

**LICENSING PANEL**

(Non Licensing Act 2003 Functions)

**Agenda Item**

Brighton &amp; Hove City Council

<b>Subject:</b>	<b>Application for renewal of a Sexual Entertainment Venue licence under the Local Government (Miscellaneous Provisions) Act 1982</b>		
<b>Premises:</b>	<b>Pussycat Club, 75 Grand Parade, Brighton</b>		
<b>Applicant:</b>	<b>Saltire Investments Ltd</b>		
<b>Date of Meeting:</b>	<b>17 February 2025</b>		
<b>Report of:</b>	<b>Corporate Director of City Operations</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Emily Fountain/Sarah Cornell</b>	<b>Tel: (01273) 295801</b>
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<b>Ward(s) affected:</b>	<b>Queens Park</b>		

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 To determine an application for renewal of a Sexual Entertainment Venue (SEV) licence for the Pussycat Club under the Local Government (Miscellaneous Provisions) Act 1982

**2. RECOMMENDATIONS:**

- 2.1 That the Panel determine an application for renewal of a Sexual Entertainment Venue licence under the Local Government (Miscellaneous Provisions) Act for the Pussycat Club, 75 Grand Parade, Brighton.

**3. CONTEXT/BACKGROUND INFORMATION & CONSULTATION**

**The following extracts from Brighton & Hove City Council Sex Establishment Policy 2010 are considered relevant to this application**

- 3.1 The Council has a duty to promote equality, consider crime and disorder and ensure fair and rational determination of applications. The policy will apply to all applications for sex establishment licences. There are 3 categories of sex establishments:

- Sex shops
- Sex cinemas
- Sexual entertainment venues

Sex establishments are defined and regulated by Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 ('the Act') as amended by the Policing and Crime Act 2009. Brighton & Hove City Council adopted the

amended provisions of Schedule 3 of the Act on the 15 July 2010. Sex Establishment Policy attached at Appendix A.

**General principles** – all sex establishments: Each application for a grant, renewal or transfer of a licence will be considered on its individual merits subject to the principles and approach set out in the policy. The policy will be kept under review.

### 3.2 Existing SEV licence attached at Appendix B.

For context, the original SEV licence was applied for and granted in 2011 after new legislation was brought in by the Government to licence SEV's. No objections were received at this time so the application was granted. The premises renewed the SEV on a yearly basis without issue until 2017 when the Police objected to the suitability of the licence holder, a panel hearing was arranged following the objection. Following consultation with the premises management, the Police withdrew their objection after a condition was agreed to be added to the licence and the panel hearing was withdrawn. The licence was subsequently renewed with the added agreed condition.

The premises failed to renew the SEV licence in 2020 and it therefore expired. A new SEV licence was applied for in 2021, no objections were received and the licence was granted without the Police condition. The licence has been renewed yearly since then until the most recent renewal application where objections were received.

### 3.3. Renewal application received 17.06.24 attached at Appendix C.

### 3.4 A licence will not normally be granted or renewed in the following circumstances:

- (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 or renewed 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 or renewal 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.

The policy states the following regarding Renewals:

Licences will normally be renewed unless circumstances have changed. The following matters would be taken into account:-

- (a) levels of recorded crime and disorder linked to the licensed premises;
- (b) evidence of a demonstrable impact on neighbours' safety or amenity;
- (c) effectiveness of appropriate measures, such as conditions, to mitigate adverse impacts.

### Hearing Procedures

- Renewal applications where objections are received will be determined by Licensing Panel (Non- Licensing Act 2003) (Licensing sub-committee).
- Applicant and objectors will have an opportunity to be heard.
- A notice of hearing will be sent to all parties.
- Where there is any possibility that an application may be refused, the applicant must be given the opportunity to be heard by the Licensing Panel.
- Any reasons for refusal will be notified orally as soon as possible and in a written statement within 7 days.

3.5 The Equalities Impact Assessment (EIA) has been completed as a result of objections received and in order to assist the decision makers to assess the equalities impact and apply the PSED. The EIA can be found at Appendix E.

3.6 Section 149 of the Equality Act 2010 Public Sector Equality Duty (PSED) imposes a statutory duty on the City Council, in the exercise of its functions, to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The determination of applications for a sex establishment licence is a function of the council therefore the City Council must have due regard to the PSED. It is acknowledged that the PSED must be “exercised in substance, with rigour and with an open mind” by the decision-maker personally and may not be delegated (see the summary in *R (Bracking & Ors) v Secretary of State for Work & pensions* [2013] EWCA Civ 1345 at [73]).

The PSED is not “a duty to achieve results” but a duty “to have due regard to the need to achieve the goals identified in pars (a) to (c) of s 149(1) (see *Hotak v Southwark LBC* [2015] @ WLR 1341 at para [74]).

Sex equality-based concerns are relevant considerations to the due regard of the PSED in the context of an application for a sex establishment licence under the 1982 Act (see *R on the application of CDE v Bournemouth, Christchurch & Poole Council* [2023] EWHC 194 (Admin)).

## 4. CONSULTATION

A total of 18 objections were received. 2 objections were particularised. A summary of the main concerns are:-

Numerous breaches of the council’s own Sex Establishment Policy 2010:

- Section 4 – In an ‘unfit’ location (practically on university campus, near schools and churches, in a main shopping and residential area, by places of

historical interest and in an area of high crime). The policy states SEV licenses will only be granted in the locations outlined in 4.1 and 4.2 'in exceptional circumstances'. The council needs to justify what these 'exceptional circumstances'

- Concerns about vulnerable young girls and women and equality.
- Viewing this application through the lens of reducing harm, specifically reducing violence against women and girls in a city with higher than average rates of domestic violence and sexual assault.

4.1 On receipt of the objections (Appendix D) the details were sent to the applicant.

## 5. FINANCIAL & OTHER IMPLICATIONS:

### Financial Implications:

There are 3 SEVs in total. SEV fees are based on licence renewals and the current fee charged is £3,950 per annum.

*Finance Officer Consulted Michael Bentley*

*Date: 23/01/2025*

### 5.1 Legal Implications:

5.1a Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 governs sex establishments. The panel must determine this application having regard to all relevant factors and the rules of natural justice.

5.1b Regard must be had to the Human Rights Act 1998. The circumstances of an SEV application may require regard, amongst other rights, to:

Art 6: Right to a Fair Trial

Art 10: Right to Freedom of Expression; and  
Protocol 1, Article 1: Protection of Property.

*Lawyer Consulted: Rebecca Sidell*

*Date: 23/01/2025*

### 5.2 Equalities Implications:

5.2a The Equalities Impact Assessment (EIA) has been completed as a result of objections received and in order to assist the decision makers to assess the equalities impact and apply the PSED. The EIA can be found at Appendix E.

### Sustainability Implications:

5.3 There are no direct sustainability implications.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Appendix A – Sex Establishment Policy and Conditions for Sex Establishments
2. Appendix B – Existing SEV licence
3. Appendix C – Renewal application
4. Appendix D – Two objection statements and sixteen brief objections emails.
5. Appendix E – Equalities Impact Assessment (EIA)
6. Appendix F - Plans showing the location of the premises in relation to the surrounding area and points of interest in the area

