

Meeting: Licensing Committee C
Date: 31st October 2023
Classification: Part 1
Key Decision: No
Title of Report: **Entice, 3 Warrior house, 42-82 Southchurch Road,
Southend-on-Sea, SS1 2LZ**

Executive Director: Alan Richards (Executive Director – Environment and Place)
Report Author: Theo Bahannack

1. Executive Summary

- 1.1 Members are invited to consider an application by Wizard Sleeves Bars (Essex) Limited for a renewal of a Sexual Entertainment Venue Licence.

2. Recommendations

- 2.1 That the Committee determines the application.**
- 2.2 Should the Committee decide to approve the application, then all relevant standard conditions attached in Appendix 1 should be applied to the license.**

3. Background

- 3.1 On 15 December 2011 Southend Borough Council made a resolution to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions Act) 1982 (LGMP) introduced by the Policing and Crime Act 2009 (PACA), that relate to the licensing of Sex Establishments, comprising of Sex Shops and Sex Cinemas.
- 3.2 The PACA introduced a third category of Sex Establishment licence (in addition to Sex Shops and Sex Cinema licences) called a Sexual Entertainment Venue (SEV). This licence covers striptease, lap/ table dancing and similar entertainment. Previously this type of entertainment was classified generally as performance of dance on Premises Licences under the Licensing Act 2003 and was not regarded as a sex establishment.
- 3.3 At present there are currently three premises that hold current Sex Establishment Licences and these are as follows:-
- Pink Papers, Lucy Road , SS1 2AU (SEV licence)
 - Entice, 3 Warrior House, 42-82 Southchurch Road, SS1 2LZ (SEV licence)
 - Harmony, 312 London Road, Southend (Sex Shop)

- 3.4 The application relates to a premises known as Entice situated at 3 Warrior House, 42-82 Southchurch Road, Southend-on-Sea, SS1 2LZ.
- 3.5 The application was given to the Licensing Authority on the 10th of August 2023 and was advertised in accordance with legislative requirements (see Application procedures in section 4 below).
- 3.6 One objection has been received.
- 3.7 The application remains opposed and is referred to the Licensing Committee for determination.

4. Application Procedures

- 4.1 Applicants for a SEV licence are required to send a copy of the application to the Police. It is also a requirement that a public notice is displayed at the premises giving brief details of the application and giving notice that objections can be made within a 28 day period.
- 4.2 Additionally the applicant must publish the same information in a newspaper that circulates in the locality.
- 4.3 It is Council practice to facilitate negotiations between parties where objections have been made. However, no request was made for such negotiation by any party.
- 4.4 A copy of the objection have been provided to the applicant and the Licensing Committee. The Act requires that The Licensing Authority does not disclose details of objectors without their permission and therefore details have been redacted from the committee papers.
- 4.5 All parties have been invited to attend the hearing.

5 Proposals

- 5.1 Details of the application can be summarised as follows:-
- a) to provide namely full or partial nudity, striptease, pole dancing and table dancing.
 - b) To provide entertainment listed in a) above daily between 21:00 to 04:30.
- 5.2 Further information is provided in the application documentation which has been copied to the Licensing Committee.

6. Financial Implications

- 6.1 A fee was paid on submission of the application. An additional fee has also been paid in order for the application to proceed to a hearing by the Licensing Committee. These fees cover the cost of administration and processing of the application.

7. Premises Licence

- 7.1 A Premises Licence under the Licensing Act 2003 is currently held at the premises, and this permits the following activities:
- a) The sale by retail of alcohol for consumption on the premises only.
 - b) The provision of late night refreshment.
 - c) The provision of regulated entertainment comprising plays, films, indoor sporting events, live music, recorded music, performance of dance and anything of a similar description.
- 7.2 A copy of that Premises Licence which includes all licence conditions has been provided to the Licensing Committee.

8. Legal Implications

- 8.1 Under paragraph 12(1) of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 there are five Mandatory Grounds for refusal of a Sex Establishments licence. These are as follows:-
- a) to a person under the age of 18;
 - b) to a person who is for the time being disqualified from holding a sex establishment licence;
 - c) Is not a body corporate, and is not resident or has not been resident in an EEA state for six months immediately preceding the date of application;
 - d) The body corporate which is not incorporated in an EEA state;
 - e) Has in the period of 12 months preceding the date of application been refused the grant or renewal of a licence for the premises in respect of which the application is made, unless the application has been reversed on appeal.
- 8.2 Discretionary grounds to refuse an application are:
- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason.
 - b) if the licence was to be granted, 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 of such a licence if he made the application himself;
 - c) the number of sex establishments, or sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider appropriate for that locality;

- d) the grant would be inappropriate, having regard –
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put;
 - iii. to the layout, character or condition of the premises, in respect of which the application is made.

9. Matters for Consideration

9.1 The Licensing Authority is obliged to hold a hearing to consider the application and opposition to it. The Authority may.

- a) Approve the application as made subject to standard and offered conditions, or
- b) Modify the application conditions put forward or add additional conditions as the Licensing Committee deem appropriate
- c) Reject the whole or part of the application.

9.2 In carrying out its licensing functions, the Licensing Committee should also have regard to:

- 1. Its Sex Establishments Policy, and
- 2. The guidance issued by the Home Office

9.3 The Council has published a Sex Establishment Policy, following formal consultation. Copies of this document and Home Office guidance, have been made available to all Licensing Committee Members.

10. Background Papers

10.1 Council's Sex Establishments Policy.

10.2 Home Office Guidance – Sex Entertainment Venues.

10.3 Local Government (Miscellaneous Provisions) Act 1982 – Schedule 3 as amended.

11. Appendices

Appendix 1 - Sex establishment operating conditions.

SEX ESTABLISHMENT OPERATING CONDITIONS

The applicant has confirmed that the below conditions are carried forward to the renewal application and if granted the committee may attach them to the new licence. Additional conditions may also be added at the discretion of the Licensing Authority.

- 1) The Licensee or a responsible person nominated by them in writing, not being under a person under 21 years of age, and whose nomination has been approved in writing by the Licensing Authority, shall be in charge of and present in the premises at all times when the public are on the premises.
- 2) The person in charge shall not be engaged in any duties which will prevent them from exercising general supervision.
- 3) The licence (including a copy of the conditions attached to it) shall be exhibited at the premises in a place where it can be easily seen and each page can be read by people visiting the premises.
- 4) There shall be no noise coming from the premises which would cause people in the neighbourhood to be unreasonably disturbed.
- 5) The Licensee shall take all reasonable steps to ensure that people entering or leaving the premises do not conduct themselves in such a manner so as to cause disturbance or nuisance to residents or passers-by.
- 6) The business shall be carried on only in the trade name or title, and at the address, specified in the licence.
- 7) The business shall be carried on only as the type of sex entertainment venue described in the application.
- 8) Where the licensee is a corporate or unincorporated body, any change of director/partner or other persons to be responsible for the management of the premises shall be notified in writing to the Licensing Authority within 14 days of such change and further information as required by the Licensing Authority shall be given in writing within 14 days of such a request being made.
- 9) The Licensee shall retain control over all parts of the premises and shall not let, share, or part with possession of any part of the premises. No change of use of any part of the premises shall be made without prior approval of the Licensing Authority.
- 10) In the conduct of the business the licensee shall not employ any person:-
 - (a) who has been disqualified from holding a licence for a sex establishment
 - (b) who has been refused the grant or renewal of a licence for a sex establishment
 - (c) who has been the holder of a licence for a sex establishment when that licence has been revoked.

- 11) The Licensee shall ensure that no employee or other person seeks to obtain custom for the premises by means of personal solicitation within the Borough.
- 12) Sex articles as defined by the Local Government (Miscellaneous Provisions) Act 1982 shall not be displayed, sold, exchanged, loaned or demonstrated other than within a sex shop.
- 13) The interior of the premises shall not at any time be visible from the outside.
- 14) The number, size and position of the doors or openings provided for the use of the public shall be approved by the Licensing Authority and those leading to parts of the premises to which the public does not have access shall be marked 'private'.
- 15) No access shall be permitted through the premises to any unlicensed premises adjoining or adjacent save in an emergency.
- 16) Lighting in all parts of the premises both internal and external shall be as approved by the Licensing Authority and be in operation continuously during the whole of the time the premises are open to the public.
- 17) There shall be no distribution of leaflets or other advertising material relating to the premises. (this provision includes on-vehicle advertising and static adverts such as A-boards, posters and bill boards).
- 18) No advertisement, display, sign, imagery, model or other such things shall be exhibited either at the premises or any other premises giving access to the premises so as to be visible from outside the premises except for the following:
 - (a) any notice of a size and in a form approved in writing by the Licensing Authority
 - (b) a compulsory warning notice, of a minimum size A4, shall be displayed at the each entrance to the premises.
 - i. The warning notice for sex shops and sex cinemas shall state: - "WARNING Persons passing beyond this notice will find material on display which they may consider indecent. No admittance to persons under 18 years of age."
 - ii. The notice for sex entertainment venues shall state: - "WARNING Persons passing beyond this notice will find nudity shows which they may consider indecent. No admittance to persons under 18 years of age."
 - iii. The word "WARNING" must appear as a heading.
 - iv. The warning notice shall contain only the prescribed words, and no others.
 - v. No pictures or other matter shall appear on the notice.
 - vi. The notice must be placed so it is easy to read and no-one could reasonably gain access to the premises without being aware of it.
- 19) No external loudspeakers may be installed or used.
- 20) No person who is apparently under the age of 18 years, or who is known to any person connected with the licensee's business and present at the premises to be under that age, shall be admitted to or allowed to remain at the premises.

- 21) The Licensee shall operate a challenge 25 policy where by any person who appears to be under the age 25 years shall be required to provide ID showing that they are at least 18 years of age. The only acceptable forms of ID shall be a UK photographic drivers licence, a passport or a 'PASS' approved ID card. A refusals log shall be maintained whereby any occasion a person is refused entry shall be recorded and available upon request by the Police or an authorised officer of the Licensing Authority.
- 22) The Licensee shall ensure that all persons employed on the premises are aware of the age restriction on clients and that they exclude or remove from the premises any person attempting to evade the restriction. Written training records shall be maintained at the premises and be available for inspection upon request by the Police or an authorised officer of the Licensing Authority.
- 23) The Licensee shall ensure that they submit a variation application before carrying out any change to the structure or management of the premises.
- 24) Performers may not stand in any lobby, reception or foyer areas or outside area of the premises for the purposes of greeting customers or encouraging customers to enter the venue.
- 25) The Licensee shall nominate a Duty Manager for the premises on each occasion they are open to the public and being used for the purposes of providing relevant entertainment.
- 26) The Licensee shall ensure the rota of the Duty Manager is displayed in the foyer or reception of the premises so the name can easily be viewed by Police or authorised Licensing Authority officers carrying out an inspection of the premises, or otherwise by persons using the venue. The full name of the appropriate duty manager shall be included on the rota.
- 27) The Duty Manager shall be responsible for ensuring the premises operate in accordance with the conditions applicable to the sex establishment licence.
- 28) The Duty Manager shall remain on the premises while they are on duty save in the event of an emergency situation.
- 29) The prices for entrance and any compulsory purchases within the venue, shall be clearly displayed at the entry point of the premises.
- 30) No charge shall be applied unless the customer has been made aware of the tariff of charge by the performer in advance of the performance.
- 31) The use of any cruising cars or any other wheeled carriage [whether for the purposes of hire or reward or not] by the premises to solicit customers and/or transport to or from the premises is prohibited.
- 32) An appropriate number of door supervisors registered with the Security Industry Authority shall be on duty to ensure that:

- All public areas of the premises are continually monitored to ensure the Dancers and Customers Codes of Conduct and any licence conditions are being complied with.
- Persons breaching the Customers Code of Conduct or otherwise behaving in a disorderly manner can be safely ejected from the premises.
- Customer numbers are monitored to ensure additional door supervisors will be available on a risk assessed basis.
- At all times the premises is open to the public there is a minimum of one member of security staff present on any floor where a performance of sexual entertainment is taking place and one member of security staff at the public entrance/exit to the premises.

33) Private booths shall not be fully enclosed. There must be a clear sight-line from outside the booth so that any performance of sexual entertainment can be directly monitored.

34) All private booths shall be fitted with a panic button or security alarm tested regularly with test results recorded in writing.

35) The Licensee shall undertake appropriate checks to ensure each dancer is eligible to work in the United Kingdom and shall not allow dancers ineligible to work in the UK to work at the premises. Appropriate records of the checks shall be kept at the premises and made available to Police and/or immigration officers upon request.

36) The Licensee shall maintain written records of all dancers working at the premises. The records shall show the dancer's full name, home address, date of birth and a certified photocopy of their passport (or a UK driving Licence) and the date the dancer was provided with the Dancers Code of Conduct and Disciplinary Procedure. Such records shall be produced for inspection by Police and authorised Licensing Authority Officers on request. Any instances of the dancer breaching the Dancers Code of Conduct shall be recorded on the dancer's record, showing the date and time of the incident and details of the breach that occurred. Such records shall be kept for a minimum of 6 months following cessation of their employment or work at the premises.

37) Dancers under the age of eighteen shall not be permitted to work at the premises.

38) Dancers shall not be permitted to perform if they are clearly under the influence of alcohol or drugs.

39) The Licensee shall ensure that an incident log is maintained at the premises. The incident log shall, as a minimum, give details of:

- Any ejections from the premises
- Any refused admissions
- Any refused sales
- Any inappropriate behaviour by guests
- Any failure in the CCTV system
- Any incidents of crime or disorder
- Any complaints made by the public, guests dancers or other staff

- 40) The incident log shall be completed as soon as reasonably practicable after any incident has occurred and in any case prior to the end of business on the day of the incident. The Licensee shall ensure the incident log is checked periodically and at least at monthly intervals to ensure that staff are completing the incident log.
- 41) The incident log shall be kept in a place where it can easily be accessed by staff working at the premises and all staff shall be aware of its location and the need to complete it in the case of any of the circumstances described above. The incident log shall be made available for inspection to Police or authorised Licensing Authority Officers on request.
- 42) A 'Customers Code of Conduct' shall be on displayed at the entrance to the premises and within the performance areas, and at each customer table. The customer code of conduct shall include the following:-
- I. Customers shall be seated during a performance.
 - II. There shall be no physical contact with the performers at any time during the performance.
 - III. Unacceptable and inappropriate behaviour will result in a customer being removed the premises.
 - IV. Customers may only proposition the performers for a dance and not for any other sexual activity.
 - V. No non-prescription drugs or nitrous oxide may be brought into, or consumed on the premises.
 - VI. No weapons or items which may be used as weapons may be brought into the premises.
 - VII. It is a condition of entry that customers may be searched before being permitted to enter the premises.
 - VIII. No photography, either or still of moving imagery, is permitted by the use of the camera, mobile phone or other electronic device.
- 43) The following policies shall be drawn up and agreed with the Police in writing prior to the licence being deemed as 'in force':
- Misuse of Drugs
 - Searching
 - Smoking
 - The safety of dancers when leaving the premises following any period of work
- 44) The smoking policy shall include a provision that the smoking area for use by staff shall be kept secure and separate to any public smoking area and that no more than two staff shall be permitted to smoke outside the premises at any one time.
- 45) A female security officer shall be on duty at all times when body searches are carried out on female customers.
- 46) The Licensee shall sign-up to and participate in any town link radio system operated for the purposes of dealing with crime, disorder and nuisance in the night time economy within the vicinity of the premises.
- 47) The Licensee shall ensure there is a 'Dancers Code of Conduct' in force at the premises which shall be displayed at the premises. A copy of the 'Dancers Code of Conduct' and the conditions of the licence shall made available to the dancers in their own language on request.

- 48) Dancers may not intentionally touch a customer during a performance.
- 49) Dancers may not permit a customer to touch them during a performance.
- 50) Dancers may not straddle the customer.
- 51) If a customer attempts to touch or speak to a dancer inappropriately, the dancer shall stop the performance and advise the customer of the rules of the Code of Conduct. If the customer persists in an inappropriate behaviour, the dancer shall stop the performance and inform premises management immediately.
- 52) There shall be no physical contact between dancers while they are performing.
- 53) Dancers shall not solicit for gratuities or payment for sexual favours.
- 54) Dancers shall not engage in any act of prostitution, i.e. the receiving of gratuities or payment for sexual favours.
- 55) Dancers may never give out personal information, including telephone numbers, email addresses or other contact details to audience members.
- 56) Dancers may not perform any act which simulates masturbations, oral sex or sexual intercourse, including the insertion of any object, including their own finger, into the mouth, anus or vagina.
- 57) Dancers may not touch their own breasts, anus or genitals with their fingers, lips or tongue.
- 58) Dancers may not be in the company of a customer unless it is in an area of the premises that is open to the public.
- 59) Dancers shall not perform if they are, or appear to be, under the influence of alcohol or drugs.
- 60) If a customer engages in acts of masturbation or other sexual behaviour, the dancer shall cease the performance immediately and inform the premises management.
- 61) Dancers shall be provided with secure and private changing facilities. This shall include the provision of a toilet and a shower, which are for the sole use of the dancers. They shall use the dressing room facilities provided to change for their performance.
- 62) Dancers shall only use the smoking area provided specifically for their use.
- 63) Dancers shall only use the sanitary facilities specifically provided for their use.
- 64) Dancers shall be fully clothed (i.e. no nudity) when not performing.
- 65) Dancers shall not leave the premises or otherwise be visible outside the premises, including for smoking breaks, unless dressed in suitable attire, e.g. outer-wear consisting of coat or top and skirt or trousers so lingerie or other performance costume is not visible. No advertising shall be displayed on dancers clothing when worn outside the premises during breaks.

- 66) Dancers shall notify management in the event of his or her spouse, civil partner, boyfriend or girlfriend being on the premises.
- 67) The Licensee shall ensure that a zero tolerance policy in respect of illegal drugs is in place. In pursuance of that policy dancers shall be subject to search and a procedure within the policy shall whereby dancers sign to confirm consent to appropriate searches being carried out.
- 68) The Licensee shall signpost performers and staff to suitable support services. This shall include, but not be limited to, details of support services for victims of sexual harassment and/or sexual violence. This shall include the provision of leaflets sited within the changing area and handed to each performer prior to commencement of their contract/employment.
- 69) All dancers shall comply with the dancers Code of Conduct. Any failure to adhere to the Code of Conduct shall render the dancer subject to the house Disciplinary Rules, a copy of which shall be provided to each dancer.
- 70) No films may be shown at the premises unless they have been passed by the British Board of Film Classification. No films classified as R18 shall be shown on the premises.
- 71) The Closed Circuit Television (CCTV) system shall cover all public areas of the premises including all areas where performances of sexual entertainment are conducted, and be maintained in good working order to:
- a) Operate on 'real-time' at a minimum rate of 20 frames-per-second, with constant, correct time/date generation.
 - b) Have a recording capability capable of providing individual pictures.
 - c) Provide clean, clear and unobstructed camera views of evidential quality in all lighting conditions.
 - d) Provide correctly timed and date stamped recordings - which must be stored in date order, numbered sequentially, kept for a period of at least 31 days and handed to the Police on request.
 - e) Export footage to a removable storage medium with a time and date integral to the image – where possible, to also include any software needed to replay the footage.
 - f) Ensure exported footage at the same, or similar quality to that recorded on the system recording.
 - g) Incorporate at least one camera on every entrance and exit to the premises which gives images clearly showing full height and facial recognition.
 - h) Incorporate at least one camera on all areas where the sale/supply of alcohol occurs- individuals must be recognisable.
 - i) Incorporate at least one camera on any potential queue area external to the premises, and car parking area within the boundary of the premises - individuals must be detectable.
 - j) Incorporate a dedicated CCTV camera for each private booth – individuals must be clearly identifiable.
 - k) Ensure that all other cameras at the premises allow for individuals to be recognisable.
- 72) During all periods of licensable activity authorised by this licence, a nominated and trained 'CCTV Operator' shall be on duty, who is competent in the operation of the CCTV equipment in order to:
- a) Inspect the CCTV system on a daily basis, and ensure that all cameras are in full working order.

- b) Record each inspection on a 'CCTV maintenance' log sheet, and endorse with their signature.
 - c) Facilitate the downloading CCTV footage. Images shall be provided to the police upon request.
- 73) During all periods of non-licensable activity, a 'CCTV Operator' must be contactable by the police on a designated emergency-only telephone number. This number must be registered with the local police licensing office.
- 74) A suitable drugs safe/cabinet shall be fitted and any seized items shall be deposited in it. The safe shall be installed at the main entrance and only the Police shall have the access keys. Any seized items shall be placed in a clear bag with a label stating the circumstances of why it is in the safe. A corresponding book to record details of such seizures or found drugs/weapons shall be maintained. The whole of this procedure shall be covered by CCTV from seizure to deposit in safe. (With the exception of the toilets).
- 75) The Licensee shall ensure that a 'grab bag' containing suitable clothing for the use of dancers in the event of an emergency evacuation, is located at the exit to the premises. (Such clothing is defined in condition 65 above).