

Licensing (General) Sub-Committee

Wednesday, 5th October, 2022
at 2.00 pm

PLEASE NOTE TIME OF MEETING

Council Chamber - Civic Centre

This meeting is open to the public

Members

Councillor Bunday
Councillor Furnell
Councillor Noon
Councillor Vassiliou
Councillor Vaughan

Contacts

Ed Grimshaw, Democratic Support Officer
023 8083 2390

ADDITIONAL INFORMATION AND PRESENTATIONS

**6 APPLICATION FOR A RENEWAL OF A SEXUAL ENTERTAINMENT LICENCE -
PLAYHOUSE, BASEMENT, 35 LONDON ROAD, SOUTHAMPTON SO15 2AD**
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Additional Information

Tuesday, 27 September 2022

Director of Legal and Business Services

**BEFORE THE SOUTHAMPTON CITY COUCIL SEXUAL ENTERTAINMENT LICENSING
COMMITTEE**

**IN THE MATTER OF AN APPLICATION FOR A RENEWAL OF THE SEXUAL ENTERTAINMENT
LICENCE**

Playhouse Gentleman's Club, London Road, Southampton SO31 4RF ('PGC')

SKELETON ARGUMENT

INTRODUCTION

1. This application is for the renewal of a Sexual Entertainment Licence ('SEVL') in relation to Playhouse, London Road, Southampton SO31 4RF ('PGC').
2. The mechanism for grant and renewal of SEVL's is dealt with in Schedule 3, Local Government (Miscellaneous Provisions) Act 1982
3. Paragraph 9 requires that SEVL's are renewed annually, or any short period as the appropriate authority see fit. In this case, the appropriate authority is Southampton City Council and the appropriate period is annually.
4. The Applicant has therefore applied within the relevant timeframe for the renewal of the SEVL, number: 2022/00148/19SEXE.
5. PGC also benefits from a premises licence, number 2022/01003/01 SPRD.
6. Both licences entitle PGC to stay open until 5am daily.
7. All statutory requirements in relation to advertising the renewal of the SEVL have been complied with, including serving a copy of the renewal application on Hampshire Police.
8. A total of 5 residents have objected to the renewal of the SEVL. It should be noted that neither Hampshire Police or any other council body has chosen to object to the renewal.

RENEWALS: LEGAL POSITION

9. A renewal of an SEVL may be refused on any of the discretionary grounds in Schedule 3 Para 12(3). These are:
 - (a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
 - (b) that if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - (c) that the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - (d) that the grant or renewal of the licence would be inappropriate, having regard—
 - (i) to the character of the relevant locality; or
 - (ii) to the use to which any premises in the vicinity are put; or
 - (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
10. Grounds (a), (b) and (c) have not been argued in any of the representations and It is therefore submitted are not grounds that could be considered at this renewal.
11. In relation to the grounds set out in (d), the representations, insofar as they can be said to relate to the grounds set out, relate to ground (d) (i). We shall therefore focus on this potential ground of objection.
12. Insofar as any of the five representations relate to ground (d) (i), it is submitted that the issues set out in the representation can only be said to brush tangentially against the ground for the reasons set out below.

REPRESENTATIONS

13. The representations make a number of allegations that have been dealt with in detail in the witness statement of Glenn Nicie. In short, however, we make the following submissions:
 - a. It is submitted that the issue of planning is irrelevant to the renewal of the SEVL at PGC. There is nothing in the legislation that seeks to conjoin the two separate systems of regulation, each of which provide a clear and distinct regulatory function. In any event PGC benefits from a planning permission to operate under the SEVL- albeit it currently restricts the trading hours. The reference in the Policy to planning (at para 5.7.2) relates to renewals of SEVL's where there is no planning permission in

place. PGC has planning permission to trade as an SEVL. In any event, this is not a mandatory ground for refusal.

- b. Complaints of alleged noise nuisance caused by customers or staff from PGC have not been evidenced. Indeed, as Mr Nicie sets out, the character of the area with a preponderance of late-night premises, many with significantly larger capacities than PGC, and trading to later hours than PGC currently provides, are the true source for a number of the complaints made in this regard. Whilst it cannot be said that *no noise* from customers has ever been heard by residents. Mr Nicie's statement clearly sets out why the levels of disturbance complained about cannot be attributed to PGC.
- c. It is submitted that in relation to any argument put forward by the objectors that the *character* of the locality requires the Committee to reject the renewal, no evidence has been provided in this regard. O'Connor LJ states in the case of Birmingham City Council, ex p Sheptonhurst Ltd [1990] ALL ER 1026:
'However, ... there is a difference between an application for grant and an application for renewal and that distinction... is that when considering an application for renewal the local authority has to give due weight to the fact that the licence was granted in the previous year...'
- d. That there will be a level of new development in the area does not in and of itself change the character of it. O'Connor LJ went on to state in the Sheptonhurst case that:
'...if the licensing authority refuses to renew on the ground that it would be inappropriate having regard to the character of the relevant locality it must give its reasons for refusal.'
- e. In any case, any such refusal must be based on evidence and no such evidence has been provided to make such a claim.

CONCLUSION

14. Whilst there would appear to be genuine reasons for residents to feel that they are suffering from disturbance due to the night time economy of the area, this is not the same as making the case that PGC is responsible for these ills. Indeed, for the reasons expressed in Mr Nicie's statement, the likelihood of the disturbance coming from PGC is negligible at best and the allegations certainly have not been properly evidenced as relating to the operation of PGC. Such matters are the province of premises licences, not SEVL's, where a proper mechanism is available should residents be able to evidence disturbance attributable to a single premises.
15. Even taken at its highest, the resident objections fail to address their complaints to the discretionary grounds for refusal of an SEVL.

16. On that basis, it is submitted that the renewal of the SEVL for PGC should be granted on the same terms as the current licence.

PIERS WARNE
TLT SOLICITORS

**BEFORE THE SOUTHAMPTON CITY COUCIL SEXUAL ENTERTAINMENT LICENSING
COMMITTEE**

**IN THE MATTER OF AN APPLICATION FOR A RENEWAL OF THE SEXUAL ENTERTAINMENT
LICENCE**

Playhouse Gentleman's Club, London Road, Southampton SO31 4RF ('PGC')

WITNESS STATEMENT OF GLENN NICIE

INTRODUCTION

1. My Name is Glenn Nicie and, along with my Colleague Chris Knight, we are directors of London Road Leisure Limited, the operators of PGC.
2. I am making this statement in support of the renewal of the Sexual Entertainment Venue Licence ('SEVL') in relation to PGC.

ABOUT THE APPLICANTS

3. Chris and I have worked in the licensed entertainment industry for the last 55 years collectively. In 1995 I became the Operations Manager for the chain of clubs called FYEO until 2001 when I became a shareholder. In 2003 I was involved in a management buyout and continued as Operations Director with an equity holding in the FYEO chain of Sexual Entertainment clubs, which comprised of 9 clubs.
4. In 2012 Chris and I worked on the purchase of the Southern end of the FYEO brand. We still hold a consulting role in the remaining FYEO clubs.
5. I am very well respected within the industry and has been actively involved with the Government as well as local councils in an advisory capacity in major decision making with regards to legislation being passed by Parliament which has led to the current SEVI legislative regime.
6. All of the business that Chris and I run are currently licensed under the Licensing Act 2003 for sales of alcohol and provision of regulated entertainment/ late night refreshment. All also have a specific Sexual Entertainment Licence for use as an Adult Entertainment/Table Dancing/Lap Dancing/Cabaret style entertainment venue, which to be granted requires a proven track record

and a proven ability to run these businesses without issue- the equivalent of a 'fit and proper' test for the operators.

7. Chris has advised the Home Office, has given evidence in front of the DCMS Select Committee with regards to the passing of the current legislation within the industry. He has also appeared on BBC news, ITV morning chat shows, BBC North, Sky News, Channel 4 News and numerous radio shows to name but a few to speak about the industry and certain misconceptions that people may have. He also gave evidence at the Scottish Government steering group for their new legislation which is now implemented.
8. Over the past 10 years Chris and I have helped various councils write their SEVL policies, including: Islington (London), Newcastle upon Tyne, Bournemouth and Cardiff.

REPRESENTATIONS

9. I have carefully considered the issues arising in the objections made against the renewal and would make the following observations:
 - a. Planning is not at issue here. This is a renewal of the SEV licence granted by the Committee in 2019, as amended at a hearing in March 2022. There has been no material change to the use of the premises since this grant.
 - b. We currently close at 2am due to our current planning restriction. We have observed on occasions young people milling around the front of our premises between the hours of 2am and 5am and are discarding all sorts of litter. Regularly, we have to sweep the front street area but that is generally 6pm/7pm when staff come to work. Being able to trade until 5am will mean better supervision which will put off some of the anti-social behaviour residents are currently experiencing.
 - c. At first, we were allowing our staff to leave via the front of the premises after closing down and I think that looked like customers leaving later than permitted. Since the licensing office pointed this out to us, staff now leave via the rear of the premises.
 - d. We maintain a close working relationship with the police. It is fair to note that the police have not objected to this renewal. The police, of course, are best placed to inform the Committee should there be concerns related to the premises. They are consulted as part of this process so have actively chosen not to object.
 - e. Not so long ago, this premises traded as a night club for over ten years, with a capacity of 400. Now, as PGC, the current capacity is reduced to a maximum of 250. Given the nature of the business and our experience at other clubs, it is very unlikely that even at the busiest times we would have more than 100 customers in the premises. Currently at our busiest, we may see 40 in PGC at any one time.
 - f. I would estimate that somewhere in the region of 5000 people are in the area every Friday and Saturday, based on the number of bars and nightclubs and student residents. There are a large number of premises within walking distance of PGC,

including late night bars and nightclubs. These serve a wide variety of customers from students to stag/ hen parties, business people on a night out after work and general people visiting the busy late-night economy, bars, restaurants, casinos, theatre, leisure centres, to people looking to go out and dance, drink and eat and generally just have a nice time. A number of these premises trade past 2am and up to 5am. The majority have significantly larger capacities than PGC with a lot higher capacity. For example, we understand that Trilogy night club has over 1500 customers through their doors every Friday and Saturday nights.

- g. The hours between 3 and 4am are still very busy as bars and night clubs that operate past these hours are kicking out, all the way to 5am. I would say that there must be in the region of 3000 to 5000 people on the streets in our area up until 4 am on busy weekends and somewhere close to about 1000 around in the following hour up to 5am.
- h. By Contrast, patrons attending PGC remain seated, the music is kept at a moderate volume and there is a significant number of staff and door staff on hand to manage behaviour. For these reasons, customers tend to leave in smaller groups, more quietly and often directly into taxis. Most of our customers have an app on their phone now (eg Uber) that allows them to call a cab and it tells them when the cab is at the front door and even gives the registration number. When notified that the cab is nearly there, they leave their table and go directly to their cab. The reality is that this is a bit like how a restaurant would operate, with tables dispersing at different times, rather than en-masse at closing.
- i. Alcohol is very much ancillary in PGC. We do not tolerate intoxication and as I have said previously, customer behaviour is closely managed.
- j. There is, unfortunately, a commonly held misconception that clubs like ours are substantially the same as nightclubs. This is not the case. Put simply, not all premises open late into the night are the same or cause the same kind of issues and certainly sexual entertainment premises should not be confused with a typical nightclub or late night bar. This was recognised by the licensing committee when it extended the trading hours from 2am to 5am, to allow for trading under the SEVL and only for trading as an SEV.
- k. We expect a high standard of behaviour from customers. When they arrive, they are expected to act responsibly and are reminded of the rules of the house. Likewise, when they leave, if they are not jumping into a cab, we always ask our customers to leave quietly and respect our neighbours.
- l. We do not have a drug issue at the premises. The high level of management and supervision means we can very easily spot anyone who might be taking drugs and deal with them appropriately. In truth, it is rare that we need to take any action as most people who might have been taking drugs are dealt with at the door and not allowed in. The same with intoxication. We have witnessed young people taking these substances out on the street, including so called 'legal' highs. However, if we see it, we

will not let them into our premises- albeit the vast majority are nothing to do with PGC, this is why the police have not objected and have actually complimented us on our operation in Southampton.

- m. We have a smoking area out the front of our premises, as permitted by our premises licence. However, any reference to 'half naked ladies' being observed in the area are not our staff or dancers; they are customers. Over the past 5 to 6 years we have seen more female customers looking to come to a safe, clean, quieter, kinder atmosphere, rather than a busy overcrowded, noisy, and for some, perceptibly unsafe night club. We also have a number of couples coming to our premises now as well for the same reasons. Like with male customers, our female customers are required to dress smartly and appropriately.
- n. We opened the premises in March 2022 following the grant of the variation to the SEVL and therefore any allegations relating to before this time are not fairly attributable to PGC. As a point of order, we do not cause the sort of crime and disorder alleged. On occasion in the past, when a night club is suffering from crime and disorder issues, I have been contacted by local authorities and/ or the owners of the premises to see if I want to operate the venue as a sexual entertainment venue. The reason being that the nature of the venue, the stricter management, the lower capacity all contribute to removing the crime and disorder that the premises was struggling with.
- o. The rear of our club leads onto an alleyway surrounded by high buildings. PGC is mainly situated in the basement. I can say with certainty that there is no noise outbreak from our premises to the rear and certainly not any noise that could be considered a public nuisance.
- p. There is residential accommodation in the area, just as there are a lot of bars and clubs that trade to 4am and 5am in the morning. There has been no evidence provided to suggest that noise from PGC adds to or exacerbates noise issues that residents might suffer from time to time from other sources. There is a large amount of student accommodation in the area which contributes significantly to noise in and around the area later at night
- q. In the past year we have personally seen the high street start to regenerate in terms of new hospitality businesses arriving. We have a new Pizza restaurant one side and a new cafe the other. There has also been a significant investment into the Wetherspoons pub nearby and a new bar has opened called Whisky Blue. To say the high street is turning residential is not a fair reflection of what is happening. Yes, there is residential property nearby, but there is also a lively bar and club culture that sits alongside the existing retail units. What is important is whether any of the issues complained of are attributable to PGC, or relevant to this renewal. With respect, the answer to both these questions is no.

SUMMARY


10. PGC has been in this location for over 14 years. It previously traded as a 400 capacity night club to 2am for over 10 years. As the committee understood in 2019, a club trading under an SEVL, with lower capacity, no dancing (apart from the professional dancers), no loud music, alcohol as an ancillary activity and significant supervision both inside and out, the risks of crime, disturbance or nuisance coming from PGC is greatly diminished. We are confident that PGC is not the cause of the ongoing issues complained about by the objections to this renewal.

11. We therefore ask that the SEVL is renewed on the same terms as the current licence.

The Contents of this statement are true to the best of my knowledge and belief.

SIGNED....

DATED2022

Handwritten signature and date: 26/sep/2022

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