licence without the current holder's consent is akin to applying to DVLA to have your neighbour's car registered in your name without have the decency to make an offer to buy it first.

His intentions are nothing short of disingenuous and in any other walk of life seeking to obtain property that belongs to another with the intention to deprive, would be unacceptable.

European Court Human Rights have established for some years that a Licence is a possession as such I have qualified rights to remain the holder of that possession.

APPENDIX TO OBJECTION – Previous Breaches

FIRST INCIDENT AND OUTCOME

The Blackpool Council being the licensing authority on the 24th December 2009 received an application from Lancashire Constabulary to review the premises licence issued in respect of Septembers, 15-17 Queen Street, Blackpool.

" The panel has listened to statements from responsible authorities which have indicated a lack of due process in the admissions policy for underage and intoxicated people. The panel are very concerned that Septembers have failed 4 test purchases in the last twelve months."

" The panel acknowledge the fact that all Health & Safety issues have been addressed although we note it was completed reactively rather than proactively."

" We are very concerned about the poor training of staff and ongoing training issues that have resulted in this licence being reviewed today. We appreciate that the premises licence holder accepts that the original aims of the bar were not but were disappointed more vigorous discussions regarding the varying of conditions were not discussed with the authorities. We accept that the issues discussed today do not impinge on the good name the restaurant has."

The committee resolved to do the following:

- Conditions numbers 3, 4, 27, 31, 32 and 41 in Annex 2 are to be removed
- The following conditions will be imposed:
 - The capacity of the ground floor will be limited to 100 (one hundred) people.
 - Seating must be available for at least 50 people on the ground floor at all times
 - All staff must attain BIIAB Level 1 training (or equivalent) within 4 weeks of commencement of employment at the premises.
- The following Annex 2 conditions will be amended:
 - 14: Remove word 'suitable' insert word 'monthly'
 - 20: All door supervisors must wear High Visibility jackets at all times whilst working on the premises.
 - 29: All drinking vessels on the ground floor must be polycarbonate or plastic
 - 42: Insert the word 'monthly' between 'receive' and 'training'
 - 43: reference to '21' to be substituted with '25'
 - 44: reference to 'challenge 21' to be substituted with 'challenge 25'
- Reduce the hours of operation: Licensable activities to cease at 03:00 every day and the premises to close at 03:30 every day.

In accordance with Section 52(6) of the Licensing Act 2003, the panel has decided to impose a condition that no licensable activity will take place on the ground floor of the premises for a period of 4 weeks from the date this decision takes effect.

We consider this to be necessary and proportionate to promote the four licensing objectives.

This decision will come into effect in 21 days unless notice of appeal is served within that time.

Date: 19th February 2010

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The salient points we wish to draw to the Committees attention are;

- **A lack of due process in the admissions policy for underage and intoxicated persons**
- **4 failed test purchases in 12 months**
- **Poor training of staff and on-going training issues**

SECOND INCIDENT AND OUTCOME

In July of 2010 a second Review was considered for the same premises where Mr Mosley was still the Premises Licence holder, the decision notice is found below;

The Blackpool Council being the licensing authority on the 23rd April 2010 received an application from Weights and Measures to review the premises licence issued in respect of Septembers, Queen Street, Blackpool.

The Panel considered carefully all the submissions presented in writing prior to the meeting and verbally at the hearing and noted the Police assessment of improvement in the premises. Members also noted that following the failed test purchase on 27th March, a further test purchase on 1st April had been passed in part. Members noted Mr Moseley's consent to the revised CCTV conditions suggested by the Police. However, they were of the opinion that it was necessary and proportionate in this instance to add further conditions to the licence to ensure the promotion of the four licensing objectives: the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm and it was agreed additionally to effectively suspend the licence relating to the ground floor by not allowing licensable activities on the ground floor for a period of 8 weeks

The Panel agreed that the following amendments be made to the conditions:

- *Conditions numbers 20, 21 and 22 in Annex 2 are to be removed*
- *The following conditions will be imposed:*
 1. *CCTV will be installed internally and externally at the premises and will comply with the following: -*
 - *The CCTV shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises, with the exception of the toilets, are to be covered by the system, including any outside seating area.*
 - *The system will display on any recording the correct time and date of the recording.*
 - *The system will make recordings during all hours the premises are open to the public.*
 - *VCR tapes or digital recording shall be held for a minimum 31 days and 28 days respectively, after the recording is made and will be made available to the Police or any authorised persons acting for a Responsible Authority for inspection upon request.*
 - *The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.*
 2. *A staff member who is conversant with the operation of the CCTV system will be on the premises at all times when the premises are open to the public. This staff member will be able to show police recent data or footage with the absolute minimum or delay when requested.*
 3. *The Licence holder or Designated Premises Supervisor shall notify the Police Licensing Unit on any occasion when the CCTV or radio system is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.*
 4. *That two SIA trained door staff will be on duty from 9pm on Thursday, Friday and Saturday nights.*
 5. *That from 9pm every evening no persons under the age of 21, excluding staff on duty, shall be on the premises.*

In accordance with Section 52(6) of the Licensing Act 2003, the panel has decided to impose a condition that no licensable activity will take place on the ground floor of the premises for a period of 8 weeks from the date this decision takes effect.

We consider this to be necessary and proportionate to promote the four licensing objectives.

This decision will come into effect in 21 days unless notice of appeal is served within that time.

Date: 16th July 2010

The salient points we wish to draw to the Committees attention are;

Members noted a further failed test purchase on the 27th of March 2010 which occurred approximately 6 weeks after the hearing in February 2010 where underage sales seemed to be a recurring theme.

Members felt that it was necessary and proportionate to suspend the licence in order to promote the Licensing Objectives for a period of 8 weeks.

THIRD INCIDENT AND OUTCOME

The 3rd example of poor management we wish to highlight is the Rest Home that was operated by Mr Mosley, we have taken an article from the media which summarises the issues.

The owner of a care home in the Lancashire town of Blackpool has been given a landmark fine for fire safety breaches after a court ruled that he put the lives of his residents at serious risk.

David Moseley, the owner of the firm DM Care and the Ambassador Care Home in South Shore, was prosecuted after a fire broke out at the property in January 2012. This is when a large number of fire safety breaches were discovered at the 40-resident care home, suggesting that Mr Moseley and his management team had not undergone proper fire safety training. The breaches included the following:

- A fire exit route blocked by a Santa's Grotto
- Failure to have approved fire detection equipment
- Lack of working fire alarms

After admitting a total of seven breaches of fire safety regulations, Mr Moseley was fined £35,000 and ordered to pay more than £5,000 in court costs. This is the largest fine for such an offence ever handed out in Lancashire, as well as being the largest that Fleetwood Magistrates' Court could impose. Lancashire Fire and Rescue Service's Paul Ratcliffe said of the landmark fine:

"It must surely stand as a powerful deterrent for anyone who might suppose ensuring fire safety in premises they are responsible for is an option and not an obligation in law."

FOURTH INCIDENT

<https://www.lancs.live/news/lancashire-news/blackpool-care-home-shut-down-19065580>

Blackpool care home shut down after inspectors find poo-stained mattress and dirty fridge

A Blackpool care home has been shut down a number of shocking discoveries including poo stains on a mattress, a dirty medicine fridge, and residents being given the wrong doses of medicine.

Inspectors from England's health watchdog, the Care Quality Commission, visited Highbury House Care Home over five days in August 2019 after a person sustained serious injuries leading to a criminal investigation.

While they didn't assess the incident due to ongoing criminal proceedings, they found huge concerns at the Lytham Road care home, with people at risk from 'avoidable harm'.

In their report, published last Friday (October 2), they noted how the home had no up-to-date audits to ensure it was clean.

One mattress that was checked was 'ingrained with stains from faecal matter', they said.

The fridge that was used to store medicines was also unclean, with a box holding prescribed medicine stuck to the floor of the fridge.

Two residents had also been given the wrong doses of medicine because of 'poor record keeping' at the care home.

Inspectors came across a prescribed cream in one resident's room that was dated 2017, with the label on the cream indicating it did not belong to anyone currently living at the home.

"The provider representative and two staff members did not recognise the name on the cream bottle," inspectors said.

They added: "We found people were at risk of being given doses of some of their medicines too close together or at the wrong times because the provider representative's systems did not include checks to make sure this did not happen."

The care home was rated as Inadequate overall; the worst rating the CQC can issue.

It was rated Inadequate in the two categories concerning safety and good leadership, with Requires Improvement ratings issues for the three categories of effectiveness, care, and responsiveness.

Inspectors found that residents were not protected from the risk of abuse and unsafe care. Not all staff had received appropriate training, with one staff member working there for five months without any training relating to safeguarding audits.

One agency staff member even told inspectors that they were "just winging it" when it came to understanding residents' needs.

Ultimately, the CQC banned the care home provider, D M Care Limited, from running Highbury House, leading to the shutdown of the site.