

Licensing Sub-Committee

9 January 2024

Renewal of Sexual Entertainment Licence for Wiggle, Weymouth

For Decision

Portfolio Holder: Cllr L Beddow, Culture and Communities

Local Councillor(s): Cllr J Orrell

Executive Director: J Sellgren, Executive Director of Place

Report Author: Aileen Powell

Job Title: Licensing Team Leader

Tel: 01258 484022

Email: Aileen.Powell@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary: An objection to the renewal of the sex entertainment venue in Weymouth has been received and must be heard by a Sub-Committee prior to determination.

Recommendation: That the licence be renewed.

Reason for Recommendation: The premises has been licensed since 2011 and been under the control of Wellhot Limited since 2018. The local ward member, the Town Council, the police and the fire authority have no issues with either the venue or the operator.

1. Law

1.1 The licensing of Sexual Establishments falls under the Local Government (Miscellaneous Provisions) Act 1982 (the Act). Section 2 of the Act relates to the adoption of the provisions in a Council's area, and schedule 3 deals with the process of licensing a venue. The full text of the section and Schedule are attached at Appendix 1. Sexual Entertainment Venues were included into the provisions of the Act by virtue of the Policing and Crime Act 2009, prior to this the only control was under the Licensing Act 2003.

2. Application

- 2.1 Wellhot Limited has applied to renew the Sexual Entertainment Venue (SEV) licence for Wiggle, 33 New Street, Weymouth, DT4 8DB. The current licence is attached at Appendix 2.
- 2.2 Wellhot has held the licence for this premises since 10 October 2018 when it was transferred to them.
- 2.3 The premises at this location has been a licensed SEV since May 2011.
- 2.4 The policy under which this should be considered is the Weymouth and Portland Borough Council Sex Establishment Policy 2016 to 2020 (the Policy) which is attached at Appendix 3 in full. This policy continues to be in effect whilst the new Dorset Council Policy is formulated and consulted on.
- 2.5 Section 12 of the Policy sets out how the Council will deal with renewals of SEV licences; -

On application to renew a licence for the same proposed hours and licensing activities and conditions as previously granted, the Council shall give due weight to the fact the licence was granted in the previous year and any years before that.

3. Objection

- 3.1 One objection has been received to the renewal of the licence. The Objection is included in full at Appendix 4. The objector has stated that they live outside of the Dorset Council area.
- 3.2 The objection is based on four strands of argument: -
 - That the applicant is unfit.
 - That the premises is unsuitable.
 - The premises location is unsuitable.
 - The advertising of the premises is unsuitable.
- 3.3 The Policy sets out at paragraphs 10.1- 10.3 the matters that will normally be taken into account when considering whether an applicant is suitable.

Suitability of applicant

The Council wishes to ensure that only applicants who are suitable will be granted licences and only in relation to suitable premises. The Council will therefore consider the following grounds:

- Any convictions or cautions of the applicant.
- If a Company, any convictions or cautions of Directors of the company to ensure that the company is not being used as a front for persons who would otherwise not be licensed.
- The involvement of any other person in the operation of the premises, or prior business relationships with other people who would otherwise not be

licensed by the Council.

- The experience of the applicant and their knowledge of running a sex establishment.
- Any previous licence held by the applicant, whether in this Council's area or another.
- Any report or information submitted to the council by the Police, other consultees, and objectors.

The suitability of each applicant will be considered on its own merits but in cases where the applicant, or one of its members, has an unspent conviction, the Council will normally refuse the application unless they are satisfied by the applicant that there are exceptional circumstances to justify the granting of the licence.

Where an objection has been raised by the Police or another consultee regarding the suitability of the applicant the Council will in most cases defer to the experience and knowledge of the consultee and refuse the application unless they are satisfied by the applicant that there are exceptional circumstances to justify the granting of the licence.

- 3.4 The objector refers to a tribunal case in Portsmouth from 2020. The Tribunal related to an unlicensed HMO. The outcome of such a matter is not a conviction or a caution, but a financial penalty that does not show up on the criminal record checks carried out on applicants for this type of licence. It is nevertheless a matter which the Sub-Committee can take into account.
- 3.5 The Police has been consulted and have made no comments on the applicant, his suitability or the application.
- 3.6 The comments made by the objector relating to the means of escape in the event of a fire have been referred to the fire authority who have responded that the matter is for inclusion in the Risk Assessment.
- 3.7 The applicant has confirmed that the area in question is part of his property and under his control.
- 3.8 The objector has raised a concern about the location as it is near to the beach. The current policy is quite detailed about location in paragraphs 8.1 and 8.2.

- 3.9 The Policy paragraphs 8.1 to 8.2 set out the considerations that will be made relating to the location of Sexual Entertainment Venues (SEVs)

Considerations Based on Location

There will be a presumption against granting consent for any sex establishment licence when the proposed premises are in the vicinity of:

- schools, colleges, nurseries, play areas, children's centres or any other premises predominantly used for and by children
- Any access route to and from any of the above premises
- Any place of religious worship
- Prime visitor locations such as Weymouth / Esplanade / Seafront / Harbourside
- Dense retail areas
- Museums, libraries, Council buildings, or other community and public buildings.
- Any community premises such as swimming pools, leisure centres, youth centres, clubs, shelters, public parks, and recreational areas
- Historic buildings and Tourist attractions
- Residential Homes
- An area proposed for regeneration.
- Any premises of a similar nature to the above

It is not considered appropriate to define a precise distance from any of the above premises as sufficiently far enough away to make a sex establishment suitable and each case will be considered on its own merits and in light of any consultation undertaken.

- 3.10 The premises is down a back street near to the sea front but not visible from the main tourist areas. The section of New Street that Wiggle is in mainly consists of back entrances to other premises, not tourist attractions, although it would appear that there are a restaurant and a few residential entrances as well. Google Street Views of New Street from either end can be viewed on Google Maps from the [Wiggle End](#) and from the [other end](#) of the street.
- 3.11 The objector has raised a matter of equality because there are no male performers.
- 3.12 The Council is obliged to consider the Equalities Act in every decision it makes. Issues normally raised under this heading relate to accessibility of patrons, not a lack of mixed performers. Indeed, there is nothing in the current policy to suggest that if a licence for a venue with male performers was applied for it would be treated any differently to a venue with female performers.
- 3.13 Philip Kolvin KC in his book Sex Licensing (Institute of Licensing) at paragraph 7.29 – 7.35 sets out the equality duty as having due regard to the need to eliminating discrimination, the performers, women being welcomed into the premises and the fears of women using the vicinity of the premises. No one has objected on those grounds. The extract is attached at Appendix 5.

- 3.14 The objector has raised an issue with the signage at the premises. A screen shot of the signs is attached at Appendix 6. The current license has a condition preventing advertisement of the premises. The Sub-Committee can reimpose this condition or modify it if the licence is renewed.
- 3.15 The signage is subject to the separate advertisement consent regime under planning legislation.
- 3.16 The objector has raised several issues relating to other Council's policies, and other objections to other applications, and other premises. None of these appear to relate to the application being considered.

4. Grounds for Refusal of applications

- 4.1 The Act provides specific grounds on which SEV applications can be refused. This is covered in detail in section 9 of the policy. The applicant does not fall within any of the Mandatory Grounds on which the application would have to be refused.
- 4.2 The Discretionary Grounds for refusal within the Act are:
- a) The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
 - b) The applicant is merely a front for a person who would otherwise be refused a licence.
 - c) The number of sex establishments in the relevant locality exceed the number which the authority considers appropriate for the area.
 - d) The licence would be inappropriate having regard to the relevant locality, or to the use to which the premises in the vicinity are put, or to the layout, character and condition of the premises in respect of which the application is made.
- 4.3 For the reasons set out above, officers do not consider that the application should be refused under grounds a) or d). No information has been provided to suggest that ground b) applies.
- 4.4 This is the only SEV in Weymouth. Whilst the number of SEV under ground c) can be zero, officers do not consider that is the case here particularly given that this premises is an established SEV.

5. Appeals

- 5.1 There are limited grounds to appeal decisions. An applicant can only appeal refusals under the Mandatory Grounds for refusal if they do not as a matter of fact apply to them.

- 5.2 An applicant can appeal against refusals under the Discretionary Grounds a) and b) in paragraph 4.2 of this report, but there is no right of appeal against refusals under the grounds listed in paragraph 4.2 c) and d) relating to the location of the premises.

6. Financial Implications

- 6.1 Certain decisions of the Sub Committee as outlined in paragraphs 4.1 and 4.2 of this report could lead to an appeal by the applicant that could incur costs.

- 6.1 The objector has no rights of appeal under the Act, any challenge by them would have to be by way of a Judicial Review.

7. Natural Environment, Climate & Ecology Implications

None.

8. Well-being and Health Implications

None

9. Other Implications

None

10. Risk Assessment

HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

11. Equalities Impact Assessment

Conditions can be imposed on the licence, such as those on the existing licence to protect performers from harassment and threats to their dignity. There is no suggestion that women would be unwelcome at the premises and indeed the premises' advertising suggests the opposite. This is the only SEV in Weymouth and it is not in a prominent position or close to shops or other attractions. There is a restaurant next door and some residential entrances on the same street. This may impact on women and people with religious or other beliefs accessing neighbouring properties and it is noted that no complaints have been received about the operation of the SEV. Access to the ground floor of the premises is at level but the toilets are in the basement and are only accessible by stairs. Likewise, access to the first and second floors is by stairs only and so for these reasons people with limited mobility can only visit the premises in a limited way.

12. Appendices

Appendix 1 - Relevant provisions of the 1982 Act

Appendix 2 - The Application

Appendix 3 - Dorset Council Sex Establishment Policy 2016-2020

Appendix 4 - The Objection

Appendix 5 – Extract from the Sex Licensing Book by Philip Kolvin KC

13. Background Papers

Sex Licensing Philip Kolvin KC (2010, Institute of Licensing) isbn978-0-9555392-2-0