



Licensing Sub- Committee Decision

Record of proceedings of Sheffield City Council Licensing Sub Committee hearing held on 16th September 2019

Full name of Applicant : Sonfield Developments Limited

Premises name and address:

Spearmint Rhino

60 Brown Street

Sheffield

S1 2BS

Reason for attendance at committee

To consider an application for the renewal of a sexual entertainment venue licence made under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

Date application received: 29th April 2019

Applicant/Licence holder present? Yes

Objectors present? Yes

CONSTITUTION OF THE SUB-COMMITTEE

Chair: Councillor Karen McGowan

Member: Councillor Vickie Priestley

Member: Councillor Andy Bainbridge

OTHERS PRESENT

Legal Advisor: Marie-Claire Frankie

Licensing Officer: Claire Bower & Emma Rhodes-Evans

Committee Secretary: John Turner

Applicant's Representative	Objectors (who chose to provide their name/organisation)
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Philip Kolvin QC Robert Sutherland- Solicitor	Julian Norman – Drystone Chambers
John Specht- UK Vice President	Dr Helen Mott
Andy Foster- Regional Manager	Kate Whittaker
Pete Mercer- DPS, Spearmint Rhino Sheffield	Michelle Webster
Emily Brown- Manager, Spearmint Rhino Sheffield	Sasha Rakoff - 'Not Buying It'
Andrew Bamber – Crime and Disorder Consultant	Lisa Markham
Celia Lister- Dancer, Spearmint Rhino Sheffield	Christine Rose – 'Know the line'
Ella - Dancer, Spearmint Rhino Sheffield	Jonathan Bagley
Harley - Dancer, Spearmint Rhino Sheffield	Meera Kulkarni – Sheffield Rape and Sexual Abuse centre
Heather Watson - Dancer, Spearmint Rhino Sheffield	Christine Rose- 'Know the Line'
Beth L Amos - Dancer, Spearmint Rhino Sheffield	Judith Dodds – Sheffield Feminist Network
Rosa Vince – Local resident and Researcher	Charlotte Mead- Women's Equality Party (WEP) branch leader, Sheffield
Gabby Willis – Sheffield Hallam Students Union (SHSU) Womens' Representative	'Not Buying It' Sheffield
Dr Rachela Colosi – Erotic Dance expert	Mark Swayles – Chief Estates and facilities Manager at Sheffield Hallam University (SHU)
	ADDITIONAL REPRESENTATIONS
	Julie Hague – Sheffield Children Safeguarding Partnership

1. Chairman's note of evidence (details of all oral and written evidence put before the Sub-Committee):

- Written report of the Head of Licensing case number 52/19
- Bundle of documents in support of the application circulated on 13th September 2019
- Sheffield's Sex Establishment Policy published April 2011
- Equality Impact Assessment dated 13th September 2019
- Oral representations of objectors, supporters and applicants

2. Findings of the Sub-Committee and relevant facts accepted from the evidence available. Given the amount of evidence submitted in advance and at the hearing it is not intended in this determination notice to give a detailed analysis of each piece of evidence, instead it is to provide a summary of the written and oral representations.

- 390 letters of objection and 363 in support of the application were received in addition to a petition in support of the application signed by 958 people. As such, the application was referred to the Licensing Sub-Committee for determination.
- Members had read the bundle containing the written evidence submitted by the Licensing Service, and the additional bundle served by the applicant.
- Ms Norman, representing a number of the objectors known as the 'Complaint Coalition', requested the introduction of a skeleton argument and a witness statement after the hearing had begun. Having considered the content and representations from Mr Kolvin on behalf of the applicant, members' decided to propose two options for the complaint Coalition. The first option was to adjourn the hearing allowing for full disclosure before a rearranged hearing and the second option was to proceed with the hearing on the documents that were before the Sub Committee.
- The Complaint Coalition decided to proceed on the documents that were already circulated.
- The representations heard against the application largely fell into one of three categories. 1) Public Sector Equality Duty (PSED) 2) Locality and 3) Suitability of the Applicant.
- Members heard that 'premises like Spearmint Rhino (SR) by their nature directly support and promote attitudes which constitute and foster discriminatory behaviour by men and boys towards women and girls, and which are the major causes of men's violence against women and girls'.
- Members were told that men are violent against women as they feel entitled. When men visit SR, these views are reinforced. To stop violence against women, Members heard, they need to refuse the renewal application.
- A number of representations stated that Sexual Entertainment Venues (SEV's) directly discriminate against women by normalising the sexual objectification of them which contribute to their sexualisation and objectification in other areas of society. SEV's are both a cause and effect of inequality between the sexes.
- Members heard a number of representations from objectors stating that they feel vulnerable walking past the premises and that they modify their behaviour as a result or even self-exclude from the area. Members heard and read submissions where women said that SR creates a 'climate of fear' and that women are afraid of speaking out in addition to being subjected to misogynistic comments and harassment in the City.
- Members heard how the relicensing of SR 'promotes a rape culture' as 'consent is what is being contested' and 'transactional sex' blurs the lines of consent by commodifying women.
- Members heard the Public Sector Equality Duty (PSED) was introduced to ensure those with protected characteristics, primarily women in this instance, were appropriately taken into consideration where a public body is exercising its decision-making functions. Protected characteristics are such as historically particular groups have been treated differently, unfairly and been subject to power imbalance.
- Members were told that lap dancing clubs 'reinforce gender stereotypes of male insatiability and female sexual availability which are damaging to both sexes'.
- Members heard that the location is unsuitable. The Office of the Director of Public Health wrote that 'the site at Brown Street is no longer suitable for such an

establishment due to the changed use and regeneration of the area, in particular nearby sensitive locations’.

- SHU submitted that they are about to commence work in the area and if the licence were to be renewed it would conflict with the ‘Knowledge Gateway’.
- SHU stated that the presence of SR ‘impedes our ability to meet PSED objectives’ and that there are a number of reports that show that sexual abuse stops women from having successful experiences at University. It was submitted that SHU have appointed experts in an attempt to tackle this but the existence of SR next to the Students Union (the HUBS) legitimises misogynistic views and does not foster good relations.
- Spearmint Rhino is adjacent to the Cultural Industries Quarter’s (CIQ) only public space (Festival Square or Pinball Park), and the Student’s Union (the HUBS) is the other side of this. SHU submitted that these are a tourist attraction and a main gateway to the City.
- The Showroom Cinema, it was submitted, has plans to develop an outdoor seating area in addition to Paternoster Row being an increasing pedestrian-friendly public space and identified as part of the ‘Knowledge Gateway’ plans.
- Members heard that there are a number of educational establishments in the vicinity and Brown Street is also an access route to the Sheffield College and University Technical College (UTC) which provides education for children over 14 years old. Freeman College is ‘in close proximity’ which provides education for students who have a range of complex mental health and behavioural needs.
- It was submitted by the Director of Public Health that ‘young age or being a student, illicit drug use, mental ill health are predictive of participation in or consumption of sex industry products, which include sexual entertainment. A particular concern of proximity to Student venues is that student impoverishment was seen to drive female students into working in the industry and being in debt is predictive of being both a worker and a consumer in the industry’.
- Members heard that there are a number of charities supporting rape victims in the area and it was submitted that relicensing SR does not challenge the ‘notion of male entitlement’ and that it is ‘naïve’ for Members to think that men only feel entitled when they are in the SEV.
- Members were told that the licensing investigation following the submission of the Complaint Coalitions information clearly showed evidence of breaches. These breaches were sexual touching of customers by dancers, sexual touching between dancers, self-masturbation by dancers and mutual masturbation and oral stimulation between dancers.
- There were 219 breaches of the SEV licence and conditions over the 2 visits by undercover officers. It was submitted that the pattern of rule-breaking was replicated by all 6 dancers involved during a busy weekend and a quieter weekday evening.
- These breaches, it was submitted, proved the unsuitability of the applicant as the breaches were not picked up on the clubs CCTV. Furthermore, these breaches went unidentified despite enforcement of the club’s rules, including increased supervision in private areas, which were specifically put in place to ensure openness and scrutiny of dancers.
- It was stated that the breaches revealed by the undercover investigators were not committed by rogue dancers but highlighted the ‘widespread sexual violence’ present at the premises and the ‘extreme level of sexual contact’.
- It was further submitted that the applicant is unsuitable as they are either ‘incompetent or lying.’
- SR submitted that the breaches are unacceptable and that they apologise.

- They detailed how seriously the information was treated, how immediate action was taken and how appropriate remedial measures were put in place.
- SR stated that they have been in Sheffield for 17 years and this is the first investigation by Officers.
- It was detailed that the breaches were committed by the dancers who were not stopped by security, both of whom were on the watch of the Manager.
- The Manager in place at the time has been demoted and the dancers' contracts terminated.
- An enhanced management system was implemented and all staff were retrained. CCTV was reviewed with South Yorkshire Police, additional cameras installed and a CCTV monitoring room was created. All areas of the premises are now covered, including the private dance rooms.
- Security has been increased each night and a dancer breach log system created.
- A senior person was employed to monitor the effectiveness of the system and seven subsequent covert visits failed to reveal any breaches.
- It was stated that despite the serious blot, the applicant was not unsuitable and that the management team are of 'impeccable character'.
- It was pointed out that the location had changed little in the last year, with SR being in the same location for 17 years with little impact on the outside area. Furthermore, there is no signage outside the premises which minimises its impact during the day and when operating at night it is 'innocuous'. The area has also developed around SR showing that development has not been frustrated by its presence.
- SR submitted that it is not on a gateway into the city centre.
- It was submitted that the HUBS are across the open-space from SR but the students in attendance are over 18 and adults.
- Parliament has decided that lap dancing is a lawful activity.
- The layout of the premises has not changed in 17 years.
- SR submitted that the dancers are protected and happy and there is no management stranglehold in place.
- Members heard evidence from a supporter of SR that erotic dance is a stigmatised form of labour and stated that there had been a large research project undertaken which gathered samples of the public in relation to lap dancing clubs. They found that the majority of people do not object to them and a 'significant minority' do.
- A member of SHSU Womens' Committee stated their support of SR and that they object to SHU using students as part of their objection.
- It was explained that the HUBS are rarely open beyond 11pm and that the Union member has never heard a complaint from students about SR.
- Members heard from a researcher in support of SR who submitted that that she lives a few hundred yards from SR and walks past daily, often at night, and has never felt unsafe.
- It was put to the Sub Committee that if they are to believe the statements from women saying that they have been assaulted in lap dancing clubs, they must also believe the women who say that they have not been.
- Members heard from dancers at SR who said that non-consensual sexual contact is harmful in contrast to consensual contact. Dancers stated that they are not exploited and that on the contrary, they are protected, safe and have never felt violated by staff or customers at SR.
- Dancers admitted that some colleagues required support when leaving but that this support was also required by those that choose to continue at SR.

- Dancers submitted that they were not trafficked or abused nor were they addicts or unqualified people.
 - South Yorkshire Police did not object to the renewal application.
 - A witness statement from Julie Hague, Manager of Sheffield Children Safeguarding Partnership submitted that there were no safeguarding risks identified but there was a gap in the policies. These have been addressed and there is now a continuous training programme in place.
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3. Legal advice given

- Sheffield City Council's Sex Establishment Policy, published April 2011
 - Equality Impact Assessment (EIA) dated 16/9/19 and deficiencies raised during the hearing.
 - Local Government (Miscellaneous Provisions) Act 1982
 - Policing and Crime Act 2009
 - s149 Equality Act 2010
 - Hotak v Southwark London Borough Council [2015]
 - R (on the application of Bean Leisure Trading A Ltd) v Leeds City Council [2014]
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4. Decision

- To grant the licence in the terms subject to the following condition:
 - A random sample of the premises CCTV is to be inspected by Officers on a minimum of a monthly basis and an inspection report to be presented to the Licensing Committee quarterly.
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5. Reasons for the decision

- The Sub Committee considered the application afresh in light of the evidence submitted and the representations made.
- Members noted that there were no objections from any Responsible Authorities.
- Julie Hague, Manager of Sheffield Children Safeguarding Partnership has stated that she does not have any concerns from a safeguarding perspective with regard to Spearmint Rhino.
- Members looked at the location of the premises and determined that the location is suitable. The premises have been in situ for 17 years and are not on a gateway to the City Centre. As the crow flies, members accepted that SR is close to educational establishments, however this did not take into account the walking routes designed around buildings which reduced the proximity between the two significantly.
- They accepted that SR is close to the HUBS but noted the support for sex workers from the SHSU Women's Representative and the Union's corresponding sex-positive policies adhered to by all students.
- The HUBS are also 'rarely open after 11pm'.
- Members looked at the evidence of planned developments such as the Knowledge Gateway and development of Festival Square and concluded that SR has no negative impact on them.

- Members determined that the impact of SR on the area is minimal as it is anonymous during the daytime and only opens when most other surrounding businesses are closed.
- The Sub Committee then considered the evidence revealing the breaches at SR and expressed extreme concern about the disregard for the licence and the code of conduct.
- Members then looked at how the Applicant had addressed these breaches and were satisfied that SR had dealt with them promptly and cooperated with the Licensing Service.
- The Sub Committee considered the steps that had been taken to remedy the breaches including the change to the management structure.
- They heard evidence from Ms Hague who emphasised the importance of an organisation's response to breaches of its licence. She found that scrutiny of the management and the possibility of retraining by SR fulfilled her expectations of an adequate response.
- In light of these considerations and the appointment of the crime and disorder consultant, members were satisfied that the new systems imposed are adequate and the Applicant had acted appropriately.
- Member's experience of sitting in the Regulatory Committee reinforced their commitment to a step-by-step approach to resolving issues that may have arisen, as opposed to an approach which punishes premises.
- Following consideration of the changes and actions taken by the Applicant, in addition to recognition of their experience and background, the determination was made that the Applicant was suitable.
- Members noted their duties in having due regard to the Public Sector Equality Duty and took into account the Equality Impact Assessment (EIA) when considering the application, notwithstanding the requirement of due regard for the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
- Members looked at the issues that were raised with the EIA and did not accept that the EIA took into account the wrong SEV policy. On the contrary, the EIA took into account the April 2011 policy and is clearly written following the completion of the investigation into the breach of licence conditions and SR code of conduct.
- Members heard that some women felt unsafe and fearful in the vicinity of the premises, and self-excluded themselves from the area as a result. They also heard from women who felt safer in the area owing to the presence of SR.
- Members dismissed the concerns that women can enter the premises from the EIA as irrelevant. Members considered the disproportionate impact of SEVs upon women revealed in the EIA in light of the premises' high regulation, its requirements of multi-agency intervention and review, the strict controls and conditions, legislative constraints, government guidance and the council's own Sexual Establishment Policy, notwithstanding the subjection of additional inspections imposed upon SR following the hearing.
- Members looked at the issue raised in relation to race and the concern that there are unequal practices for male performers ('Chocolate Men') and female performers.

- The dancers' response to this issue emphasised their self-employed status and the requirement to pay a floor fee in contrast to Chocolate Men as a touring group paid to perform at SR.
- Members looked at the steps available to meet the needs of people from protected groups with needs that differ from other people and felt that the lack of signage on the premises (essentially making it invisible) and the strict controls imposed upon the premises would mitigate the concerns raised. Additionally, the spot checks of CCTV footage by the Licensing Service would eliminate the opportunity for the premises to prepare for the visit and 'get their house in order'.
- When considering the discretionary grounds, specifically whether 'the grant would be inappropriate having regard to the character of the relevant locality' and whether 'the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason', Members determined that, ultimately, it would not for the reasons listed above.

6. Appeal

There is no right of appeal to the Magistrates' Court for the objectors to the renewal application. The only recourse is by way of judicial review.

DATE: 30th September 2019