

BIRMINGHAM CITY COUNCIL

**REPORT OF DIRECTOR OF REGULATION & ENFORCEMENT TO A SUB
COMMITTEE OF THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

LICENSING SUB COMMITTEE B

1 OCTOBER 2024
LADYWOOD

CONTROL OF SEX ESTABLISHMENTS - SEXUAL ENTERTAINMENT VENUE

LA BELLE'S, 61 NEWHALL STREET, BIRMINGHAM B3 3RB

1. Summary
 - 1.1 Birmingham City Council's Sexual Entertainment Venue Policy became effective from 1st November 2014.
 - 1.2 An application has been received from Michelle Monaghan for the renewal of a Sexual Entertainment Venue (SEV) Licence in respect of premises known as La Belle's, 61 Newhall Street, Birmingham B3 3RB.
 - 1.3 At the time of writing this report there are 5 SEV licences currently in force granted to premises within Birmingham 4 of which are located within the area bounded by the ring road (A4540).
 - 1.4 As stated in Birmingham City Council's SEV Policy the Council considers that the part of the City which falls within the ring road (A4540) is an area which is appropriate to have an upper limit guide on the number of SEV's the appropriate upper limit being eight.
 - 1.5 If renewed there would be a total of 4 SEV licences granted to premises which fall within the ring road (A4540).
2. Recommendation
 - 2.1 That Committee consider and determine the application for the renewal of a Sexual Entertainment Venue licence in respect of La Belle's, 61 Newhall Street, Birmingham B3 3RB having regard to the options contained in paragraph 6.1 of the report.

Contact Officer: David Kennedy, Principal Licensing Officer
Telephone: 0121 303 9611
E-mail: licensing@birmingham.gov.uk

3. Background

- 3.1 An application has been received from Michelle Monaghan for the renewal of a Sexual Entertainment Venue Licence in respect of the premises known as La Belle's, 61 Newhall Street, Birmingham B3 3RB. A copy of the application is attached at Appendix 1.
- 3.2 The applicant has confirmed that the external scheme of the premises, the club rules and the plan of the premises detailing where Sexual Entertainment will take place remain unchanged as to those approved by the Licensing & Public Protection Committee on 10th July 2019. Copies of which are attached at Appendices 2 to 4 respectively.
- 3.3 A copy of the decision notice detailing the reasons for initially granting the Sexual Entertainment Venue Licence is attached at Appendix 5.
- 3.4 As a result of objections to subsequent renewal applications submitted in 2022 and 2023 those renewal applications were again considered by Licensing Sub Committee meetings on the 27th September 2022 and 27th September 2023 respectively when the Committees resolved to renew the licence.
- 3.5 The proposed hours of operation also remain unchanged being 22.30 hours to 05.00 hours Monday to Sunday.
- 3.6 The nature of the entertainment as described on the application form is lap dancing, pole dancing, stage shows including nudity and burlesque performances.

4. Consultation

- 4.1 The applicant was required to advertise the application in a local newspaper, post a notice outside of the premises for a period of 21 days and serve a copy of the application to the Chief Officer of Police.
- 4.2 In addition upon receipt of an application the Licensing Section consults with the relevant Police Licensing Team, the Licensing Enforcement Team and also notifies the appropriate Ward Councillors.
- 4.3 West Midlands Police Licensing Team have confirmed that they have no objection to the renewal of the licence. A copy of their response is attached at Appendix 6.
- 4.4 A representative of the Licensing Enforcement Team has confirmed that they have no objections to the renewal of the licence. A copy of their report is attached at Appendix 7.
- 4.5 An objection notice has been received which is attached at Appendix 8.

- 4.6 A copy of the Council approved standard conditions for Sexual Entertainment Venue licences are attached at Appendix 9.
- 4.7 Location plans, including a plan showing the proximity of the other existing licensed Sexual Entertainment Venues to the premises, are attached as Appendix 10.
- 4.8 The applicant, the objector and the Licensing Enforcement Officer who assessed the application, including the suitability of the location, have been invited to attend the hearing.

5. Matters for Consideration

- 5.1 When considering an application for the grant of a licence, the Committee should have regard to any observations submitted to it by the Chief Officer of Police and any objections that the Licensing Authority has received from anyone else within 28 days of the date of the application.
- 5.2 Subject to any new information produced at the hearing it does not appear that any of the mandatory grounds of refusal apply to the application currently due for consideration. For example, a licence shall not be granted to a person who is under the age of 18 or who has had a previous application for the same premises refused within the last 12 months.
- 5.3 The only discretionary grounds upon which the Council may refuse an application are those grounds specified in Schedule 3 paragraph 12(3) of the Local Government (Miscellaneous Provisions) Act 1982 as amended:
 - a) that the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or 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 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 made 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.

6. Options Available

6.1 The Committee may:

6.1.1 Grant the application as it stands in which case the licence will be granted subject to the Council approved Standard Conditions.

6.1.2 Grant the application as it stands subject to the Council approved Standard Conditions unless they have been expressly excluded or varied and/or other Specific Conditions or restrictions that the Committee deem reasonable, necessary proportionate and justifiable.

6.1.3 Refuse the application on one or more of the grounds as outlined in paragraph 5.3 above.

7. Right of Appeal

7.1 An applicant has a right of appeal to the Magistrates Court against decisions to refuse to grant, renew, vary or transfer a licence, the imposition of conditions or the revocation of an existing licence.

7.2 It should be noted that although no right of appeal lies against a decision made on the discretionary grounds set out in paragraphs 5.3(c & d) above, the applicant could challenge a refusal on the aforementioned grounds by way of a judicial review.

8. Implications for Resources

8.1 An application fee of £1,975 is payable for the renewal of a Sexual Entertainment Venue licence.

8.2 In the event of an appeal hearing, the Magistrates power to award costs derives from Section 64 of the Magistrates Courts Act 1980 which entitles them to make such order as they think just and reasonable.

9. Implications for Policy Priorities

9.1 The application that is the subject of this report should be considered in accordance with the published Birmingham City Council Sexual Entertainment Venue Policy.

10. Public Sector Equality Duty

10.1 To consider the application made, the objection notice received and to determine the application having regard to the Public Sector Equality Duty.

APPENDIX 1

SEX ENT 1.6

Fair Processing Statement – Any personal data held by Birmingham City Council in relation to your application for a Licence to use a premises, vehicle, vessel or stall as a Sexual Entertainment Venue, will be held in full compliance with the legal obligations as set out in the Data Protection Act 1998. This is in accordance with the Council's Privacy Policy; a copy is available on the Council's website: www.birmingham.gov.uk/privacy. To protect the public fund we may also use the information you have provided on this form to prevent and detect fraud. We may share this information for the same purposes with other Council Departments and organisations for example, other councils and the police.

BIRMINGHAM CITY COUNCIL

SCHEDULE 3 OF THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

Application for a Licence to use any Premises, Vehicle, Vessel or Stall as a Sexual Entertainment Venue

All questions must be answered, save where otherwise stated. If relevant questions are not answered, the application will be deemed incomplete and will be returned to the applicant.

Section 1

Application details:

Is this licence for the: Grant ☐ Renewal ☒ Transfer ☐

Is the application made by: an individual ☒ a partnership or other unincorporated body ☐
a company or other corporate body ☐

Section 2

Answer only if Applicant is an individual

What is the full name of the individual? MICHELLE MONAGHAN

Permanent Residential Address.....

Any former names ...

Date of Birth ... Place of Birth..

Date Became Resident in the UK.....or E.U Member State

National Insurance Number or E.U Member State Equivalent. .

Telephone Number (during normal office hours) .

Email Address:..

Name and address to which correspondence to be sent (if different from above)

AS ABOVE.

Has the applicant a financial interest in the business which is the subject of this application?

Yes ☒ No ☐ If "yes" to what extent PURCHASED FREEHOLD

Is the whole business owned by the applicant?

Yes ☒ No ☐

Section 3

Answer only if the Applicant is an unincorporated body or a partnership

Full Name of Applicant

.....

What are the names of the applicant's partners? Please complete the table below:

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence Throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member state

Are there persons responsible for the management of the Applicant other than the partners? If so state their names.

.....

.....

.....

Please confirm if the whole of the business is owned by the applicant? Yes ☐ No ☐

Section 4.**Answer only where the applicant is a company or other corporate body**

What is the name of the Applicant?.....

Has the Applicant previously been known by any other name and if so what name?

.....

If the Applicant is a company, what type of company is it (e.g., public or private, limited by share or guarantee, etc.)?

.....

What is the registered number of the Applicant?.....

What is the registered office address?

.....

In which country is the company incorporated?

What is the date of incorporation of the company?

Please complete the table in respect of each of the Directors, the Company Secretary or other persons responsible for the management of the body.

Name (in full): Mr/Mrs/Miss/Other	Date of Birth	Address of permanent residence throughout six months immediately preceding this application	Date became resident of United Kingdom or other E.U member State

SEX ENT 1.6

Does the Applicant use any other trading names? If so, please state the trading name(s).

.....

What is the Applicant's trading address?.....

.....

.....

Please confirm if the whole of the business is owned by the applicant? Yes ☐ No ☐

Section 5

All Applicants

Please give details of the person (if any) who is to be responsible for the management of the premises in the absence of the licence holder:

First Name..... Surname.....

Former Name (if any)

National Insurance Number or E.U Member State Equivalent.....

Permanent Address:

.....

Date of Birth: Place of Birth.....

STAFF NOT YET RECRUITED.

Has any person named at any place in this application been associated in any way with any other application for a licence for a sex establishment? Yes ☒ No ☐

If "yes" give full details. ALSO HOLDS SEX LICENSE AT

THE CYCLONE CLUB, 192 BROAD STREET,

B15 1AY.

Section 6**Premises details:**

Is this application in respect of: Premises ☒ Vehicle ☐ Vessel ☐ Stall ☐

Is the premises, vehicle, vessel or stall in use for sexual entertainment at the date of this application? Yes ☐ No ☒

If the answer is yes, state the name and address of the person or body currently operating the business.....

What is full address of the premises for which a licence is sought?

61 NEWHALL STREET, BIRMINGHAM, B3 3RB

If the application is in respect of a vehicle, vessel or stall, please state where it is to be used as a sexual entertainment venue.....

Under what name is, or will the premises be known? LA BELLE'S

Is the whole of the premises to be used under the licence? Yes ☒ No ☐

If no, please state:

a) which part of the premises is to be used for the purposes of the licence

b) the use to which the remainder of the premises are to be put

c) the names of those responsible for the management of the remainder of the premises

If the Applicant's interest in the premises is a leasehold one, please state:

a) Head-lease ☐ Sub-lease ☐

b) the name and address of the landlord and of the superior landlord where applicable

c) the length of the unexpired term

Section 7.**Proposed operation times and activities**

Give the times it is proposed to operate the Premises for the purpose of this Licence;

<u>Day</u>	<u>Start</u>	<u>Finish</u>	<u>State any seasonal variations or non standard timings where you intend to use the Premises, which are different to those listed in the column on the left.</u>
Monday	22.30	5am	
Tuesday	22.30	5am	
Wednesday	22.30	5am	
Thursday	22.30	5am	
Friday	22.30	5am	
Saturday	22.30	5am	
Sunday	22.30	5am	

Please give full details of the nature of the relevant entertainment e.g. lap-dancing, pole-dancing, stage strip show etc

.....
 LAP DANCING, POLE DANCING,
 STAGE SHOWS INCLUDING NUDITY
 & BURLESQUE PERFORMANCES

Please confirm if the relevant entertainment involves full nudity ☒ Yes ☐ No

Section 8.**If the application is for the Transfer of a Premises Licence**

Name of current Premises Licence Holder

.....

Please give the reason/s for the transfer application

.....

Section 9.

Has the Applicant or any persons named in this form been convicted of a criminal offence whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details of unspent convictions below:

Convictions:

Forenames	Surname	Former Name (if any)	Court	Date	Offence	Penalty or Sentence

Has the Applicant or any persons named in this form been cautioned whether in the UK or elsewhere? Yes ☐ No ☒

If so, please give details below:

Cautions:

Forenames	Surname	Former Name (if any)	Offence	Date of Caution	Where caution administered

SEX ENT 1.6

Has any person or the corporate or unincorporated body referred to in this application: -

Been disqualified from holding a licence for a sex establishment?	NO
Been refused the grant / renewal / transfer of a licence for a sex establishment?	YES
Been the holder of a sex establishment licence when that licence has been revoked?	NO
Been associated in any way with any other application for a sex establishment licence?	YES
If 'Yes' to any of the above please provide details:	
<p>APPLICANT WAS REFUSED SEX LICENSE RENEWAL AT 'SCARLETS' IN 2016, LATER GRANTED ON APPEAL, AND THEN RENEWED SUCCESSFULLY EACH YEAR AFTER.</p> <p>APPLICANT ALSO HOLDS SEX LICENSE AT THE CYCLONE CLUB, 192 BROAD ST.</p>	

Is there any information in this application which you would **not** wish to be seen by members of the public?

Yes ☒ No ☐

If yes, state which information and the reasons why you would **not** wish it to be seen

HOME ADDRESS OF APPLICANT

Is there any further information which the Applicant would wish the Council to take into account when considering this application?

VENUE NOT YET TRADING, RENOVATIONS STILL UNDER WAY BUT PROGRESS HAS BEEN SLOWER THAN EXPECTED DUE TO NUMEROUS SET BACKS

(If necessary, please continue on a separate sheet)

SEX ENT 1.6

Please read the checklist below and tick to confirm you have enclosed all of the required information/documents;

I have made or enclosed payment of the fee ☒

Please check the following link for details of the cost of your application:-

<http://www.birmingham.gov.uk/licensingfeesandcharges>

I have enclosed a plan showing the interior layout of the premises and where relevant entertainment will take place for consideration by the Licensing Authority ☒

I have enclosed a copy of the "club rules". Such club rules must contain the required conduct of performers which shall include for example, no sex acts, no giving or taking phone numbers (including exchange of business cards). ☒

I have enclosed a scheme showing the exterior design for consideration by the Licensing Authority ☒

I understand and agree that I must send a copy of my completed application to the Chief Officer of Police no later than seven days after the date of the application. I also understand that I must produce evidence of due service of the Notice of Application upon the Chief Officer of Police as required by paragraph 10(14) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

I understand that I must now advertise my application on or near the Premises for 21 days starting with the date of the application. ☒

I understand that I must advertise the application in a local newspaper within seven days after the date of the application and that a copy of the notice of application which has been published must be given to the Licensing Authority in accordance with paragraph 10 (8) of the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982. ☒

DECLARATION: I declare that the details in this application are true to the best of my knowledge and belief and acknowledge that if there are any omissions or incorrect statements of a serious nature this may result in the application being refused. I further declare that I have read and agree to abide by the conditions of Licence for a Sexual Entertainment Venue made by Birmingham City Council in accordance with Section 2 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 should my application be granted.

APPLICANTS ARE INFORMED THAT ANY PERSON WHO, IN CONNECTION WITH AN APPLICATION FOR THE GRANT, RENEWAL OR TRANSFER OF A LICENCE, MAKES A FALSE STATEMENT WHICH HE KNOWS TO BE FALSE IN ANY MATERIAL RESPECT OR WHICH HE DOES NOT BELIEVE TO BE TRUE, IS GUILTY OF AN OFFENCE AND LIABLE, ON SUMMARY CONVICTION, TO A FINE NOT EXCEEDING £20,000.

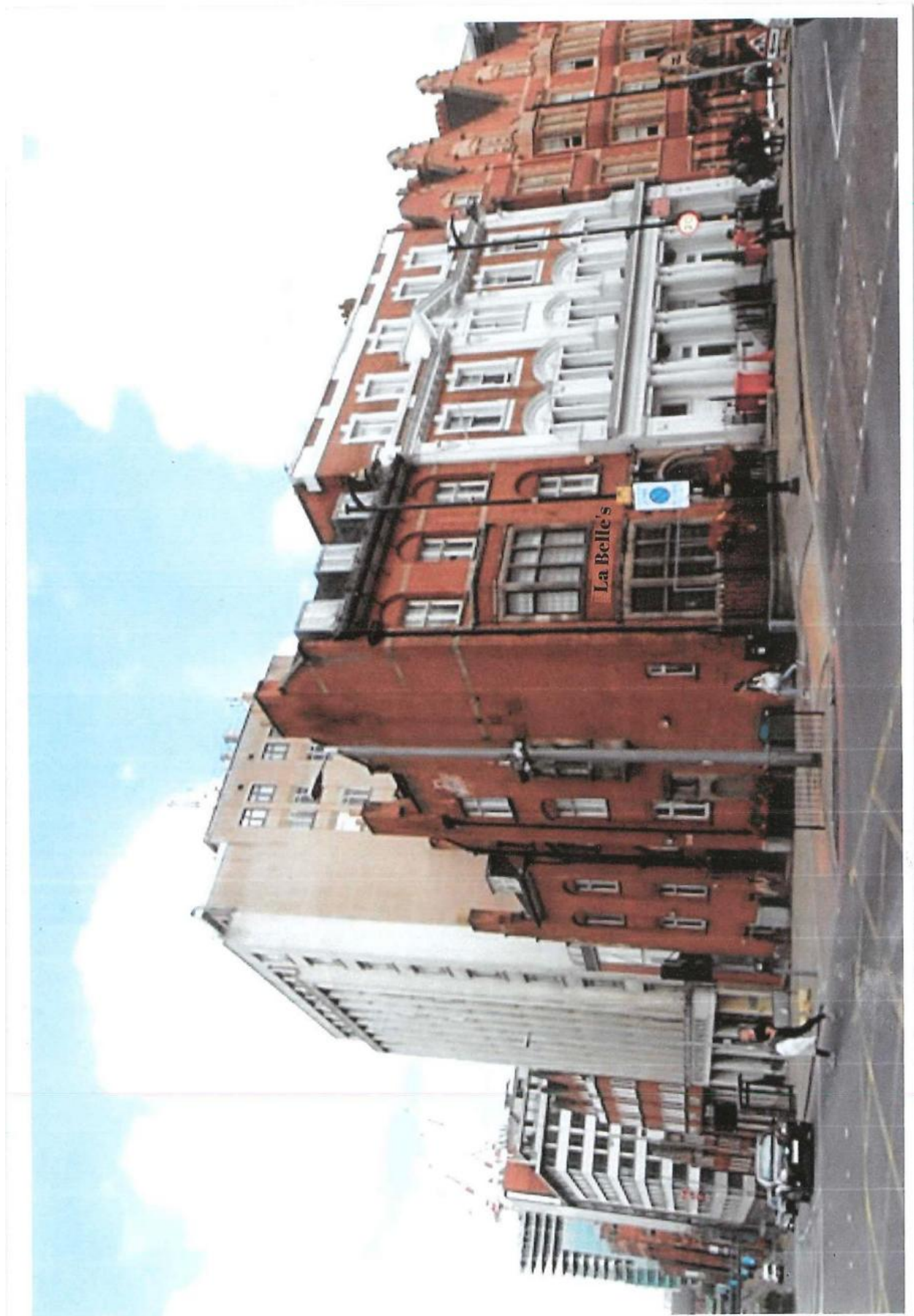
Signature

Name of Signatory

Designation of Signatory APPLICANT.

Date 27.06.24





Rules and Regulations for Self Employed Dancers at La Belle's

- Before Beginning work as a Self Employed Dancer, you will be required to provide two forms of ID; one displaying your photograph and date of birth and another with your current address. A driving License will suffice.
- All dancers are required to arrive early for their shift to ensure they are on the floor before opening time. Any dancers arriving late will be fined £10 for every 30 minutes they are late.
- If you are unable to attend a shift, please give the house manager at least 4 hours' notice to avoid being fined.
- Dancers house fee is payable on arrival of your shift.
- Drugs are not permitted on these premises at any time. Any dancer found in possession of drugs will be asked to leave with no refund of house fee or commission earned that shift.
- Dancers are permitted to eat during their shift, but not on the floor, only in the changing area.
- Smoking is only permitted in designated areas.
- Every dancer is required to dance on the pole during her shift. Failure to do so will result in fines of £10 for every missed stage call.
- Any dancer found stealing will be asked to leave with no refund of house fee or commission earned that shift.
- Dances are £20 each and must last at least 3 minutes.
- Under no circumstances is prostitution allowed.
- Under no circumstances let the customer touch you.
- No heels on the upholstered furniture. Repetitive warnings will lead to a fine.
- No mobile phones on the floor, only to be used in the changing room.
- Dancers must not insult or argue with customers. Any disputes with other girls, must be dealt with discreetly, not on the floor and not in front of customers.
- Dancers are responsible for their belongings and the club accepts no responsibility for lost or stolen items of personal property.
- All dancers are required to maintain a level of decorum; personal hygiene, hair, nails, skin and make up must be maintained throughout the shift.
- No drinking from bottles; this is a gentleman's club and we expect you to act as Ladies.
- No chewing gum on the floor; again, we expect you to act as ladies.
- All dancers are responsible for their own tax and national insurance, and any medical insurance you require. It is advised you seek an accountant.
- I have been advised and accept there is CCTV throughout the premises.

I have read, and agree to all of the conditions of self-employment listed above. I agree I am self-employed and responsible for my own tax and accounts. I will supply my own insurance and will not hold 'La Belle's' responsible for any loss or accident sustained by me.

I understand this is a legal contract between myself and the club.

Signed

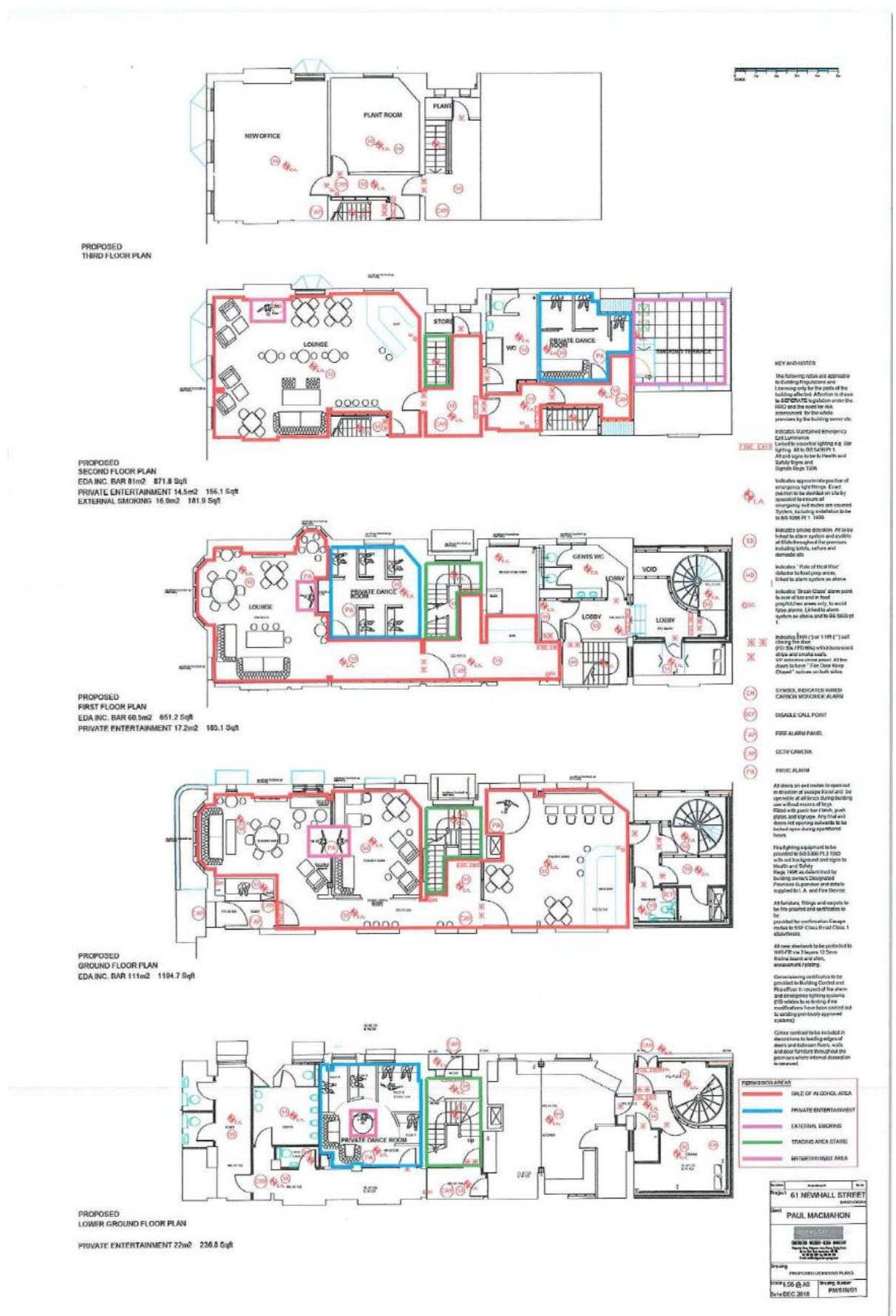
Stage Name Date

Managers Signature Date

HOUSE RULES TO BE ADOPTED AT LA BELLE'S

The following Rules are to adhered to at all times:

- There is to be no touching of the dancers at all.
- Please remain seated during your dance.
- Please remain fully clothed at all times.
- Please do not attempt to dance with the girls.
- Improper or offensive behaviour WILL NOT be tolerated by staff, girls, or other customers.
- No illegal Substances tolerated on these Premises.





BIRMINGHAM CITY COUNCIL

LICENSING AND PUBLIC PROTECTION COMMITTEE

10 July 2019

La Belle's, 61 Newhall Street, Birmingham B3 3RB

That the application by Michelle Monaghan for a Sexual Entertainment Venue licence under the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 in respect of La Belle's, 61 Newhall Street, Birmingham B3 3RB.

BE GRANTED

The decision of the Committee, is that the application is granted subject to the applied for hours being modified. The Committee modifies the hours to be 22:30 to 05:00 7 days a week.

Subject to the above modification, those matters detailed in the application and the Council approved standard conditions will form part of the licence issued.

Reasons

Procedural Matters

During the hearing the Committee were required to make decisions on three procedural matters and were requested to provide reasons in writing for each of these and expand upon the oral reasons as they saw fit/necessary. These procedural decisions are set out below.

Application 1: Colmore BID's request for Professor John Harris of Birmingham City University's School of Art

Counsel on behalf of Colmore BID requested that Professor John Harris of BCU School of Art be allowed to address the Committee. Neither he nor BCU School of Art had submitted a representation on the SEV application in time but Counsel for Colmore BID submitted it would be appropriate to hear from him given the number of representations that had been raised regarding the proximity of educational establishments to the proposed venue. This application was opposed by Counsel for the Applicant primarily on the grounds that as no representation had been submitted they did not know what was going to be said, would therefore be

disadvantaged in responding to it, with the consequence that it could effect their Article 6 right to a fair trial.

The Committee's attention was drawn to the decision of the House of Lords in Miss Behavin' Ltd v Belfast City Council [2007] 3 All ER 1007 which confirmed that in proceedings of this nature a committee was not required to hear from someone who had submitted a late objection but that they could do. The Council's adopted procedure for SEV hearings emphasises the importance of the right to a fair hearing and natural justice.

The Committee, through the chair, had regard to these principles and decided to allow Professor Harris to speak. Whilst it was right to acknowledge that he had not submitted an in time representation nor had the BCU School of Art, a number of the valid representations had made reference to the proximity of the School of Art as being an issue relevant to the character of the locality. Indeed the Applicant in their presentation to the Committee (which preceded the application for Professor Harris to speak) made comments about the proximity of educational establishments and how this affected the suitability of the proposed venue for an SEV. Accordingly, as this was a live issue in any event, the Committee was not of the view that hearing from Professor Harris would cause the Applicant substantial prejudice or undermine the fairness of the hearing. As a result Professor Harris was allowed to speak.

Application 2: Colmore BID's request to play video footage to the Committee

The Colmore BID requested that the Committee be shown 3 items of video which it said demonstrate the type of activity that would take place at the proposed venue. It was said that it was necessary that the Committee see this footage in order for it to fulfil its obligations under the Public Sector Equality Duty and the 1982 Act. The Applicant did not accept this and in part suggested the real reason that the BID wished the Committee see the video was to accentuate emotive concerns that have been raised by parties which are not proper concerns for the Committee.

The Committee formed no view on the motivation for the request that they see the video and simply considered whether they thought it necessary and appropriate to view the video to fulfil their obligations under the Public Sector Equality Duty and the 1982 Act. They did not.

The point was made by the Applicant that the Committee has been provided with still images from promotional material used by the Applicant which gives an impression of the activity that will take place at the proposed premises. The Colmore BID through their Counsel had already provided descriptions of the type of activity that would take place, and was not prohibited from providing further descriptions. The Committee did therefore not feel it necessary to see the video to understand what would take place at the venue.

In addition, it had already been accepted by the Council's officers that the type of entertainment proposed would fall within that allowed pursuant to the 1982 Act which gave an indication of the nature of the activity and established that it was a type of activity for which an SEV licence was required and could be granted.

Furthermore, the Colmore BID (or any other party for that matter) was not prohibited from presenting to the Committee further descriptions as to the type of activity that was proposed to take place at the venue or making submissions on it.

Ultimately the Committee did not feel that it was necessary to see the video in order to determine the application that was before them or that not seeing it prejudices any party making objections against it. In making this decision the Committee had due regard to the public sector equality duty and the nature of the decision it was required to make on the application under the 1982 Act. Having given their decision on the application to play the video the Committee advised the parties present at the hearing of the following:

“The Committee will in due course welcome submissions from all parties on any implications they think the determination of this application for an SEV licence has on the public sector equality duty.

The Council is of the view that this decision further accords with its own policy adopted on the procedure to be followed at hearings of this nature.

Finally, the Committee would also wish to remind all parties of the following passage from the Councils policy:

“1.8 The Council does not take a moral stance in adopting this policy. The Council recognises that Parliament has made it lawful to operate sex establishments and that such businesses are a legitimate part of the retail and leisure industries. It is the Council’s role as a Licensing Authority to regulate such premises in accordance with the law.”

Application 3: Colmore BID’s request to adjourn the hearing for the Council to undertake an Equality Act Impact Assessment or similar exercise on the application

The written representations of the Colmore BID can be found at pages 91-92 and 103-104 of the Committee Agenda pack. They are concerned with the appropriate number of SEV’s for the locality being none and that the grant of a licence would be inappropriate given the character of the locality. The day before the Committee was originally due to hear this application, Counsel on behalf of the Colmore BID submitted a document entitled “Outline Submissions” (found at page 166 of the Committee Agenda pack). Point two of which states:

“Equality Act 2010 and the Public Sector Equality Duty (s.149)

See: *Bracking v Secretary of State for Work and Pensions* [2013] EWCA 1345, paragraphs [26] & [27]; and *Regina (Core Issues Trust) v Transport for London* [2013] EWHC 651 (Admin)”

Before the Committee the majority of the oral representations made by Counsel on behalf of the Colmore BID focused on the Public Sector Equality Duty. Much of this oral representation was vague and imprecise both in terms of what the concerns were that the application raised regarding the Public Sector Equality Duty and what it was the Colmore BID wished the Committee to have regard to. The representations of Counsel on behalf of the BID included a suggestion that the Committee could consider adjourning the hearing to carry out an Equality Act Impact Assessment. These suggestions increased following an interjection from a Councillor querying the relevance of some of the representations made on behalf of the Colmore BID. This was said by Counsel for the Colmore BID to show that the

Committee, or at least some of its members, had not understood their obligations under the Public Sector Equality Duty. However, the interjection from the Councillor came at a time when representations were being made about what other SEV's in Birmingham do and was clearly aimed at that rather than any representations about the Public Sector Equality Duty.

Ultimately, when pressed Counsel for the Colmore BID confirmed it was his formal application that the hearing be adjourned so that the Council undertake an Equality Act Impact Assessment or other similar assessment to consider the implications of the SEV application for the Public Sector Equality Duty.

The Committee rejected this application. In advance of holding the hearing the Council had carried out a consultation exercise in accordance with the 1982 Act. This saw the application for an SEV licence advertised in public and that exercise resulted in 41 objections being received to the application. All those who made objections were afforded with the opportunity to appear at the hearing, and a number of those did indeed appear before the Committee. In the Committees view there has been sufficient consultation upon the application and that this has afforded the public at large the opportunity to make representations on the application including whether it has any implications for the public sector equality duty. The importance of the public sector equality duty has been emphasised before the Committee and they are highly cognisant of it. The duty is imposed on members individually and it is for them to be satisfied that they have had due regard to it when making any decision. Ultimately the Committee were of the view that the consultation exercise and the written representations it yielded and the oral representations made to the Committee at the hearing provided sufficient information for them to be able to properly discharge their duty under the Public Sector Equality Duty when determining this application for an SEV licence.

Decision on the substantive application for an SEV licence

The Applicant presented their case to the Committee outlining the Applicant's experience of running SEV's. The Committee were informed by the Applicant that if this licence were granted, they would close another of their establishments as the building it is located in has structural issues, so the net effect of granting this licence would not be to increase the total number of SEV's in Birmingham. The Applicant indicated at the hearing that they did not think their proposed use was incompatible with the locality but if the committee were of the view that it was they would be willing to accept a reduction in hours to reduce the scope for any problems.

Objections were made by a number of parties, covering a number of issues. The Committee has considered these when reaching its decision but does not summarise those representations here (the written representations are included in full in the Committee Agenda Pack) and instead addresses the primary issues raised by them.

Prior to the hearing Council Officers had confirmed that none of the mandatory grounds for refusal were engaged by the application and accordingly these were not in issue at the hearing.

In the written representations some concerns were raised about the Applicant's suitability to hold an SEV licence but for the most part these were vague and unparticularised. Similarly, at the hearing few concerns were raised about the suitability of the Applicant to hold an SEV licence. In any event the Applicant was questioned by members at the hearing about her track record of running SEV's. The Committee also heard evidence from the Licensing Enforcement Officer who set out his experience of dealing with the Applicant at her other premises and that he was confident in her ability in running an SEV. He further described the applicant as perfectly effective, knowledgeable of the rules and effective in enforcing conditions. Having regard to the totality of the evidence presented to it, the Committee was satisfied that the Applicant was suitable to hold an SEV licence.

Despite the volume of material before the Committee, ultimately the main issue before the Committee under the 1982 Act was whether this was a suitable location for the proposed SEV. When considering the relevant legal test, in the words of Counsel for the Colmore BID, the question is: "Is this type of entertainment appropriate in this locality? It's a very simple test really."

The Committee had received written representations and heard oral representations from the parties which all sought to characterise the locality of the proposed SEV in different manners. In the end it is for the Committee to form its own view on the locality and whether it would be appropriate to grant the licence for an SEV at the applied for premises.

The Committee's view is that the locality is not defined by one uniform type of development. In the area immediately surrounding the premises there are a number of uses including business, residential development, restaurants, coffee shops, bars and other night time venues, educational establishments and cultural sites. Despite the premises itself being a listed building, the immediate area surrounding it is in many ways modern in its feel but is a short walk from older cultural establishments such as a cathedral.

Counsel on behalf of the Applicant was keen to emphasise the concept of what matters is not simply what is near to the premises but whether there is the potential for conflict with existing uses and their users.

The view of the Committee is that this is a locality which is not in principle incompatible with the proposed SEV, however, there are certain sensitivities which could cause conflict with the use of the premises as an SEV. There are a number of educational and cultural facilities in short proximity of the premises, the users of which are potentially sensitive to the use of the premises of an SEV. Whilst there are some late night entertainment establishments in the locality, the majority of the restaurants nearby to the premises in the Committees view did not have the feel of late night entertainment establishments and would experience significant use by families and their users could be sensitive to the proximity of an active SEV at the premises.

For these reasons, the decision of the Committee is that the SEV application should be granted but its hours reduced from those applied for to prevent it from being brought into conflict with potentially sensitive users of the existing facilities in the locality. By operating between 10:30pm and 5:00am the Committee are of the view that the premises could operate acceptably having regard to the locality and its existing users.

In reaching this decision, the Committee has given due consideration to the written representations, oral representations, the City Council's Sexual Entertainment Venue Policy, the information contained in the application, the case law referred to at the hearing and additional published material referred to at the hearing.

In reaching this decision the Committee has had due regard to the Public Sector Equality Duty. What that duty requires was expressly set out to the Committee by reference to s.149 of the Equality Act 2010 and paragraphs [25] and [26] of the decision in Bracking. Before deciding to grant the licence the Committee considered the potential adverse impacts, including the concerns raised by Counsel for the Colmore BID, the grant of a licence would have on the objectives identified under the Public Sector Equality Duty. Having considered this, the Committee were of the view the grant of the licence would be permissible.

The applicant has a right of appeal against this decision, the time for lodging an appeal is contained in Schedule 3, paragraph 27 of The Local Government (Miscellaneous Provisions) Act 1982, and should be made within 21 days of the decision to the Magistrates Court.

--

West Midlands Police Licensing Team Response

APPENDIX 6

Shaid Yasser

From: Christopher Jones <christopher.jones4@westmidlands.police.uk>
Sent: 28 June 2024 14:17
To: Licensing
Subject: FW: [External]: SEV Renewal Application - La Belle's, 61 Newhall Street, B3 3RB (Police Email)

Importance: High

Sorry,

The below should have read

NO CONCERNS

Regards



Chris Jones 55410
Birmingham Licensing Team
West Midlands Police

TDD: 0121 626 6099 - T: 101 8011628
Working in partnership, making communities safer



OFFICIAL

From: bw licensing
Sent: 28 June 2024 14:16
To: Licensing <licensing@birmingham.gov.uk>
Subject: RE: [External]: SEV Renewal Application - La Belle's, 61 Newhall Street, B3 3RB (Police Email)

Hi Licensing,

Concerns with the details provided.

Regards

DATE AND TIME OF INSPECTION	05/07/2024 & 25/07/2024 @ 00:12 hrs
OFFICERS INSPECTING	Shaid Ali
TRADING NAME OF PREMISES	Le Belle's
ADDRESS AND POSTCODE OF PREMISES	61 Newhall Street Birmingham B3 3RB
REASON FOR INSPECTION	Renewal
OTHER (PLEASE SPECIFY)	-
JOB NUMBER	ldox-15092

TYPES OF PREMISES NEARBY	PROVIDE DETAILS
RESIDENTIAL PREMISES	There are residential flats near to the premises, Devonshire House next door, Canterbury House approx. 70 metres and Beaufort House approx. 90 meters further along Newhall Street. Hotel Du Vin is approx. 200 meteres away on Church Street. Travelodge Birmingham and Staycity Aparthotels approx. 300 metres away on Charlotte Street. The Grand Hotel approx.350 metres away on Colmore Row.
COMMERCIAL SHOPS USED BY FAMILIES & CHILDREN	
FACILITIES USED BY FAMILIES EDUCATIONAL, LEISURE	<p>Children's Liver Disease Foundation approx. 30 metres away on Gt. Charles St.</p> <p>University College Birmingham approx. 50 metres away on Newhall St and approx. 220 metres away on Summer Row</p> <p>Birmingham Museum & Art Gallery approx. 150 metres away on Margaret St Monday - Thursday 10am - 5pm Friday 10.30am - 5pm Saturday and Sunday 10am - 5pm</p> <p>School of Art – Birmingham City University</p>

FACILITIES USED BY FAMILIES EDUCATIONAL, LEISURE CONT....	Royal College of Surgeons of Edinburgh approx. 200 metres away on Newhall St. Council House approx. 100 metres away on Margaret St.
COMMUNITY BUILDINGS USED BY BY FAMILIES & CHILDREN	Museum & Art Gallery approx. 150 metres away and Birmingham Cathedral approx. 300 metres away
PLACES OR BUILDINGS OF HISTORICAL/CULTURAL INTEREST OR TOURIST ATTRACTIONS	Museum & Art Gallery 150 metres away on Margaret St. Birmingham Cathedral approx. 300 metres away.
PREMISES USED FOR RELIGIOUS GATHERING	Birmingham Cathedral approx. 300 metres away on Colmore Row
OTHER (PLEASE SPECIFY)	

DOES THE PREMISES YOU ARE INSPECTING HOLD AN EXISTING LA2003 PREMISES LICENCE	Yes – Aura Bar (Lic no. 647)
WAS NOTICE DISPLAYED DATE CHECKED	YES 05/07/2023 27/07/2023 @ 22:32 hours
OTHER (PLEASE SPECIFY)	Proposed opening times: Mon –Sunday 22:30 – 05:00 hrs

ANY RELEVANT INFORMATION WHICH MAY ASSIST THE LICENSING COMMITTEE

La Belle's is located on Newhall Street which is one of the old historic streets in Birmingham City Centre where a lot of the buildings on the street and within the general area are listed; It is close to the main shopping areas of Corporation Street and New Street and in close proximity to Snow Hill Train Station and New Street Train station. The area around the venue comprises of mainly office buildings, pubs/ bars, restaurants, coffee shops and cafes.

The premises is not currently open for trade and therefore a full inspection could not be completed. However, the applicant has a current SEV licence for The Cyclone Club, 192 Broad Street, Birmingham B15 1AY and there were no issues found when the licence was renewed earlier this year. The applicant was present during the inspection and was found

to be fully compliant with the SEV conditions. There were no concerns which required any further attention.

Objection – received on 4th July 2024 @ 20:57 Hours

APPENDIX 8

From:
Sent: 04 July 2024 20:57
To: Licensing
Subject: Re: La Belle's Planning Application - Objection

 You don't often get email from

[Learn why this is important](#)

Good evening,

I'd like this email to formally be counted as my objection to LA BELLE'S opening of a sex establishment on Great Charles Street, Queensway, Birmingham. There was no application reference on the notice posted, so I am unable to provide one.

I did find a scaffolding application, however, for the same establishment, which may help you locate it: 2024/03267/PA.

Having a late night establishment, least of all an SEV, makes myself plus the multitude of other single-living women in my building feel unsafe - this club is something we have all discussed at length. Must we truly worry about having crowds of drunk and aroused men in our path if we want to leave home to go to the shop at night, or if we are coming home from being out ourselves?

Our building has a porched entryway where there is overhead cover, and there will almost certainly be people ducking into our doorway for a cigarette if it is raining. I fail to see how anyone could actually stop this from happening. Sometimes, our building's door does not shut correctly and it has occurred before where a drunk, homeless gentleman with a knife wandered inside.

I abjectly do not want this, and the likelihood is increased the more people you add to the mix, and it makes me feel incredibly unsafe.

Couple this with the fact that they want to open the venue until 5am every single day of the week, not only is this objectively going to cause disturbances for the people living at the front of the building due to noise, but those of us who leave for work early will have to deal with the late-night drunk stragglers who will be in our path.

We have the legal right to quiet enjoyment of our homes, and this will doubtless disrupt that.

According to StreetCheck, violent and sexual crime in this exact area was reported over 280 times in April 2024 alone. The existence of this establishment, I fear, will only serve to increase that number.

There are also concerns over multiple schools being located within this immediate area, the closest one being just a few feet away on Ludgate Street, teaching children of ages 11-16. There are two more educational establishments in the immediate vicinity.

This establishment has applied MULTIPLE times for this licence, and multiple times has failed (I have lived here for two years, and I have seen many application notices go up over that time - three or four, I believe).

Kindest regards,

1

APPENDIX 9

BIRMINGHAM CITY COUNCIL

STANDARD CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES (SEV)

These regulations are made under paragraph 13(1) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (the “1982 Act”) as amended by the Policing and Crime Act 2009 (the “2009 Act”) to prescribe conditions. In these Regulations, except when the context otherwise requires, the following expressions shall have the following meanings:

- (i) “The Council” shall mean the Birmingham City Council and all enquiries concerning these Regulations and its conditions shall be directed to General Licensing Regulation & Enforcement, P.O. Box 17831, Birmingham, B2 2HJ. Telephone 0121 303 9896 or email licensing@birmingham.gov.uk
- (ii) These conditions apply to all premises licensed as a “sexual entertainment venue” as defined by the said 1982 Act that is to say terms, conditions and restrictions on or subject to which licences under Schedule 3 of the 1982 Act are in general to be granted, renewed, varied or transferred.
- (iii) “Sexual Entertainment Venue” (‘SEV’) means any premises at which relevant entertainment is provided before a live audience, directly or indirectly for the financial gain of the organiser or the entertainer.
- (iv) “Premises” includes any vessel, vehicle or stall but does not include any private dwelling to which the public is not admitted.
- (v) ‘Relevant Entertainment’ means any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).
- (vi) The Council may at any time waive, modify or vary these conditions or impose additional special conditions in any particular case.
- (vii) If the Licensee wishes any of the terms of the licence to be varied an application must be made to the Council.
- (viii) In the event of a conflict between the prescribed conditions and special conditions contained in a SEV licence the special conditions shall prevail.

OPENING HOURS

1. The licensed premises shall not be open or used for the purposes for which the licence is granted except between the hours prescribed within the licence or those hours of operation determined by the Licensing and Public Protection Committee.

WINDOW, FASCIA BOARD ADVERTISEMENT AND DISPLAYS

2. Save for the entrance lobby, the interior of the premises shall not be visible to passers-by and to that intent the licensee shall ensure the area of the premises in which relevant entertainment is offered shall not be capable of being seen from outside the premises.
3. The windows, doors, fascia board, walls and all external parts of the premises including the roof shall not contain any form of writing, sign or display save for:
 - (a) The address of the premises.
 - (b) The licensed name of the premises.
 - (c) A notice stating the opening hours of the establishment.
 - (d) In the case of a licence granted to a body corporate:
 - (i) If the premises name is not the same as the full name of the body corporate then such corporate name and;
 - (ii) If the premises are also the body's registered office for the purposes of the Companies Acts then an indication in a form acceptable to the company that such is the case.
4. The lettering used in respect of such permitted items shall be of such colour and style as may be approved by the Council.
5. The licensee shall not permit the display outside of the premises of photographs or other images, which indicate or suggest that relevant entertainment takes place in the premises.

LICENSED NAME

6. At the time of granting the licence in respect of the premises the Council will authorise a name referred to as "The Licensed Name" by which it is intended that the premises shall be known and the licensee shall ensure that the premises are known solely by that name and by no other, save as provided for by the paragraph below.
7. To change the licensed name, an application shall be made to the Council not less than 28 days prior to the proposed change and the Council shall have an absolute and unfettered discretion to allow or refuse such change.

EXHIBITION OF LICENCE

8. a) A copy of the licence (two pages) shall be suitably framed and exhibited in a position that can easily be read by all persons entering the premises.
b) The conditions of licence and all such documents listed as Appendices to said licence shall be retained in a clean and legible condition and immediately available for inspection by anyone who so requests.
9. The licensee shall retain a copy of a form signed by each employee and performer confirming that they have read and understood the licence and conditions. The copy shall be retained for a period of six months after they cease work at the premises. A copy of the licence and conditions shall be given to each performer.

RESPONSIBILITY OF THE LICENSEE

10. The licensee or a responsible person over 18 years of age nominated by them in writing for the purpose of managing the SEV in their absence shall be in charge of and upon the premises during the whole time they are open to the public.
11. The written nomination referred to in condition 10 above shall be maintained in a daily register, kept on the premises and made continuously available for inspection by an officer authorised by the Council or police officer.
12. The person in charge shall not be engaged in any duties that will prevent them from exercising general supervision and they shall be assisted as necessary by suitable adult persons to ensure adequate supervision.
13. The licensee must ensure that there is a current insurance policy in force to cover the performers whilst the premises are open and that a copy is displayed in areas where all staff have access.

EMPLOYEES AND MANAGEMENT STAFF

14. The licensee shall keep and maintain at the licensed premises a written record of the names, addresses, and copies of photographic proof of age documents of all persons employed or performers permitted to operate within the licensed premises whether upon a full or part time basis and shall, upon request by an authorised officer of the Council or police officer, make such records available for inspection to them. (see Conditions regarding Door Supervisors)
15. Condition 14 does not relate to persons engaged to carry out repairs or provide services from external companies to the premises, however, such persons must be aged 18 years and over if the premises are open for the purpose of providing sexual entertainment.
16. The licensee shall ensure that all persons employed or permitted to work within the licensed premises hold the appropriate rights to work and shall

keep copies of any documentation used to verify the details of these rights where necessary.

17. The licensee shall maintain a register of the names, addresses and dates of birth of such person or persons (whether employees or otherwise connected with the business) who have authority to manage the premises in the licensee's absence.
18. Where the licensee is a body corporate or an unincorporated body any change of director, company secretary or other person responsible for the management of the body is to be notified to the Licensing Authority

CHANGE OF LOCATION AND ALTERATIONS TO PREMISES

19. Where the licensed premises is a vessel or stall, the licensee shall not move the licensed vessel or stall from the location specified in the licence unless a variation application is submitted for the Council's determination giving not less than 28 days notice. n.b. this requirement shall not apply to a vessel or stall which habitually operates from a fixed location but which is regularly moved (whether under its own propulsion or otherwise) from another place such location as is specified in the licence.
20. Alterations or additions, either internal or external and whether permanent or temporary, to the structures, lighting or layout of the premises as shown on the plan, including any change in the permitted signs on display shall not be made except with the prior approval of the Council.

CLUB RULES

21. Any club rules imposed on the performers shall be displayed in a prominent position within the premises for all employees to have easy access whilst at work.
22. A copy of the club rules shall be provided to performers engaged by the premises by means of a written contract signed by the recipient. Copies of the same must be retained on the premises and produced to an authorised officer of the Council or police officer on request.

FEES

23. Receipts or records of payments received should be provided to performers where "house fees" are charged or when any fines are issued.

PERFORMANCES

24. No person under the age of 18 shall be permitted to be on the licensed premises when sexual entertainment is provided. A notice shall be clearly displayed at the entrance to the premises in a prominent position stating that "No person under 18 will be admitted when sexual entertainment is being provided" so that it can be easily read by persons entering the premises.

25. Each area where relevant entertainment is conducted shall be supervised and/or contain a panic alarm for the safety of performers.
26. A customer code of conduct shall be prominently displayed in each area to which the public are admitted.
27. Performers shall be aged not less than 18 years.
28. Full nudity is only permitted in the approved designated areas, as stipulated or shown on the approved plan attached to the licence. In all other public areas within the premises the performers and employees must at all times wear at least a G string (female) and or pouch (male) covering the genitalia
29. During all performances (including performances usually termed 'private dances') there must not be any deliberate contact, by the performer, with any patron or person within the audience except:
 - a). Leading a patron by the hand to and from a chair or private room or designated dance area.
 - b). Simple handshake greeting at the beginning and/or end of the performance.
 - c). A customary ("peck on the cheek") kiss at the end of the performance.
 - d). the placing of monetary notes or dance vouchers into the hand or garter worn by the performer.
30. No performances shall include any sex act involving any other persons or objects (or involve any form of auto-erotic stimulation).
31. A price list shall be displayed in a prominent position giving the price and the duration of any 'private dances'.
32. Any person employed to supervise or attend to the exterior or entrance area of the premises must, at all times be suitably and sensibly dressed so as not to indicate or suggest the nature of the relevant entertainment taking place at the premises.
33. No fastening or lock of any description shall be fitted upon any booth or cubicle or other area within the premises except as shown on the plan; within the toilets, within the performers' dressing rooms and/or staff areas.
34. At all times during a performance, performers shall have unrestricted access to a dressing room.
35. Patrons or members of the audience shall not take photographs or record digital images of performers within the premises via a camera or mobile phones

DOOR SUPERVISORS

36. The licensee shall ensure all door supervisors employed or contracted to work on the premises are suitably licensed by The Security Industry Authority or appropriate agency.
37. Where door staff are used, the licensee shall maintain profiles for all door staff that are, or have been, working at the premises in the last six months. The profile is to contain proof of identity (copy of passport /photo driving licence) and proof of address dated within the last six months (bank statement /utility bill). Separate proof of address is not necessary when the proof of identity is a photo driving licence. All profiles are to be made immediately available to Authorised Officers upon request.
38. An adequate number of licensed door supervisors, based on a risk assessment undertaken by the licensee, shall be on duty on the premises whilst relevant entertainment takes place.
39. At least one door supervisor shall be on duty at the premises at all times when the relevant entertainment takes place.

CCTV

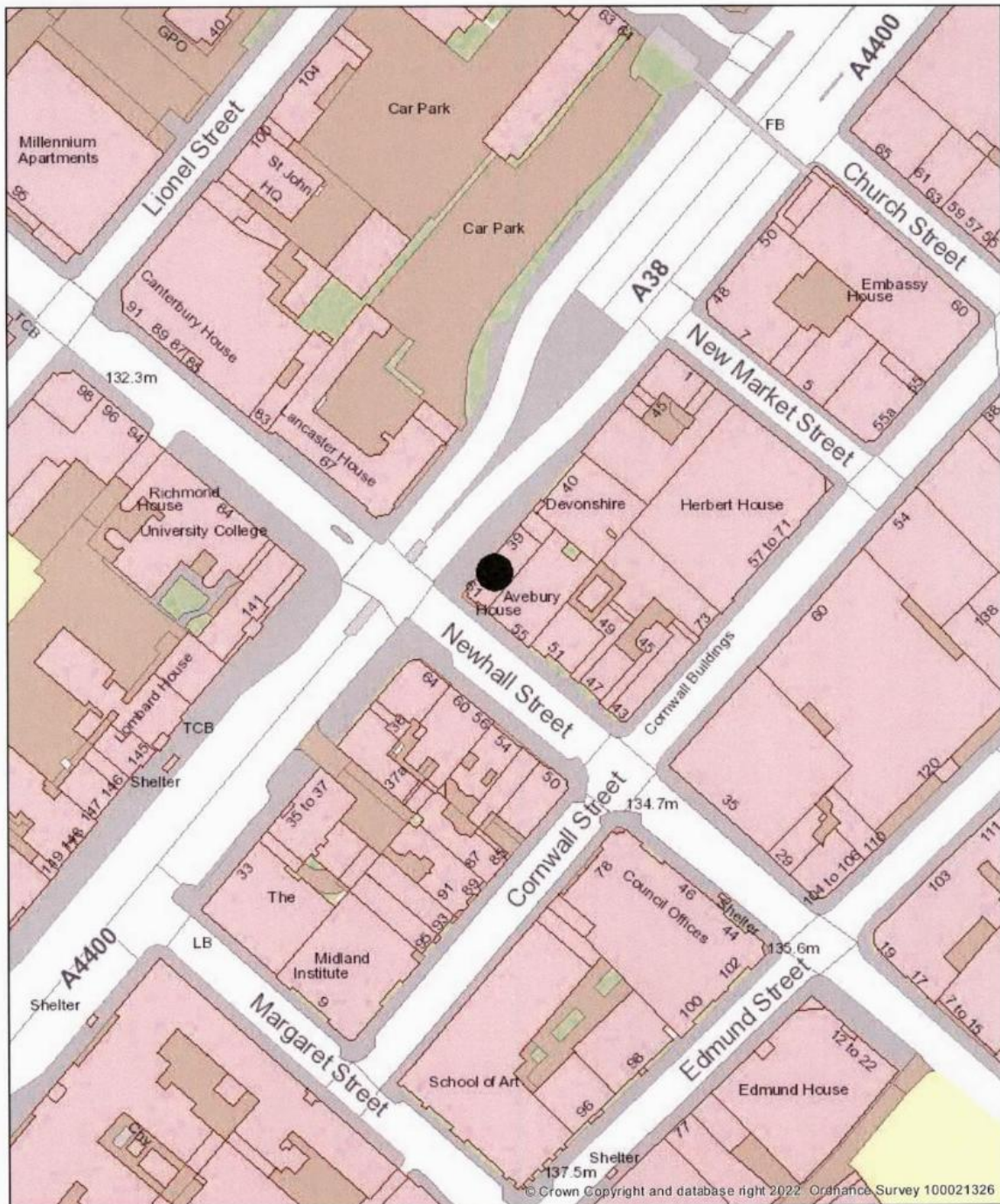
40. CCTV shall be installed in each room within the premises where the public has access save for the toilet and staff only areas. All cameras shall continuously record whilst the premises are open to the public and recordings shall be kept available for a minimum of twenty-eight days.
41. A member of staff who is fully trained in the use of the CCTV system shall be on duty at all times when the premises are open until the premises are clear of customers.
42. The premises will provide copies of any recordings upon request by a police officer or an authorised officer of the Council within 24 hours of the request.

TOUTING FOR BUSINESS AWAY FROM THE PREMISES

43. The licensee shall not allow the use of vehicles including limousines for the promotion of the relevant entertainment.
44. The collection of patrons and or potential clients is not permitted unless the vehicle is licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976.
45. The licensee shall not permit any person whilst on a public thoroughfare to encourage any other person to visit the SEV premises by any means.
46. The licensee shall endeavour to ensure any marketing communications associated with the SEV or relevant entertainment shall comply with the code of practice as issued by the Advertising Standards Authority.

ADMISSION OF AUTHORISED OFFICERS

47. Officers of the Council, Police, and other authorised agencies who are furnished with authorities (which will be produced on request) shall be admitted immediately to all parts of the premises at all reasonable times and at any time the premises are open for business.



Birmingham
City Council

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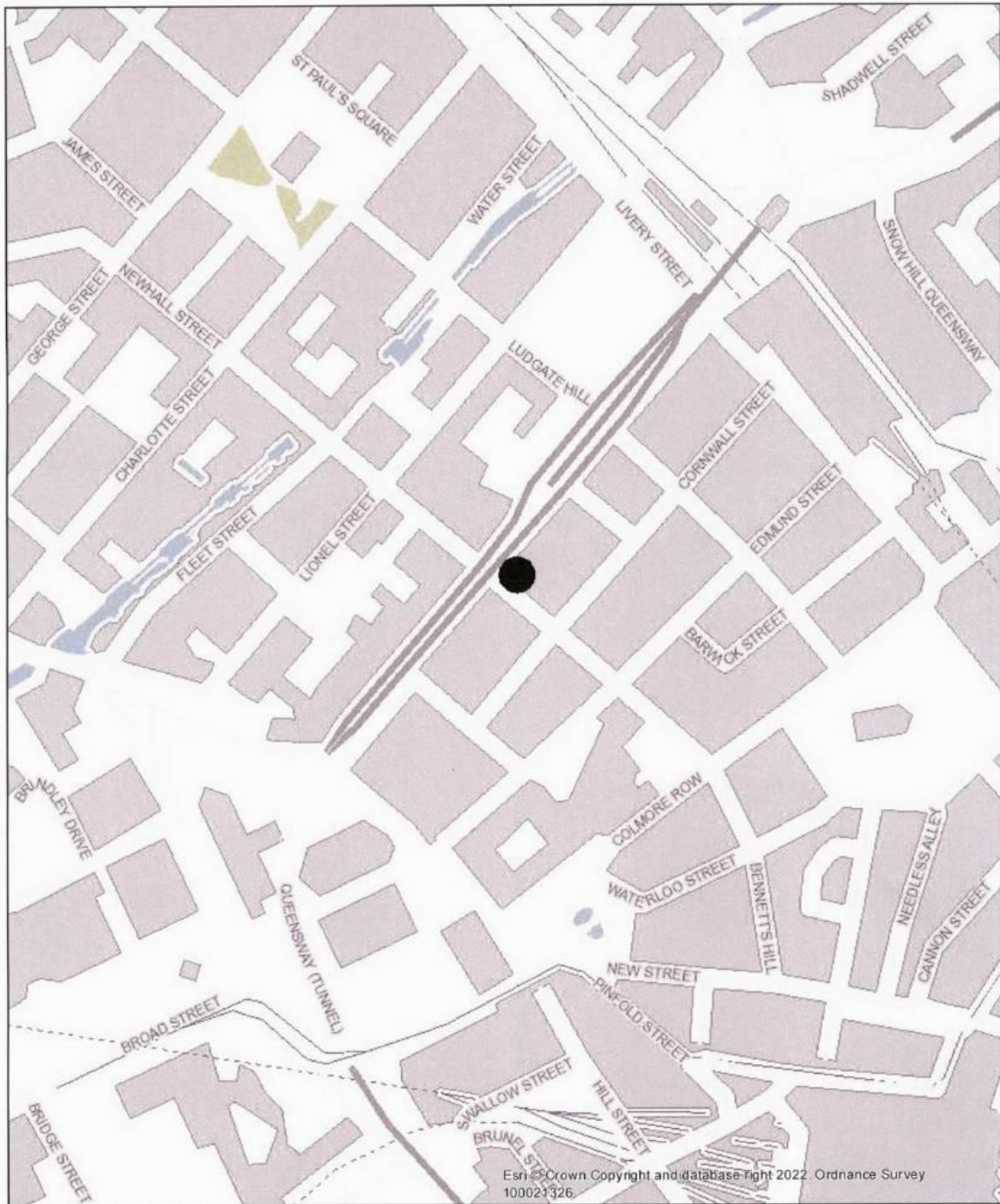
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