

B. COUNCIL OFFICERS CONDITIONS/APPLICATION CONDITIONS AND RULES/POLICY

The Applicants have identified a number of areas where the conditions they seek may differ or derogate from the draft conditions and/or policy of the Council and where the applicants submit their tried and rested conditions should prevail in the grant to them of a SEV:-

1. General Paragraphs 1.1 to 1.3 inclusive.

The Applicants wish to be able to operate on Sundays and Good Friday. Sunday opening would, however, at present as a result of market forces, be limited to those Sundays preceding a Bank Holiday Monday, the Sunday before Christmas and where there is a booking of a private function – to which the public would not have access. The suggested restriction to there being no opening on Sundays and Good Friday or Easter Sunday is not justified under the Licensing Objectives. It is submitted that it is antiquated and discriminatory. The Licensing Act 2003 did away with the Victorian concept of Sundays and Good Friday being days when there should be little or no entertainment. The fact of the matter is that there are numerous establishments in the vicinity of the Applicant's premises which operate on Sundays and Good Friday without restriction. To seek to prefer a Christian Festival or Sabbath to that of other faiths (for example the Jewish Sabbath or Yom Kippur, Muslim Beliefs, e.g. Ramadan) or indeed the rights of Atheists could be regarded as discriminatory and contrary to those individuals rights or the rights of those following a particular faith within a human rights context. Given that these premises have without complaint or problem operated for about eight and a half years with certain Sunday openings, would suggest that to follow such a policy is not justified and restrictive conditions outside the Applicant's application could not be justified.

2. General – 1.6

The Applicants are quite happy for basic house rules to be displayed at reception, on the approach to the toilet area and on the approach to the dance booths, but to have them displayed at each table and each bar area and with all the detail suggested by this Condition is simply over regulation and there would be a danger of the whole premises taking on the character of some sort of public building where a plethora of notices becomes totally counter-productive. For example, a price list is all that is needed on tables.

It is the practice of the Applicants for customers to be advised when they enter the premises of the essential rules of the house – both in relation to payment and there being no contact. It seems totally counter productive to have a notice at each table and each bar pointing out that no person under the age of eighteen will be admitted to the premises. Such a notice is displayed at the entrance and that is where it needs to be. The Applicants already have basic rules in different languages for customers, and if one is not careful one could end up with most of the walls being filled with notices both in English and foreign languages – which is not the atmosphere which the Applicants have sought to establish over very many years.

3. 1.8

This proposed Condition is unacceptable because the Applicants display on a television screen – but not before 9 p.m. and not after close of business - professionally produced images and material promoting the business. This is tasteful and no one has ever complained about it over the years that it has been displayed.

1.9

This as it stands is unacceptable and is why the Applicants have attempted to distinguish between a performance where there is total nudity and where there is not. The fact of the matter is that from the outset in the general dance/stage area, a performer who is not totally nude will on occasions if there is a party for example birthday or stag party arrange for the gentleman whose occasion it is to come up on the stage and be seated on a chair and as part of the act be the centrepoint of attention. It has always been felt that this constitutes a “fun” situation and the emphasis is on entertainment as opposed to sex. It is always well received and there have never been any complaints. Any Condition which stops this taking place – and enquiries reveal it takes place in all similar establishments, cannot really therefore be justified. It is emphasised that the individual concerned remains fully clothed throughout and the performer is never totally naked.

4. Premises

1.11

This has already been dealt with above in relation to the television display, which it is felt is both discreet and tasteful.

1.14

A restriction on advertising is unacceptable. Promotions are displayed on the television screen as part of the shop front and flyers are distributed, as they have been for years. A professional promotions team is engaged to deal with this work and again there have never been any complaints arising from the distribution of flyers. Personal solicitation does not take place, and it is conceded that this is not desirable, but any leafleting or advertising takes place

during the evenings and this seems to be the case with all similar establishments.

1.24

The nationality of performers is ascertained at the outset of their engagement. The management requires performers to be able to read and communicate in English, so that they can understand the house rules. It is felt it is more important that they should be able to understand them in English than there should be the potential for dozens of different translations. In fact, it is very rare for foreign nationals to be performers, and where they are, the experience of the Applicants is that they have been resident in this country for some time and are articulate within the English language.

1.32

It appears that this Condition is already referred to and in any event is within the Conditions proposed by the Applicants.

1.36

This is the sort of condition where the words could result in litigation. What exactly does “redress fully” mean. Does it mean that they should put back on the clothes that they had on when they started? Does it mean that they should adjourn to their dressing room and put on the clothes that they arrived at the premises in. Similarly what does “immediately” actually mean. Would it not be in order for them to gather up any clothing and go straight to their dressing room and put clothes on before re-entering the public area? So far as the Applicants are concerned, once performers have finished, they are required to leave either the booths or the public area and make their way to the changing rooms without delay, so that they do not remain in the public areas in any state of undress.

CCTV

1.39

It is felt the Applicants’ conditions with regard to CCTV should be acceptable. In any case, it must be made clear that the management must have access to the CCTV and it must also be made quite clear that the Police cannot request instant production of CCTV footage when the business is in operation as this would mean interrupting the recording to make a disc for the Police which would mean that the monitoring would have to cease for that period. The Applicants have explained this to the Police on a number of occasions – not because the Police want to view the footage within the premises for the purposes of ascertaining compliance with Conditions, but because they want access either to the external camera footage or internal cameras to identify individuals. The Applicants have always done their best to assist the Police as

the Police must accept but clearly reason must prevail and any Conditions should reflect that. The fact of the matter is that the CCTV within the premises is to a very high standard, professionally maintained, is downloadable to a DVD disc and the only instances of breakdown have been when a camera has failed, and this being one of 16 has normally been fixed within hours.

Door Supervision

1.46

The Applicants have already indicated that they would agree to two Licensed Door Supervisors – except that one door supervisor should be sufficient when there are less than thirty patrons on the premises. It is understood this is perfectly acceptable to the Police and it does mean that there is an efficient use of resources – which is in everybody’s interest in any properly run business.

Age verification

1.58 and 1.59

The premises have always applied very successfully a “Challenge 21” proof of age policy. The Applicants are not aware of any occasion when it has been alleged that someone under 18 has accessed the premises, which shows that their system works properly. They only employ experienced door personnel and security staff. Both the Manager and Assistant Manager are experienced and mature ladies. If there is an insistence that Challenge 25 is for some reason necessary, then it can be adopted. The Applicants do not accept PASS accredited identification, because they do not regard it as secure and free from forgery.

Staff Training

1.61 to 1.65

The Applicants maintain that this is not applicable to them. There is no evidence whatsoever of any child sexual exploitation at these premises. No one under eighteen is admitted. No performer under eighteen is engaged and the management is fully alert and experienced enough to ensure that anyone working as a performer is in no way being exploited. In fact, the average age of performers is twenty five to thirty; their age is checked before they are taken on, as is their right to work. The Police have raised this latter issue in their proposals and it is acceptable by the Applicants. The Applicants have always checked the right of anyone to work within their business and the management is fully trained and experienced in this. A training programme is therefore superfluous. It is regarded as unnecessary, because there is

- (a) Not the slightest chance of anyone coming within the definition of “child” working at the premises and
- (b) It is considered impossible that anybody could be exploited at the premises.

A Condition of this sort will add to the cost for the business and will impose even more regulatory and burdensome duties on the management. It is emphasised that the policy is designed to “provide the framework” and page 1 of the report is referred to where it states “the licensing system MUST MINIMISE THE BURDEN ON BUSINESS”. The Applicants can see no basis under the Licensing Objectives for such a requirement in relation to their premises. If in fact it transpired that some evidence appeared which indicated that there might be some exploitation of performers or indeed customers within the premises which needed to be addressed under this sort of provision, then it could be added at a future date. At the moment the risk simply does not exist because of the way in which the Applicants operate and have operated in a very responsible manner.

It is submitted, therefore, that where necessary the policy on all these matters should have regard to the reality and the history of the operation of the business and that the Licence applied for should be granted with the Rules and Conditions as proposed by the Applicants.

So far as the Police observations are concerned, there is no problem with the Conditions being amended to incorporate their suggestion – with the exception of 1(iv) and 3 and (x). It is accepted that the performers should not simulate sex acts and this does not happen, and it may well be that the words “or remain in a state of nudity after their performance” is preferable to the Council’s proposals that a performer should “redress immediately”.

So far as the suggestion that the words “in any performance involving total nudity is concerned”, this was added so as to allow for the very limited amount of audience participation where the performer is not fully nude and where within a group of patrons, there is one who is called on stage so as to be “highlighted” in front of the rest of his party – such entertainment never having caused any problems at all.

13th November 2012.