
Licensing & Regulatory Committee

22nd May 2024

Name of Cabinet Member:

Not applicable

Director Approving Submission of the report:

Director of Law and Governance

Ward(s) affected:

St Michael's

Title: Local Government (Miscellaneous Provisions) Act 1982 – Application for the Grant of a Sexual Entertainment Venue (SEV) Licence

Is this a key decision?

No

Executive Summary:

The purpose of this report is to consider an application for a Sexual Entertainment Venue (SEV) under the Local Government (Miscellaneous Provisions) Act 1982 for Club Heat, Hertford Place, Coventry, CV1 3JZ. The application is requesting the following opening times: Monday – Sunday 18:00 – 06:00 hours.

Recommendations:

It is recommended that the Licensing & Regulatory Committee consider this application in accordance with the relevant statutory provisions, Home Office Guidance, and the Council's Sexual Entertainment Venue (SEV) Policy

List of Appendices included:

1. SEV Application
2. Plan
3. Club Rules & Policies
4. Current SEV Licence Conditions
5. Public Health Representation in support of the application
6. Location Plan
7. SEV Policy
8. Hearing Procedure Note

Other useful background papers:

Sexual Entertainment Venue Home Office Guidance

It is a statutory obligation of the Sub-Committee to take into account the Government's Guidance to the Local Government (Miscellaneous Provisions) Act 1982 before reaching a decision.

Sexual Entertainment Venue Policy

The Council will have regard to the policy when making a decision on applications made under the Act.

Other Useful documents

None

Has it been or will it be considered by Scrutiny?

Not applicable

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

Not applicable

1. Context (or background)

- 1.1 The Council is able to regulate sex establishments through Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Historically, controls have applied to sex shops and sex cinemas.
- 1.2 On 6th April 2010, the Policing and Crime Act 2009 came into force and amended Schedule 3 of the 1982 Act. Sexual Entertainment Venues (SEVs) were added as a category of sex establishment to enable local authorities to regulate those premises, which provide lap dancing, table dancing, strip shows, peep shows and live sex shows and other similar entertainment.
- 1.3 On 22nd March 2011, the Council resolved to adopt the new amendments to gain regulatory control of SEV's with effect from 1st June 2011. After 1st June 2012, premises that did not hold a Sexual Entertainment Venue Licence would not be able to provide adult entertainment, save for 11 times per year with no more than one event per month and no event lasting more than 24 hours.
- 1.4 On 15th January 2013, Full Council determined its SEV policy, and a copy is attached as Appendix 7 to this report.
- 1.5 An application has been received from ACE Coventry Limited for a SEV licence for Club Heat, Hertford Place, Coventry (Appendix 1).
- 1.6 ACE Coventry Limited has held a SEV licence for Club Heat, 7 City Arcade, Coventry since 17th April 2012. Coventry City Council has issued a Compulsory Purchase Order for this premises due to the City Centre South Redevelopment Programme. Therefore, the applicant is seeking to relocate the premises.
- 1.7 The application requests permission for the business to continue to operate in the same way as they have been operating for the previous 12 years including the current SEV licence conditions (Appendix 4).
- 1.8 Public Health have submitted a representation in support of the application following a meeting with the applicant at the proposed venue (Appendix 5). The representation states that Club Heat were very responsive to discussions and willing to engage with further offers of support to ensure the venue and all attending the venue have access to appropriate training and support where necessary.
- 1.9 No objections have been received from the Responsible Authorities or any other persons.
- 1.10 It is essential that the Committee takes into account the Home Office guidance for SEV's before reaching a decision. The applicant, Responsible Authorities, or any other persons, should bring to the Committee's attention any relevant paragraphs. However, it is suggested good practice for Members of the Committee to read the relevant paragraph(s) of the guidance prior to the hearing.

2 Options considered and proposal.

2.1 This application is requesting the grant of a Sexual Entertainment Venue Licence for 12 months.

2.2 There are three courses of action available to the Committee in relation to this application:

- (i) Approve the application and grant a SEV licence with the Council's Standard Conditions
- (ii) Approve the application and grant a SEV licence with the Council's Standard Conditions and/or such other conditions that the Committee feels are appropriate
- (iii) Refuse the application as the Committee considers appropriate having regard to all relevant factors.

2.3 The legislation sets out certain mandatory grounds for refusing a SEV licence. These grounds concern an applicant having been previously disqualified from holding or refused a SEV licence, or not being a company registered in the EEA

None of these grounds apply to this application.

2.4 The legislation also sets out the discretionary grounds under which an SEV application could be refused. These can be summarised as follows:

- (i) The applicant or another person linked to the business is unsuitable because of convictions or another reason; or
- (ii) The number of SEV premises for the relevant locality that the Council deems appropriate would be exceeded by granting the application; or
- (iii) Granting the application would be inappropriate having regard to the character of the relevant locality, or the use to which premises in the vicinity are put or the layout, character, or condition of the application premises themselves.

These are the only grounds upon which a decision to refuse a SEV licence can be made.

2.5 With regard to the discretionary grounds the following should be considered:

- (i) The suitability of the applicant (Paragraph 9.1 of the Policy) -

No criminal convictions are recorded against the applicant or any of the Company Directors. The Police have not raised any other concerns about the applicant or anyone else linked to the application. The current applicant has been providing

adult entertainment for over 12 years without significant complaints or intervention by the Responsible Authorities.

- (ii) The number of SEV premises for the relevant locality that the Council deems appropriate would be exceeded by granting the application Paragraph 10 of the Policy).

Whilst the Council currently has a nil policy regard must be given to Paragraph 10.3 of the SEV Policy, which states that the Council recognises that there is an established Sexual Entertainment Venue which has traded in the city for a long period of time without significant concern. Accordingly, the nil policy will not apply to the said Sexual Entertainment Venue. Rather, any application in respect of the said Sexual Entertainment Venue will be judged on its own merits and without reference to the nil policy.

This application is being made because of a Compulsory Purchase Order made by Coventry City Council, due to the redevelopment of City Centre South, which has forced the established SEV to relocate.

- (iii) The character of the locality in which the application premises are located or the use to which premises in the vicinity are put or the layout, character, or condition of the application premises themselves (Paragraph 11.3 of the Policy)

The application premises are located within a mixed-use area (residential and commercial) just outside the ring road, and it is adjacent to several other licensed premises, there is also a place of worship within approximately 250 metres. The proposed premises have operated as a licensed premises and a night-time economy venue for many years. The application premises are set back off the road and the front of the premises is not abutting the public highway. The area is well-lit, and the vicinity is not sensitive in terms of reported crime and prostitution. There is a location plan attached (Appendix 6).

3 Results of consultation undertaken

- 3.1 In addition to giving public notice of the application, the applicant must also submit a copy of the application to the Police. In considering the application the Committee must have regard to observations submitted by the Police.
- 3.2 As prescribed by the Local Government (Miscellaneous Provisions) Act 1982, the application has been out for consultation to the Police for 28 days. The notice was displayed at the premises from 2nd April 2024 until 29th April 2024 and was checked by the Licensing Officer on two occasions during the 28-day period. Licensing applications are also published weekly in the Members Bulletin which is available to Ward Councillors.
- 3.3 No objections have been received from Responsible Authorities or any other persons.
- 3.4 A meeting with Public Health and the Applicant took place on 23rd April 2024. The outcome of this meeting resulted in Public Health submitting a representation in

support of the application (Appendix 5).

4 Timetable for implementing this decision.

- 4.1 The Appeal period is 21 days beginning on the date that the Appellant(s) receive notification of the decision of the Licensing Authority.

5 Comments from Director of Finance & Resources (Section 151 Officer) and Director of Law & Governance.

5.1 Financial implications

There are no financial implications arising directly from this report. However, there are possible cost implications if an appeal against the decision is made to the Magistrates Court and the decision of the Committee is not upheld.

5.2 Legal implications

The Local Government (Miscellaneous Provisions) Act 1982 sets out how applications for a SEV should be dealt with. The Committee have to decide the outcome of the application. The Committee's powers to determine this application and impose conditions are detailed above at Paragraph 2.2.

In accordance with the provisions of the Act, if a Licensing Authority rejects in whole or in part, an application to grant a SEV licence, on the basis of the applicant (or linked person) being unsuitable, the applicant may appeal against the decision or any condition imposed on the licence, to a Magistrates' court within 21 days of receiving notification of the decision.

Where a licence is refused on the basis of 'appropriate number' or 'suitability of locality/premises' then there is no right of appeal provided under the legislation and any such decision could only be challenged by way of judicial review.

Similarly, where a person who made relevant representations in relation to the application contends that the licence ought not to have been granted, they can only challenge that decision by way of judicial review.

6 Other implications

6.1 How will this contribute to achievement of the One Coventry Plan?

It is the Regulatory Services team's responsibility to ensure that members of the public in Coventry are not put at risk. This contributes to the Council's core aim of ensuring that citizens live longer healthier lives. The business' failure to run the business responsibly may have an adverse effect on Public Safety and citizen's quality of life. This aligns with the One Coventry Plan to work together to improve our city and the lives of those who live, work and study here.

6.2 How is risk being managed?

If the application is not handled in line with the Local Government (Miscellaneous Provisions) Act 1982, there is a risk of judicial appeals, reviews and associated costs.

6.3 What is the impact on the organisation?

None

6.4 Equalities / EIA

This decision will not affect the service provision and therefore details of the Equalities Impact Assessment are not relevant in this case.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the West Midlands Police, Community Safety Partnership, local people, and those involved in child protection (Coventry Safeguarding Children Board) to promote the common objectives as outlined.

6.7 Human Rights Act Implications

The decision-making process must ensure that the applicant and any objectors receive a fair hearing (Art.6).

The European Convention on Human Rights creates rights protecting 'Freedom of Expression' (Art.10) and protecting against the arbitrary 'deprivation of property' (Art1 Prot.1). In the 2007 case of Belfast City Council v Miss Behavin' Ltd, the House of Lords decided that these rights are engaged at a "low level" where trading from a sex establishment is concerned. Therefore, provided a licensing authority exercises its powers rationally, proportionately and within the discretion permitted to it under the legislation there is unlikely to be a breach of the ECHR.

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