

**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