

# **APPLICATION FOR A SEX ENTERTAINMENT VENUE LICENCE**

## **MYSTIQUE, 15-17 QUEEN STREET BLACKPOOL**

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### **SUBMISSION ON BEHALF OF THE APPLICANT**

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1. This is an application on behalf of UK Exclusive Entertainments Ltd, trading as “Mystique”, located at 1st & 2nd Floor, 15-17 Queen Street, Blackpool. The application was submitted on 29 April 2022.
2. There has been one anonymous and one identified objection to the application. The identified objection has been made on behalf of Mr Mark Newton, of AA Entertainment 1 Limited, and AA Recreation 1 Limited. Mr Newton is clearly a trade objector whose resistance to the grant of this application is based upon competition.
3. The anonymous objection appears clearly also to be from a trade objector, and it refers exclusively to the application of the Council’s SEV policy. It is assumed that the anonymous objection comes from Mr Sayers, the previous lessee, and holder of the SEV at 15-17 Queen Street. Mr Newton did a “deal” with Mr Sayers, to “buy” the SEV off him, which was entirely illegitimate. Mr Sayers has therefore taken money off Mr Newton, and may be attempting to placate him by supporting him with an objection to the licence going away from Mr Newton.
4. The Council’s Sex Establishment Policy that applies to this application is that dated 2021-2026. This states that the Local Authority may refuse an application “if it is satisfied that the number of sex establishments of a particular kind in the relevant locality at the time the application is made, is equal to or exceeds the number, which the authority considers is appropriate for that locality”. The Council has determined that the appropriate number of sexual entertainment venues in the Bloomfield, Claremont and Talbot Wards is nil. This is subject to the continuation of the licences of the SEVs that were already there at the time that the Policy was made.

5. The current case is an extraordinary one, that should be granted as a clear exception to the policy, in that the premises at 15-17 Queen Street did benefit from a licence, until the time that the Council wrongly allowed the transfer of it to Mr Newton. This should never have happened. The circumstances of this wrongful transfer are currently being examined in the context of the appeal to the Magistrates' Court. The Council accepted an application to transfer the licence to Mr Newton in 2020. Mr Newton had no rights of ownership or occupation over the premises at 15-17 Queen Street, for which he was making the application. This, and his lack of transparency in making the application in the first place, obviously made him an unsuitable person to hold the licence, and the transfer application should have been refused. Bizarrely, it was granted, and Mr Newton has used the SEV licence for these premises as a bargaining tool and to secure commercial advantages for himself ever since. This is entirely inappropriate, and the Council should never have allowed itself to become associated with this exercise. Having done so, the Council has precipitated a series of events, which has finally culminated with the unavoidable necessity of this application. Those with rights to the venue - Mr Moseley ( freeholder and landlord) and Mr Rafael Suski ( Leaseholder and operator) have had no choice but to make an application for a new licence. Several attempts have been made to transfer the licence back to legitimate hands, but Mr Newton has thwarted those efforts. This is what has caused the delay.

6. The Council should certainly approach this application as the extraordinary situation that it is, and should not apply the latest Policy or refuse it on that basis. This case is a very clear exception to the Policy. This will be expanded upon at the Committee Hearing.

7. Mr Newton, the objector, holds other SEV licences in Blackpool, including SEV00005 at 132-134 The Promenade, Blackpool FY1 1RA. Mr Newton has conceded that this licence is in an inappropriate location for Blackpool, as he has offered to surrender it. This offer will, no doubt, be made good at the next renewal application for that licence.

8. Mr Newton has also made an application for a new SEV licence at 11-13 Queen Street, Blackpool FY1 1NL - the application was submitted on 8 April 2021 This property

is next door to 15-17 Queen Street. It is obvious, ( and Mr Newton concedes in terms) that it would be totally inappropriate to have two SEV's next door to each other.

9. Mr Newton is on record as having said that he wants to hold all the SEV's in Blackpool. This would be a very negative monopoly, and bad for trade in Blackpool.

10. Mr Newton was originally going to sign a lease with Mr David Moseley, of Pool Construction Limited, the freeholder and landlord of 15-17 Queen Street. He was in negotiations with Mr Moseley for the lease, but Mr Newton conducted himself in such a way, and proposed such unacceptable terms and conditions that Mr Moseley decided to refuse to assign him the lease. Mr Newton has been hostile to Mr Moseley ever since.

11. Mr Moseley sought to deprive Mr Newton of the SEV licence for his property by making an application to transfer it to himself. This was primarily to end the ransom situation that Mr Newton had created by transferring the SEV to him. Mr Moseley made it plain at all times that he did not have experience at running SEVs, and would not be intending to run the premises himself. He wanted to instate Mr Rafael Suski as his lessee and operator. There was not time to prepare the application for transfer in Mr Suski's name in June 2021, and therefore it was presented by Mr Moseley. Mr Moseley was in difficulty in securing a new tenant for the property without the licence. Mr Rafael Suski signed the lease in his company name of RMS Coastal Resorts Investments, at the time of the hearing of the transfer application to Mr Moseley. Mr Suski is sole director and 100% shareholder of this company. The Committee was informed of this. The Committee was considering Mr Moseley as prospective licensee, and not Mr Suski, however.

12. It is also correct that the Committee decided that Pool Construction Limited (Mr Moseley) was unsuitable to hold the SEV Licence. The allegations of regulatory non-compliance are not conceded, but this is not relevant to these proceedings. These would form part of the Magistrates' Court appeal, if that becomes necessary.

13. Mr Moseley appealed against the refusal to transfer the licence to himself, and that appeal is now at Blackpool Magistrates' Court. It is entirely incorrect that the lodging of the appeal was a "delaying tactic", as the Mr Newton contends. There is no advantage in a long delay, either to Mr Moseley or to Mr Suski, and this contention has no logical basis. It is Mr Newton who has sought to subvert the proper progress of this licence.

14. Mr Suski made an application to transfer the licence to himself, to regularise the position, and avert the need for the Magistrates' Court appeal. The day before the Committee hearing to transfer the licence, on 24 May 2022, Mr Newton tactically surrendered the licence, meaning that there was nothing left to transfer. This wasted the time and costs of all involved, and frustrated the proceedings.

15. It is clear that the Magistrates' Court does not regard the progress of this appeal as a "delaying tactic" or it would not countenance it. The situation has been explained very carefully to the District Judge by Counsel, in the presence of the Council's Solicitor, and the District Judge understood entirely, and acceded to a relatively long adjournment in order to resolve matters. It is Mr Newton who has thwarted that process.

16. When Mr Newton says in his objection that: "The SEV Licence at 15-17 Queen Street has now expired and the only way it can be restored is by the Magistrates Court concluding that the Committee's decision to refuse the transfer was wrong", what he fails to mention is that the licence has expired because he deliberately and tactically surrendered it at the most inconvenient moment possible. It is Mr Newton who has employed delaying tactics. He has, all along, used this SEV licence as a weapon to attempt to harm his competition. This is not honourable behaviour and reflects badly upon him as an operator.

17. Mr Newton is quite wrong, practically and legally to say:

"In our view, Pool Construction Limited must now conclude its appeal before any subsequent SEV Licence applications in relation to this site can be determined. This is a view that is shared by the Council's Sub-Committee, as it has already deferred its decision on our client's application for a new SEV Licence. On 8 September 2022 [ sic], a final decision on our client's application for a new SEV Licence at 11-13 Queen Street was deferred "until the Magistrates' Court has determined Mr Moseley's appeal". A copy of that decision letter is attached – see Appendix B."

This is not a tenable position, as the Council has now realised. On the contrary, the Court has adjourned on more than one occasion, expressly in order to allow the Council to conclude these Committee proceedings. It would be tantamount to an abuse of process now for the Committee to refuse to do so, and to seek a conclusion to the appeal first.

That would be the diametric opposite of what the Council's Solicitor has said in open Court. Mr Newton is not a party to the appeal proceedings, and has not been present in Court, and so has no idea of what has been submitted to the District Judge. It is entirely the opposite of what he is suggesting to the Committee now. The appeal will not, therefore, be concluded before this Committee must determine these two SEV applications. There is no reason for any further delay.

18. It does not strictly matter which of the two applications currently before the Committee is determined first. Mr Newton's application certainly does not "have priority", as he claims. The order in which the applications were submitted is irrelevant. In real terms, the efforts to reclaim the SEV licence for 15-17 Queen Street from Mr Newton have been going on longer, one way or another. The fact that a new application by Mr Suski has been made necessary at all is only as a result of Mr Newton's tactical game playing. Both applications have been listed before the Committee at the same time. It is proper for the Council to have an awareness of both, particularly the fact that the venues are next to each other, before making a decision on each. There is no need to consider each application in a "silo" - that would be impractical, and would lead to suboptimal decision making.

19. In either order, Mr Suski's application should be granted, and Mr Newton's application must be refused. Mr Newton's application has already been adjourned once, because the Committee were unable to conclude that he was a suitable applicant with premises in a suitable location. Nothing has changed since, and no further evidence is available to the Committee, so they have no choice other than to conclude that Mr Newton and his premises are *not* suitable.

20. The premises at 11-13 Queen Street are unfit for purpose and specifically unsuitable for an SEV. Mr Newton is also an unsuitable candidate, and this has been represented in the objection previously made on behalf of Mr Moseley to his application. It is obvious that he is an unsuitable candidate because of the lack of transparency with the Council in the way that he obtained the transfer of the SEV for 15-17 Queen Street in the first place. The Council has been entirely misled by Mr Newton, causing the grave difficulties that we now find ourselves in.

21. The Council owe it to Mr Moseley and Rafael to get this one sorted first, as this pre-dates Newton's application next door. The fact that this current SEV application was made most recently is only because of the game playing that has gone on so far. This is the third attempt ( not including the appeal) to sort this situation out. It is all Newton's fault.

22. Mr Newton objects to the grant of a new SEV Licence to UK Exclusive Entertainments Limited for the following reasons:

(a) That the applicant is unsuitable to hold the licence.

Mr Newton sets out the facts in relation to Mr Suski's company, but there is no particular relevance or issue. Mr Suski and Mr Moseley have entered into an arm's length commercial lease for 15-17 Queen Street. The Council's Officers and Police have been able to examine the arrangement and are perfectly content with it. Mr Newton's dramatic allegations of "coercion" are entirely fictitious and baseless, and rather extraordinary. Mr Newton has no evidence or basis whatsoever for what he says. There is no need for a "clean" company, as there was nothing underhand about Mr Moseley or his company previously. The Committee decided that Mr Moseley was not the right man to run the SEV licence. Mr Moseley did not want to run it at any time. Mr Suski was put forward at Mr Moseley's application for transfer in 2021: his position has always been consistent. Mr Moseley was trying to get the licence back from Mr Newton, who was holding him to ransom. Mr Moseley had no intention of actually operating the premises, and it was always Mr Suski who was going to do this, as was clearly explained to the Committee in 2021. Mr Suski is a well known licensee in Blackpool, and is respected by the Officers. Mr Suski absolutely does have a clean record of compliance, and Mr Newton's allegations in this regard are false and misleading. If Mr Suski did not have a clean record of compliance, then the Officers of the Responsible Authorities would be reporting it to this to the Committee. It is to be noted in this regard that the Officers have not repeated any allegations that were being made at the time of the application for transfer to Mr Moseley in 2021, with regard to compliance with COVID regulations. Those contentions, relating to Shadow Bar, South Beach, between April and June 2021 were not accurate in their particulars, and did not reflect on Mr Suski. The visits in May and June were not about Coronavirus Regulation compliance. It is not appropriate for Mr Newton to repeat those

allegations at this time when the Authorities ( who were involved with investigation and compliance during the pandemic) have withdrawn this evidence and place no reliance upon it. The Committee should therefore disregard any “evidence” submitted by Mr Newton in relation to an earlier application that has since been withdrawn by the Officers who originally submitted it. Mr Suski has maintained consistently that he did not breach Coronavirus Regulations. He received no letters; no warnings; no fixed penalties and no further intervention. He has never received any interventions on his licences. Mr Suski met with Police Officer Emma Pritchard, and Mr Lee Petrak in relation to music, and they indicated that they might send an Environmental Health Officer to measure noise output. Mr Suski agreed to cooperate with any such visit, but nobody ever attended. No Officer raises anything in this regard now, and it would be entirely irrelevant to an SEV application at totally unrelated premises.

23. Mr Suski does not operate 15-17 Queen Street currently “in breach of its licence conditions”. It is not clear where Mr Newton has got this allegation from, but it is entirely false. The conditions on the premises licence do not require the sale of food on the ground floor, and there are no issues with the number of seats. There have been numerous visits from Council and Police Officers to the premises. There has been correspondence with the Council Officers in relation to conditions. No allegation has been made by any Council or Police Office about breach of conditions, and Mr Newton is simply wrong in this regard. Officers have confirmed that they have a good working relationship with Mr Suski, and have no complaints about him. The licence will be run impeccably, as Mr Suski’s other premises have and are being. There are no substantiated complaints about him whatsoever.

24. Any licence condition in relation to adult entertainment can be made commensurate with the SEV that is granted. This is clearly not a reason to refuse the SEV. It is not uncommon to have authorisations that need to be reconciled with one another.

25. Mr Newton’s objection “Ground b” is likewise rejected. The business will not be managed by or carried on for the benefit of Mr Moseley. The situation is entirely transparent, and exactly as it was described at the time of the application for the transfer to Mr Moseley, at which time Mr Suski attended the Committee hearing on 22 June 2021, and it was explained who he was, and what his future role would be. Mr Moseley has

signed an arm's length lease with Mr Suski. Mr Moseley benefits from the rent from the lease. It is an irrelevance to him how well or otherwise Mr Suski fares with the profitability of the SEV licence. The rent remains the same. The SEV is not being run for Mr Moseley, who has nothing to do with it. The only reason Mr Moseley ever attempted to get involved was to try to get the SEV licence back from Mr Newton, who should never have held it in the first place. This has all been made clear.

26. Furthermore, Mr Suski has taken out an option to purchase the property from Mr Moseley. There is no sense in which this application is a "front for Pool Construction Limited and/or Mr Moseley", as Mr Newton contends, and Mr Newton is simply creating drama to try to thwart his competition.

27. Mr Suski has operated numerous hotels in Blackpool for the last 10 years and has had many visits from the Police, Fire Brigade and Local Authority. He has formed excellent relationships with the Local Authority in particular, including Licensing, Health and Safety and Safety, Trading Standards and Commercial Waste. He is an entirely suitable candidate for this SEV licence.

28. It is high time that this situation with the SEV licence for 15-17 Queen Street was regularised.

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