

Committee: Cabinet	Date: 5 th November 2008	Classification: Unrestricted	Report No. CAB 062/089	Agenda Item No.
Report of: Lutfur Ali, Assistant Chief Executive		Title: Response to Scrutiny Working Group: Licensing of Strip Clubs		
Originating Officer(s): Afazul Hoque, Acting Scrutiny Policy Manager		Wards affected: All		

1. Summary

- 1.1 This report outlines the action plan in response to the review recommendations of the Overview and Scrutiny Committee Working Group on the Licensing of Strip Clubs.

2. Recommendations

Cabinet is recommended to: -

- 2.1 Approve the Action Plan attached at Appendix A in response to the recommendations from the Overview and Scrutiny Committee Working Group on the Licensing of Strip Clubs.
- 2.2 Consider the report of the Overview and Scrutiny Committee Working Group on the Licensing of Strip Clubs attached at Appendix B.

3. Background

- 3.1 The Working Group was established in November 2007 to investigate the Council's approach to the Licensing of Strip Clubs. The review arose from a Full Council motion which had cross-party support, and also resulted from keen public sentiment.
- 3.2 The Working Group first discussed the issue with LBTH Legal, Licensing and Police officers. Following from this, visits were made to several other London authorities to discover whether their approaches were similar or different, and see if lessons could be taken back. A resident roundtable session was held to get their input and suggestions. Throughout the course of the review, examples, case studies and best practice from across the country was assimilated and considered.
- 3.3 The Review report with recommendations was agreed at Overview and Scrutiny Committee on 1st April 2008 and is attached at Appendix B. A detailed Action Plan setting out the responses to the recommendations of the relevant officers is attached at Appendix A.
- 3.4 Since the publication of the Scrutiny report the Department of Culture, Media and Sport has been undertaking consultation on control of lap dancing establishments. The Council's response to the consultation has primarily been based on this review and has outlined the Council's support for all forms of striptease to be placed under the category of "sexual encounter establishments" under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This is outlined in recommendation 13 of this review. The scrutiny report along with the action plan has also been submitted as part of the Council's response.

4. Comments of the Chief Financial Officer

- 4.1 The financial implications emanating from the recommendations within the action plan have been included where relevant, within the response/comments column. There are no additional financial implications arising.

5. Concurrent Report of the Assistant Chief Executive (Legal)

- 4.1 Legal Services gave a presentation to the Working Group and has also been asked to advice on implementation of a number of recommendations. These are outlined below:

Recommendation 5

From a legal perspective, there is no problem with this. All the Council is doing is writing to companies responsible for advertisement hoardings, e.g. Clear Channel UK Limited, and asking them not to post hoardings within Tower Hamlets that advertise striptease clubs. They do not have to comply and, unless the Council can do so when giving advertisement consent, which is a matter for Planning, then the Council cannot enforce that they do so.

Recommendation 8

The Council can do this. What the Council cannot do, however, is make a "policy" statement that seeks to tie the hands of the Licensing Sub-Committee by saying that the Council will refuse any application for premises wishing to have striptease. A statement that merely states the Council does not want these premises in Tower Hamlets does not tie the hands of a Licensing Sub-Committee and if a Sub-

Committee was to hear a contested application then it will still be able to consider the application on the merits of the application.

Recommendation 9

Paragraph 8.52 of the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 provides that it is open to licensing authorities to notify residents in the vicinity of premises by circular of premises making an application. You will note that this is carefully worded. It uses the term notify and not consult and this is because the provision of such information must be done in a neutral way so that this cannot be seen as 'soliciting' representations. Therefore detailed information as to how to object cannot be provided. The use of terms such as "consultation" must be avoided and terms such "notification" used instead as this maintains the neutral impression.

That being said, paragraph 9.13 of the Guidance does provide that licensing authorities should consider providing advice on their websites about how any interested party can make representations to them. As this paragraph is part of a section of paragraphs dealing with "Relevant, Vexatious and Frivolous Representations", it follows that the information on the website can include advice on how to ensure that a representation is relevant. The Council may well wish to therefore include on its website specific advice on how to ensure that an objection to a premises seeking to have striptease is relevant. It may also be possible to include on any circular the web address for this part of the Council's website.

Recommendation 10

Again, the term "consultation" should be avoided and the neutral term "notification" used instead. There is no reason why the Council cannot choose a tiered notification area dependant upon the type of application provided that there is a proportionate justification for so doing. It is suggested, however, that this be considered in the context of looking at notification distances for all types of Premises Licence and not just striptease. This may mean, for example, that an application for Premises Licence in respect of a restaurant with a maximum capacity of thirty (30) persons to allow the retail sale of alcohol with meals up to 11.00 p.m. would not require the same area of consultation as say a night club seeking for licensable activities to end at 3.00 a.m.

Recommendation 11

This is, in essence, cumulative impact and paragraphs 13.24 to 13.39 of the Guidance refer to this. It requires the Council to set up a "special policy" within its Statement of Licensing Policy. There must be an evidential basis for the decision and all that this "special policy" will do is to create a rebuttable presumption that applications for new Premises Licence, variations etc. that are likely to add to the existing cumulative impact will normally be refused. Such "special policy" cannot be absolute, however, and should allow for the circumstances of an application to be considered on its own merits.

Having regard to the number of premises which are specifically licensed for 'striptease' and having regard to the fact that those premises are not all located in a particular location then, having regard to the Guidance, this will be a factor against the Council setting up a "special policy" but the full evidential basis for considering whether such a "special policy" can be set will have to be explored before a final decision can be made. All this recommendation is therefore requiring officers to do is to explore whether this is achievable. It does not require the creation of a "special policy" come what may and therefore there are no legal issues arising out of a requirement.

6. One Tower Hamlets Considerations

- 6.1 Equalities issues were a topic of heated discussion throughout the review. Recommendation 12, regarding undertaking an EQIA on the subject, has clear relevance for equal opportunity implications.

7. Sustainable Action for a Greener Environment

- 7.1 There are no direct actions for a greener environment arising from the report.

8. Risk Management Implications

- 8.1 There are no direct risk management implications arising from the Working Group's report or recommendations.

9. Efficiency Statement

- 9.1 There are no direct efficiency issues arising from this report. However, the response to recommendation 1 outlines a change in use of resource which will be identified from existing resources.

LOCAL GOVERNMENT ACT, 1972 SECTION 100D (AS AMENDED) LIST OF BACKGROUND PAPERS USED IN PREPARATION OF THIS REPORT

Background paper	Name and telephone of and address where open to inspection
Scrutiny Review File held in Scrutiny Policy Team	Afazul Hoque 020 7364 4636

Appendices

A: Action Plan and response to Overview and Scrutiny Committee Working Group on Licensing of Strip Clubs

B: Overview and Scrutiny Committee Working Group report: Licensing of Strip Clubs

Response to Scrutiny Working Group Report on the Licensing of Strip Clubs

Recommendation	Response / Comments	Responsibility	Date
<p>R1 That an extra post is created in the Licensing Department, with a remit focusing on the enforcement of licensing conditions applying to strip clubs in the borough. Furthermore, that this officer liaises very closely with the Police to ensure information is properly shared.</p>	<p>The Director for Communities, Localities and Culture has agreed that necessary resources equating to one FTE will be made available to focus on the enforcement of licensing conditions applying to strip clubs and will ensure this resource works closely with Police in terms of information sharing, this will ensure that necessary expertise is developed in this area. The necessary resource will be identified from within existing enforcement structures as part of the generic enforcement review being undertaken within the Directorate. It is also proposed that the outcomes from Recommendation 2,3,4 & 5 are assessed before extra resources are committed</p> <p>Action</p> <ul style="list-style-type: none"> ○ Review Licensing resources, processes and procedures ○ Analyse intelligence and information from outputs from Recommendations 2,3,4&5 ○ Analyse the demands needed for extra striptease activity ○ Identify necessary resource via review of enforcement structures within the Directorate 	<p>Head of Trading Standards / Environmental Health Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Aug 2008 ○ Oct 2008 ○ Oct 2008 ○ Nov 2008 ○ Nov 2008
<p>R2 That the Council works closely with the Police to makes clear to residents the proper channels for reporting any incidents arising from existing premises. Should</p>	<p>Striptease cannot be highlighted as a particular area for scrutiny. This initiative should include all Licensed premises. The method of publicity and marketing will be through the</p>	<p>Head of Trading Standards / Environmental Health</p>	

Recommendation	Response / Comments	Responsibility	Date
<p>information be published or distributed, this should be done bilingually. Ways to report incidents must include effective ways of capturing any information or evidence residents collect, so that sanctions may then be applied, including the ultimate possibility of a review of the license and it being revoked.</p>	<p>Council web site and East End Life. A programme will be developed with colleagues in Corporate Communications and CLC Strategies and Programmes</p> <p>Action</p> <ul style="list-style-type: none"> ○ Develop and implement a communications plan to raise awareness on how and when stakeholders can raise issues about Licensed premises and how Licences can be reviewed 	<p>Licensing Services Manager Communications CLC Strategy and Programmes</p> <ul style="list-style-type: none"> ○ Aug 2008 	
<p>R3 That the Council consider targeting mobile CCTV in the vicinity of premises operating striptease, to provide evidence of the extent of crime and disorder associated with these premises. To this end, the Council should also consider commissioning research to verify claims that there are direct links between strip clubs and crime and disorder (particularly crime of a sexual nature).</p>	<p>Where fixed CCTV exists near striptease premises surveillance is straight forward. If temporary CCTV is required proposals will have to be developed with Community Safety</p> <p>It is suggested that research should take place if extra complaints are received as a result of recommendation 2 initiative and any intelligence that comes from CCTV surveillance.</p> <p>Action</p> <ul style="list-style-type: none"> ○ Prepare a surveillance proposal for Community Safety to consider. ○ Assess resources and develop action plan ○ Review plan based on new intelligence and information received 	<p>Head of Trading Standards / Environmental Health Licensing Services Manager Community Safety</p> <ul style="list-style-type: none"> ○ Aug 2008 ○ Sept 2008 ○ Oct 2008 	
<p>R4 That the Council reminds all owners of their obligations under the recently amended Licensing Policy to prevent advertising on and around their premises causing offence to local</p>	<p>All licensed premises that hold striptease have a condition that bans offensive advertising.</p> <p>All premises will be inspected and if offensive advertising exists the premises will be warned and if they persist enforcement action will take place</p>	<p>Head of Trading Standards / Environmental Health Licensing</p>	

Recommendation	Response / Comments	Responsibility	Date
<p>residents. Following this, the officers should investigate what advertising is in place, and if it contravenes the policy, to take appropriate action.</p>	<p>All striptease premises will be reminded of their obligations when their annual fee is due.</p> <p>Action</p> <ul style="list-style-type: none"> ○ Carry out a programme of inspection of all striptease premises in the Borough to advertising and carry out any remedial enforcement action ○ All striptease premises to be reminded of their advertising obligations when their annual fee is due 	<p>Services Manager</p>	<ul style="list-style-type: none"> ○ July 2008 ○ Ongoing
<p>R5 That the Council should make written representations to owners of billboards and the owners of premises where the billboards are put up to request that they do not put up advertisements for strip clubs. Furthermore, that existing striptease license holders as well as new applicants are asked not to advertise, either within the borough or outside.</p>	<p>All billboard owners will be written to, to ask them not to put up advertisements for strip clubs</p> <p>Existing and new striptease premises will be written to asking not to advertise inside or outside the Borough</p> <p>Comments from Legal Services have been incorporated into the body of the report.</p> <p>Action</p> <ul style="list-style-type: none"> ○ Obtain from Planning details of all bill board owners within the Borough ○ Communicate with all bill board owners asking them not to advertise striptease premises in the Borough ○ All existing striptease premises asking them not to advertise either within or outside the Borough 	<p>Head of Trading Standards / Environmental Health Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Aug 2008 ○ Sept 2008 ○ Aug 2008
<p>R6 That the Council lobbies the ASA in order to prevent strip clubs from advertising on billboards.</p>	<p>The ASA code will be examined to assess whether striptease billboard advertising comes within there remit. Lobbying will then take place</p> <p>Action</p>	<p>Head of Trading Standards / Environmental Health</p>	

Recommendation	Response / Comments	Responsibility	Date
	<ul style="list-style-type: none"> ○ ASA code examined and assessed ○ ASA lobbied if appropriate 	Licensing Services Manager	<ul style="list-style-type: none"> ○ Aug 2008 ○ Sept 2008
<p>R7 That quarterly meetings are held between officers in Planning and Licensing to discuss any prospective applications that are or will be relevant to both departments. Meetings should also take place as and when potential issues arise. Should these meetings raise question marks over certain premises, applicants should be strongly informed that operating without both a license and planning permission could result in prosecution.</p>	<p>There is a series of meetings is already programmed for senior managers.</p> <p>Meetings every three months would not be responsive enough. Applications for striptease premises are very irregular. It is suggested that meetings between Planning and Licensing take place when applications are received.</p> <p>Action</p> <ul style="list-style-type: none"> ○ Quarterly meetings arranged between senior managers from Licensing and Planning to discuss joint issues which will include any issue relating to striptease premises ○ Licensing Managers to ensure there is a meeting between Licensing and Planning Officers to discuss new applications for premises wishing to hold striptease 	<p>Service Head – Environmental Control</p> <p>Head of Trading Standards / Environmental Health</p> <p>Licensing Services Manager</p> <p>Service Head – Development Decisions</p>	<ul style="list-style-type: none"> ○ Completed ○ June 2008
<p>R8 That the Council makes a clear (bilingual) public statement that it does not want strip clubs in the borough, in order to discourage applications for such premises.</p>	<p>Comments from Legal Services have been incorporated into the body of the report.</p> <p>If a statement is made it should be multilingual.</p> <p>Action</p> <ul style="list-style-type: none"> ○ Engage with relevant stakeholders and determine who and how statement should be made ○ Publish statement 	<p>Head of Trading Standards / Environmental Health</p> <p>Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Aug 2008 ○ Sept 2008

Recommendation	Response / Comments	Responsibility	Date
<p>R9 That residents within the current 40m radius from any premises that are applying for a striptease license (in keeping with the set limit for consultation for all types of licence applications) are given detailed information of what they need to do should they wish to make representations to object. In particular, it should be made clear that objections must be framed with reference to the four Licensing Objectives, and not under any other arguments.</p>	<p>Comments from Legal Services have been incorporated into the body of the report.</p> <p>In light of the legal advice the activity from this recommendation is linked to Recommendation 2</p> <p>Action</p> <ul style="list-style-type: none"> ○ Develop and implement a communications plan to raise awareness on how and when stakeholders can raise issues about Licensed premises and how Licences can be reviewed 	<p>Head of Trading Standards / Environmental Health Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Sept 2008
<p>R10 That the Council considers ways in which, for strip clubs, consultation can be undertaken on a wider scale than the current 40m radius.</p>	<p>Comments from Legal Services have been incorporated into the body of the report.</p> <p>Some research is needed to scope the activity related to this recommendation.</p> <p>Action</p> <ul style="list-style-type: none"> ○ Consult further with Legal Services on this issue ○ Benchmark other Councils to see if tiered consultation is being used ○ Prepare recommendations for action 	<p>Head of Trading Standards / Environmental Health Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Aug 2008 ○ Oct 2008 ○ Nov 2008

Recommendation	Response / Comments	Responsibility	Date
<p>R11 That the possibilities for referral to the 'saturation' policy are explored fully, to examine whether this could be utilised to minimise the number of clubs in the borough.</p>	<p>Comments from Legal Services have been incorporated into the body of the report.</p> <p>Further research on this matter is required and the evidence , information and intelligence from the activities relating to recommendations 2,3,4 &5</p> <p>Action</p> <ul style="list-style-type: none"> ○ Consult further with Legal Services on this issue ○ Benchmark other Councils to see if cumulative impact has been used to limit striptease premises is being used ○ Review evidence , information and intelligence from the activities relating to recommendations 2,3,4 &5 ○ Prepare recommendations for action 	<p>Head of Trading Standards / Environmental Health</p> <p>Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Aug 2008 ○ Oct 2008 ○ Nov 2008 ○ Jan 2009
<p>R12 That the Council's Equalities Team performs an EQIA on the licensing of strip clubs from the perspective of gender, to establish evidence in support of a more assertive approach to licensing and explore other opportunities for legal challenge (see recommendation 3).</p>	<p>The Diversity and Equality Team have advised:</p> <p>An EQIA would provide an opportunity to explore the impact of strip club licensing procedures and policies on equality target groups. Under the Equality Act 2006 the Council has a duty to be proactive in eliminating discrimination and harassment in relation to gender rather than waiting for individuals to take out harassment cases.</p> <p>A meaningful EQIA process relies on the collection and analysis of accurate data relating to each of the equalities target groups.</p> <p>Further research on the impact of licensed strip clubs on various equality target groups is therefore required. Evidence arising from the activities relating to recommendations 2 and 3 will support this recommendation.</p>	<p>Head of Trading Standards / Environmental Health</p> <p>Diversity and Equality Coordinator</p>	

Recommendation	Response / Comments	Responsibility	Date
	<p><u>Action</u></p> <ul style="list-style-type: none"> ○ A EQIA of strip club licensing be scheduled into the CLC Directorate programme for 2008-09 ○ Review evidence , information and intelligence from the activities relating to recommendations 2 and 3 ○ CLC Licensing Team to undertake an EQIA with the support of the Diversity and Equality Team 		<p>June 2008</p> <p>October 2008</p> <p>March 2009</p>
<p>R13 That the Council seeks to lobby government to change primary legislation (as set out in the Licensing Act 2003) so that strip clubs can be classified as sex encounter establishments.</p>	<p>Recently the Durham MP Victoria Blackman-Woods sought to introduce a Private Members Bill which proposed national legislation to designate strip clubs and lap dancing venues as sexual encounter establishments. It is not likely that this Bill will be enacted but it has led to the Government initiating a consultation process with all local authorities. The Minister responsible has written to local authorities outlining plans to consider limiting the increase of striptease and lap dancing premises and controlling the activities that take place within them. This will include considering whether or not lap dance clubs should be classified as "sex encounter establishments". A response to this consultation will be given and programme of lobbying developed</p> <p><u>Action</u></p> <ul style="list-style-type: none"> ○ Seek views on the current consultation process being carried out by Central Government ○ Respond to the consultation ○ Produce and deliver a programme of action 	<p>Head of Trading Standards / Environmental Health</p> <p>Licensing Services Manager</p>	<p>○ Jul 2008</p> <p>○ Aug 2008</p> <p>○ Sept 2008</p>

Recommendation	Response / Comments	Responsibility	Date
<p>R14 That the Council hosts a pan-London event (with the support of OBJECT) to engage with other communities and get greater levels of support and cooperation in these attempts to lobby government.</p>	<p>This event will link with R13 activity.</p> <p>Action</p> <ul style="list-style-type: none"> ○ With stakeholders produce objectives and scope of event ○ Deliver event 	<p>Head of Trading Standards / Environmental Health</p> <p>Licensing Services Manager</p>	<ul style="list-style-type: none"> ○ Oct 2008 ○ Feb 2009

Overview and Scrutiny Committee Working Group report

Licensing of Strip Clubs

Tower Hamlets Council
April 2008



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Acknowledgements

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Councillor Carli Harper-Penman
Councillor Alibor Choudhury
Councillor Bill Turner
Councillor Rania Khan
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Afazul Hoque, Scrutiny Policy Manager
Edmund Wildish, Scrutiny Policy Officer

The Working Group would like to thank officers at City of London Corporation and Westminster for their time and advice. The group would also like to thank all those residents who made contributions and gave input into the review, especially Sandrine Levêque at OBJECT for her efforts in moving this issue forward on a national level.

Chair's Foreword

In recent years, a vocal and articulate campaign has grown up in Tower Hamlets opposing the licensing of striptease in individual local premises and calling for zero tolerance of this activity in the Borough. This campaign enjoys widespread support in the community and is backed by an overwhelming majority of councillors.

Despite this expression of public and political opinion, a number of individual strip clubs have secured licences from the Council to operate in Tower Hamlets. Officers of the Council clearly feel constrained by the law against objecting to such licences, and members of the Licensing Committee feel obliged to follow that advice.

The debate around this issue came to a head in 2006 and 2007 as a number of licensees re-applied under the new Licensing regulations. Residents' objections failed to stop those applications, and so they petitioned the Council for a change in the licensing policy, enabling a more restrictive approach.

As a result, the four Party Leaders decided to refer the matter to the Overview & Scrutiny Committee, for a detailed investigation. Our Working Group was specifically asked to examine whether the council could adopt a more restrictive policy under the current legal framework and whether it should go down that route.

Our report explains why the Working Group strongly believed that Tower Hamlets should be made a more difficult place to obtain and operate a striptease licence. It then recommends a series of actions which collectively may discourage strip clubs. This more assertive approach would involve a significantly increased financial investment both in officer time and legal representation.

The report also recommends that LBTH back and help facilitate the growing national campaign for reform of the Licensing Act 2003, to enable councils to introduce a "zero tolerance" policy against strip clubs as well as sex encounter establishments. Ministers have so far rejected these changes, but the Working Group believes that concerted political pressure could persuade them to think again.

I am grateful to all those councillors and officers who participated in this Scrutiny Review, and especially to the many members of the public who submitted evidence of the adverse impact of strip clubs on their neighbourhoods. As well as detailed legal issues, our discussions have raised interesting moral and ethical questions. And yet, this report identifies series of practical and realistic measures, which if taken, would ensure that LBTH better represents the very deeply held convictions of many residents.

Cllr Marc Francis
Chair, Overview & Scrutiny Committee

Recommendations

- R1** That an extra post is created in the Licensing Department, with a remit focusing on the enforcement of licensing conditions applying to strip clubs in the borough. Furthermore, that this officer liaises very closely with the Police to ensure information is properly shared.
- R2** That the Council works closely with the Police to makes clear to residents the proper channels for reporting any incidents arising from existing premises. Should information be published or distributed, this should be done bilingually. Ways to report incidents must include effective ways of capturing any information or evidence residents collect, so that sanctions may then be applied, including the ultimate possibility of a review of the license and it being revoked.
- R3** That the Council consider targeting mobile CCTV in the vicinity of premises operating striptease, to provide evidence of the extent of crime and disorder associated with these premises. To this end, the Council should also consider commissioning research to verify claims that there are direct links between strip clubs and crime and disorder (particularly crime of a sexual nature).
- R4** That the Council reminds all owners of their obligations under the recently amended Licensing Policy to prevent advertising on and around their premises causing offence to local residents. Following this, the officers should investigate what advertising is in place, and if it contravenes the policy, to take appropriate action.
- R5** That the Council should make written representations to owners of billboards and the owners of premises where the billboards are put up to request that they do not put up advertisements for strip clubs. Furthermore, that existing striptease license holders as well as new applicants are asked not to advertise, either within the borough or outside.
- R6** That the Council lobbies the ASA in order to prevent strip clubs from advertising on billboards.
- R7** That quarterly meetings are held between officers in Planning and Licensing to discuss any prospective applications that are or will be relevant to both departments. Meetings should also take place as and when potential issues arise. Should these meetings raise question marks over certain premises, applicants should be strongly informed that operating without both a license and planning permission could result in prosecution.
- R8** That the Council makes a clear (bilingual) public statement that it does not want strip clubs in the borough, in order to discourage applications for such premises.
- R9** That residents within the current 40m radius from any premises that are applying for a striptease license (in keeping with the set limit for consultation for all types of license applications) are given detailed information of what they need to do should they wish to make representations to object. In particular, it should be made clear that objections must be framed with reference to the four

Licensing Objectives, and not under any other arguments.

- R10 That the Council considers ways in which, for strip clubs, consultation can be undertaken on a wider scale than the current 40m radius.**
- R11 That the possibilities for referral to the 'saturation' policy are explored fully, to examine whether this could be utilised to minimise the number of clubs in the borough.**
- R12 That the Council's Equalities Team performs an EQIA on the licensing of strip clubs from the perspective of gender, to establish evidence in support of a more assertive approach to licensing and explore other opportunities for legal challenge (see recommendation 3).**
- R13 That the Council seeks to lobby government to change primary legislation (as set out in the Licensing Act 2003) so that strip clubs can be classified as sex encounter establishments.**
- R14 That the Council hosts a pan-London event (with the support of OBJECT) to engage with other communities and get greater levels of support and cooperation in these attempts to lobby government.**

Introduction

1. Strip clubs, and their impact on the community, is an issue of constant debate, both nationally and locally. In Tower Hamlets, it has been an area of particular concern over the last 10-15 years. On 20th June 2007, Full Council, in line with the motion submitted by Councillor Denise Jones, resolved *“to ask Overview & Scrutiny Committee to investigate the impact of [strip] clubs, and trends in new applications, on the local community, inviting experts, residents, community and faith groups to submit evidence, and seeking legal and professional advice and support”*.
2. A Working Group was established in November 2007 to explore the Council’s policy on licensing of strip clubs, in order to get to grips with the issue. The membership of the group was politically balanced and comprised of 7 councillors. The Chair of the Working Group was Councillor Marc Francis, Chair of Overview & Scrutiny.
3. The review had four main objectives:
 - To consider the legal framework for the licensing of strip clubs and what powers local authorities have for the regulation and licensing of strip clubs
 - To investigate the impact of strip clubs on the local community
 - To consider the approach of other local authorities in the regulation and licensing of strip clubs and whether there may be any appropriate changes that Tower Hamlets can adopt.
 - To provide Members with a greater understanding of the intricacies of licensing of strip clubs in the borough, enabling them to fulfil a community leadership role on the issue
4. Although strip clubs engender a great deal of strong opinion, from the start of the review the Working Group’s remit was unambiguous. What had to be considered first was whether Tower Hamlets **could** do anything differently; only when this had been ascertained would it be feasible to discuss whether the Council **should** do anything differently. Questions of morality that often cropped up with reference to the subject matter were not strictly relevant – although it was made clear to the Working Group that final recommendations could include the potential for lobbying to change existing licensing laws.
5. The group agreed the following timetable to undertake work for the review:

Introductory Meeting (December 2007)

- Agree scoping document
- Briefing from LBTH Licensing officers and discussion
- Briefing from LBTH Legal officers and discussion
- Briefing from Police and discussion

Public Meeting (January 2008)

- Roundtable discussion with residents who had replied to an article in East End Life asking for submissions of evidence

Visits (January 2008)

- Visits to other London authorities to ascertain their policies and approaches, and see if lessons could be learned in terms of best practice

Evidence Review Meeting (February 2008)

- Discussion of evidence arising from all three previous sessions, as well as other evidence gathered by policy officers throughout the course of the review

Final Meeting (March 2008)

- Agree draft report and recommendations

6. The Overview and Scrutiny Committee will consider the Working Group's report and its recommendations. Following this, Cabinet will give its response to the report, including an action plan to outline how the recommendations will be implemented.

Background

➤ Historical context

7. That striptease is an issue which has exercised opinion for some time can be appreciated by reference to Overview & Scrutiny's 2001-2002 annual report. It is noted there that "*this area needed close attention, with the proliferation of lap dancing and striptease establishments around the City fringe*".
8. Furthermore, the annual report demonstrates a difference of perspective between members and officers: "*the [Environment and Leisure] Panel believed the City Fringe from Westminster through Camden, Islington, Hackney and Tower Hamlets was blighted by these types of establishments. The Panel considered that the Council should tighten its rules to strictly limit the numbers. Officers thought this unnecessary, as our rules were satisfactory. The Panel remained sceptical and believed that this subject would require further scrutiny*".
9. Officers and residents both confirmed that the issue has been around and a subject for heated discussion for at least 15 years; some officers commented that it was something that appeared on the horizon every few years and seemed destined never to be resolved. The review highlighted a discrepancy between officers' opinions and those of residents/members (see Public View, below). Crudely characterised, the former felt that the authority was doing all it could **within the law**, whereas the latter voiced a suspicion that there were unexplored avenues and options available. It was hoped that the review would help to bring these viewpoints closer together.

➤ Venues

10. Tower Hamlets currently has 7 venues which operate solely for striptease:

- **The Pleasure Lounge (Strip) - E2**
- **Images (Table/Lap Dancing) - E2**
- **Majingoes (Table Top/Lap Dancing) - E14**
- **The Nags Head (Strip) - E1**
- **Secrets (Table/Lap) - E1**
- **Whites Gentleman's Club (Table/Lap) - E1**
- **Oops (Table/Lap) - E1**

There are also three other premises that have striptease as a regulated entertainment on their licence but do not solely, and indeed rarely open for this purpose.

- **E1 Club (LGBT) - E1**
- **White Swan (LGBT) - E1**
- **Club Bronze - E3**

11. This is high compared to the rest of London; only Camden and Westminster have similar numbers of strip clubs. Most boroughs have no such venues, although the

majority of the clubs are concentrated in a spread around Inner London authorities – Hackney, Lambeth, Newham and Greenwich being the other areas with significant numbers.

➤ Legislation and Licensing Policy

12. Under previous legislation, clubs regulated striptease through the granting of Public Entertainment Licenses (as part of the London Government Act 1963). If premises wanted striptease, they had to make a separate and specific request to do so. The Council made clear its position on issues such as advertising, and had policies on where and when it could take place.
13. Current legislation, as per the Licensing Act 2003, is quite different. It covers a wide range of issues but *does not directly deal with striptease*. Under the Licensing Act 2003, striptease is seen as a form of public dancing with music, or similar entertainment, which means it is exempt from other legislation which in London controls what are known as ‘sex encounter establishments’ (sex shops, peep shows, adult cinemas etc.). Thus striptease is only regulated in the same way as any other dancing or musical activity. Any activity which goes beyond striptease is not permitted in Tower Hamlets, as some years ago a limit of zero was set for sex encounter establishments.
14. Under the Licensing Act 2003, local authorities can only refuse to grant striptease licenses if they feel that licensing such activity would go against one or more of the four Licensing Objectives. These are as follows:
 - Prevention of crime and disorder
 - Public safety
 - Prevention of nuisance
 - Prevention of harm to children
15. The Council updated its Licensing Policy (which must occur at least every three years) as of January 2008. The following section on striptease was inserted:

15.3 The licensing authority, when its discretion is engaged, will always consider all applications on their individual merits. However, all applications involving adult entertainment of nudity or semi-nudity are unlikely to be successful where the premise is in the vicinity of:

- residential accommodation;
- schools;
- places of worship;
- other premises where entertainment of a similar nature takes place;
- community centres;
- and youth clubs.

These insertions to our Licensing Policy were developed in consultation with local residents and were felt by officers to be as strong a wording of policy that could be adopted under the current legislation. (It should be noted that all the above points relate mainly to the Licensing Objective ‘prevention of harm to children’).

16. In the foreword to the updated Licensing Policy, under the theme of ‘A better place for living well’, it is stated that:

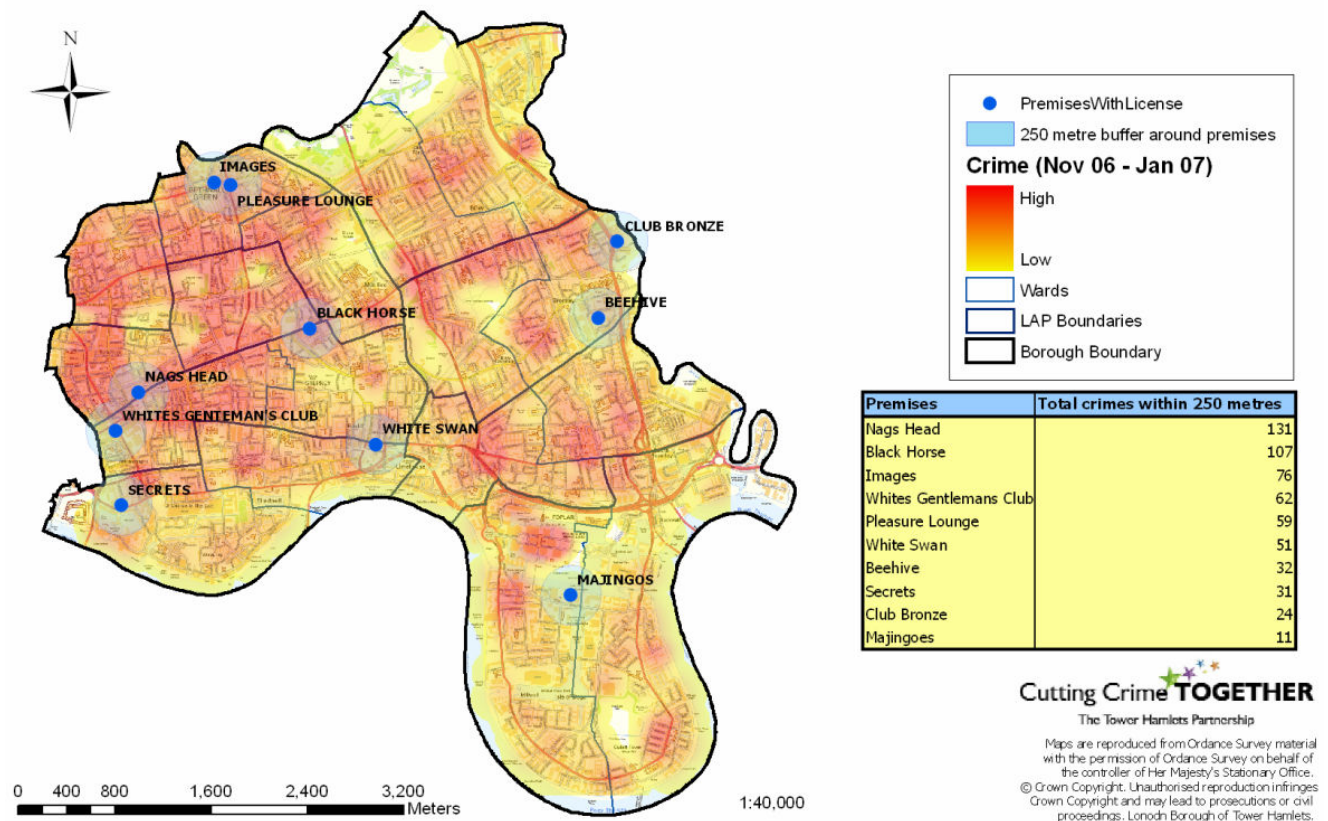
- We will seek to restrict undesirable expansion of adult only entertainment
- We will continue to be open to representations made to us that an area within the Borough has become saturated with licensed premises

These statements and the additions mentioned above indicate that, independent of this review, efforts were being made to address the issue of striptease.

➤ Police View – Strip Clubs and Crime

17. Figure 1 shows the results of research by the LBTH Community Safety Team analysts, completed in February 2007. This hotspot analysis of strip clubs shows that although in general they do not appear to be a problem, some are located in areas that have a high amount of crime, possibly linked to the behaviour associated with the area - such as drinking. Therefore, the risk factors associated with strip clubs probably stem from the alcohol-related behaviour, rather than the venues themselves. Some strip clubs – like numerous other licensed venues – are a source of crime, but it is difficult to associate a *higher* risk to them over other areas.

Figure 1 – Location of premises with license for striptease and all crime (Nov 06-Jan 07)



18. In general, the Police contended that within the last year, none of the premises listed above, when using their striptease clause, have come to their attention – either as a result of complaints from the community, or through crime and disorder incidents. Therefore they do not see these venues as generators of crime and disorder and cause them relatively little concern.

19. Further research, shown in Figure 2, seems to corroborate this view. However, it must be acknowledged that the data cannot be guaranteed to be 100% accurate (due to, for example postcode/address errors, or reclassification of crimes). Data was analysed from April 2006 – February 2007, and April 2007 – February 2008, and shows that some venues are located in areas where certain crimes occur in high numbers. According to the figures, over a period of almost two years there have been very few incidents of crime specifically at their location – although there have been significant numbers of (violent) crime *within the vicinity* of some of the venues.

Figure 2 – Incidence of crime at and around strip clubs, Apr 06-Feb 07 and Apr 07-Feb 08

Venue	Location of incident	Drugs		Sexual Offences	Theft and Handling			Violence Against the Person				Grand Total
		Drug Trafficking	Possession Of Drugs	Rape	Other Theft	Picking Pockets etc	Snatches	ABH	Common Assault	GBH	Harassment	
Nags Head	At Location	0	0	0	1	0	0	1	2	0	1	5
	Within Vicinity	0	9	1	33	18	6	7	2	0	7	83
Black Horse	At Location	0	0	0	2	1	0	1	0	0	1	5
	Within Vicinity	0	3	0	16	1	5	32	3	1	11	72
White Swan	At Location	0	0	0	2	0	0	0	1	0	1	4
	Within Vicinity	0	4	0	7	0	0	2	4	0	0	17
Majingos	At Location	0	0	0	6	0	0	1	0	1	0	8
	Within Vicinity	0	0	0	4	0	0	2	0	1	2	9
Secrets	At Location	0	0	0	0	0	0	0	0	0	0	0
	Within Vicinity	0	0	0	0	2	0	1	2	0	1	6
Images	At Location	0	0	0	0	0	1	1	0	0	0	2
	Within Vicinity	0	1	0	3	0	0	3	4	0	0	11
Pleasure Lounge	At Location	0	0	0	0	0	0	0	0	0	0	0
	Within Vicinity	1	0	0	8	1	0	5	0	1	2	18
Club Bronze	At Location	0	0	0	0	0	0	2	0	0	0	2
	Within Vicinity	1	1	0	5	1	1	2	3	1	0	15
Total		2	18	1	87	24	13	60	21	5	26	260

20. There was considerable scepticism from residents and some members about the Police view. There seemed to be a feeling that the data either did not capture the true nature of reported incidents around such venues, or that many incidents were simply not being reported (due to inadequate mechanisms to do so, or lack of response). A majority of the members of the Working Group – and most residents – felt there was a strong link between strip clubs and crime.
21. The Police’s Licensing Office has a weekly meeting with the LBTH Licensing Authority and officers from the Environmental Heath Noise Team. A function of this group is to share information on complaints relating to licensed venues (**all** licensed venues, not just strip clubs) and to respond accordingly. If complaints are raised regarding activities inside striptease venues that indicate a venue is not complying with the conditions of its licence, officers will be tasked to carry out covert visits. Officers have

not been requested to visit any premises on the borough for the last 18 months. Nor have they had cause to visit through fulfilling their own policing objectives.

22. The Police have 20 additional conditions for any premises that wish to hold striptease (see Appendix 1), which they adapt to individual premises. It is these conditions against which they check on their inspections (see below). They also demand to see from the applicant a Code of Conduct for performers and dancers.

➤ Public View

23. As noted in the Introduction, an advert was placed in East End Life in November 2007, giving a short background to the review and asking residents for their contributions to the process. The advert generated a lot of interest, with upwards of 100 responses. Out of these, only two respondents felt that the issue was being blown out of proportion; they argued that there was an overly-prescriptive moral component at stake, and in a liberal society we should not necessarily seek to criminalise those activities we find personally unpleasant.
24. The majority of the responses, however, expressed strongly held views on the situation in the borough, and it quickly became clear that there was a large gap between residents and officers on what was being done, and what could be done. Almost all of the residents were stridently against any increase in numbers of strip clubs, and wanted to see a reduction in existing numbers.
25. Many people referred to the impact they felt the venues were having on the character of the borough, with the following excerpts just a few examples: *“my family feel uneasy in walking around streets where strip clubs are based, especially female members”*; *“I have been leered at and felt intimidated when walking past these clubs”*; *“boys...are encouraged from an early age to objectify young women”*.
26. Also talked about was a perceived lack of enforcement and monitoring (*“Right now not enough resources are dedicated to ensure that there is safety and respectful behaviour around such late night hot spots...the council needs to ensure that it is adequately monitoring the licenses it has already given”*). Some of the replies also focused on the practical disturbances that they allege the clubs caused (*“[they] create noise, disruption and indeed danger at night. From late evening until well into the night – after 3am – [they] attract traffic which noisily stops and starts while people are unloaded and then loaded up again, loud conversations and sometimes scuffles in the street”*; *“these clubs attract crime, violence... noise pollution (from night life attention to these clubs) and anti-social behaviour”*).
27. In addition, many contended that there was a link between strip clubs and seedier aspects of the sex industry, and the safety of women in general (*“The spread of these clubs means that this abuse and exploitation of women is normalised and this affects the attitude and outlook of all of us, especially our young people”*; *“Those employed in the clubs are often subject to coercion and abuse, and there is evidence that they are drawn into drug use and prostitution”*). This assertion was supported by evidence presented at the public meeting by Safe Exit¹, a coordinator of services for people involved in prostitution, which argued for a direct link between strip clubs and prostitution. Data from a study they had commissioned also suggested that strip clubs

¹ <http://www.toynebeehall.org.uk/page.asp?section=000100010001000300020002&pagetitle=Safe+Exit>

contribute to the notion that women are just a commodity to be bought.

28. Some residents wanted the Council to take 'more of a lead' on these sorts of issues, push the laws to their limits and "*send out a message about the sort of place we want Tower Hamlets to be*". It was felt that opposition was not arising solely from one section of the community, or from women alone, or from 'prudes' – this was an issue that affects and matters to all people.
29. Most people were in favour of the Council simply rejecting all future applications for licenses, as well as taking a more stringent approach to levels of advertising. Other suggestions for future action involved greater levels of cooperation between the Council's Planning and Licensing functions, more support in reporting issues to the Council/Police, and greater levels of enforcement.

Enforcement/Monitoring

➤ Enforcement within strip clubs

30. In Tower Hamlets, there are over 800 licensed premises, all of which the Council's Licensing officers must visit. Premises are given a risk-rating – high, medium, or low – and are pro-actively visited according to that level. Consequently, officers can only make visits (either covert or overt) to the strip clubs once a year. However, should complaints arise, then officers can instigate more frequent visits. Police officers make monthly visits, (covert, i.e. plain-clothes), with plans to make these visits bi-monthly.
31. Members felt that levels of enforcement were not stringent enough, and that as a consequence issues were being missed. The Group recognised that Licensing officers were under tremendous strain with the numbers of licensed premises within the borough, and so felt that it was appropriate to allocate further resources to this area. However, the Group also understood that issues of cost, and where the extra funding would come from, would have to be carefully considered.
32. Residents also expressed their concern at a perceived lack of enforcement taking place in order to ensure the clubs were complying with the various conditions and standards that the Council and the Police specify. Evidence presented in Julie Bindel's study (*Profitable Exploits: Lap Dancing in the UK*²), and testimony by a former lap dancer, now working as a Fawcett³ volunteer, suggests that breaking of regulations like the 'three foot' rule are widespread. These and other studies argue that the highly competitive nature of the industry (dancers have to pay the clubs to work, and often outnumber potential clients) encourage dancers to break the rules. As a result, to protect them, enforcement needs to take place more frequently.
33. The Group was aware that an intention to provide more frequent enforcement will require extra resources within the Licensing Team, as they are overstretched as it is. One extra officer would have a cost implication of £41k p/a (including on-costs), which the Group felt would be a small price to pay for the increased ability to monitor what is

²http://www.glasgow.gov.uk/en/YourCouncil/PolicyPlanning_Strategy/Corporate/Equalities/Women/Prostitution.htm

³ www.fawcettsociety.org.uk/

happening within the clubs.

Recommendation

- R1 That an extra post is created in the Licensing Department, with a remit focusing on the enforcement of licensing conditions applying to strip clubs in the borough. Furthermore, that this officer liaises very closely with the Police to ensure information is properly shared.

➤ Enforcement outside strip clubs

34. In addition, residents raised concerns over enforcement relating to actions that take place *outside* the venue. Some felt that as the Police station closes at 5pm generally, and most of the incidents take place after this time, it isn't appropriate to call 999 so there are no options for reporting incidents. This has caused some of them to be under the impression that the responsibility for enforcement lies with them.
35. As mentioned, at present data suggests that strip clubs are not a prime cause for concern to Police, and as such it might not make sense for them to deploy significant resources for these premises. However, if there are problems occurring, the Council needs to work with the Police to assist residents in gathering evidence and reporting it to them. This would demonstrate a willingness to cooperate and work with the real concerns that are felt.

Recommendation

- R2 That the Council works closely with the Police to make clear to residents the proper channels for reporting any incidents arising from existing premises. Should information be published or distributed, this should be done bilingually. Ways to report incidents must include effective ways of capturing any information or evidence residents collect, so that sanctions may then be applied, including the ultimate possibility of a review of the license and it being revoked.

36. The Group realised the importance of conclusive evidence in providing justification for any complaints against premises. To this end, they were interested in the use of CCTV to provide independent verification of claims or objections that are being made. However, they also recognised both the prevalence of CCTV around the borough, as well as the fact that attempts at permanent surveillance can serve merely to push problems around the corner.
37. A better solution seemed to be found in exploring the use of mobile CCTV to those areas where problems were occurring. Officers advised that such surveillance would need to be overt, rather than covert, if it was not to fall foul of privacy laws. Members felt that using mobile CCTV would enable the Council to spread its resources appropriately and where needed.

Recommendation

R3 That the Council consider targeting mobile CCTV in the vicinity of premises operating striptease, to provide evidence of the extent of crime and disorder associated with these premises. To this end, the Council should also consider commissioning research to verify claims that there are direct links between strip clubs and crime and disorder (particularly crime of a sexual nature).

Advertising

38. Members of the Working Group were keen to gain insight from other authorities regarding adverts and advertising by strip clubs. There are two distinct elements to this issue – advertising that is on or around the venue itself and advertising that takes place away from the venues, elsewhere in the borough.
39. In the City of London, there appears to be little or no advertising. Councillors were interested in how this came to be so. As they do not have any strip clubs operating at present, advertising in the immediate vicinity would not be an issue. To this point, though, officers there pointed out that their Licensing Policy was consistent with most other London authorities in addressing advertising in the immediate vicinity of venues. However, it was also pointed out that advertising elsewhere is covered in separate legislation (the Indecent Displays Act 1981), so Licensing does not get involved.
40. Similarly, in Westminster, officers affirmed that whilst there were conditions attached to advertising on and around premises, there were no policies on adverts located away from the venues. Investigations into other authorities where it was suggested a more rigorous approach had been taken, such as Luton, revealed that this was not the case.

➤ Advertising on and around the premises

41. One aspect of Tower Hamlets' revised Licensing Policy states that premises must ensure "that publicity and advertising does not cause offence to members of the local community". For example, residents living around 'Secrets' in East Smithfield are unhappy about neon lighting that draws attention to the venue. This aspect of the Licensing Policy is intended to refer to sexually explicit advertising, and 'cause offence' is an ambiguous phrase open to contention and argument. However, it would be appropriate to remind existing premises of this clause in the policy, look into what the state is of advertising on and around premises, and take action if appropriate.

Recommendation

R4 That the Council reminds all owners of their obligations under the recently amended Licensing Policy to prevent advertising on and around their premises causing offence to local residents. Following this, the officers should investigate what advertising is in place, and if it contravenes the policy, to take appropriate action.

➤ Advertising away from the premises

42. Recent developments in the borough have seen several large billboards with adverts for a prominent chain of strip clubs; whilst this may not be desirable for some people,

as long as it follows the ASA code of conduct, it is perfectly legal. Local Authorities do not have the right to ban or attach conditions to such advertising.

43. In light of this inability to dictate the content of billboards across the borough, the Group wanted to explore any other ways of addressing this. They discussed the possibility for the Council to ask the owners of the billboards not to use the space to advertise strip clubs. Such an appeal – on the grounds of not wishing to create a certain image of the borough – may or may not succeed, but the Group recognised that it was the only option available.

Recommendation

- R5 That the Council should make written representations to owners of billboards and the owners of premises where the billboards are put up to request that they do not put up advertisements for strip clubs. Furthermore, that existing striptease license holders as well as new applicants are asked not to advertise, either within the borough or outside.
- R6 That the Council lobbies the ASA in order to prevent strip clubs from advertising on billboards.

Links between Planning and Licensing

44. Residents, as well as members of the Working Group, expressed disquiet with the apparent lack of coordination between the Planning and Licensing functions of the Council. Officers, as well as members, pointed out that the two functions are separate in law (under the Licensing Act 2003), and that decisions taken by one department or committee cannot be taken into consideration by the other.
45. However, the Group felt that this should not preclude communication between the two departments, to discuss any applications that might be pertinent to each other. Members felt that planning issues inter-relate highly with licensing ones, whether they are related in law or not. Having a greater level of communication between the two departments could enable efforts to preserve the character of the borough better.
46. There were further issues with premises allegedly exploiting the lack of connectedness between Planning and Licensing by operating with permission from one department but not the other. Members wanted any such premises to be instructed as to their legal responsibilities for both Planning and Licensing, and action taken against those which flouted these responsibilities.

Recommendation

- R7 That quarterly meetings are held between officers in Planning and Licensing to discuss any prospective applications that are or will be relevant to both departments. Meetings should also take place as and when potential issues arise. Should these meetings raise question marks over certain premises, applicants should be strongly informed that operating without **both** a license and planning permission could result in prosecution.

Objections to new applications for licenses

47. The legislation surrounding licensing of strip clubs is complex and not clear to the layperson. As stated above, under current legislation, applications for striptease licenses can only be rejected if it is felt that granting a license would result in one or more of the four Licensing Objectives being broken. Therefore, the only evidence that local authorities (or, if it reaches them on appeal, Magistrate's Courts) may consider relates specifically and directly to those objectives. Two cases – one from Tower Hamlets and another from Durham – provide examples of this. Lessons learned from each helped to inform the Group's recommendations.
48. The Working Group received much correspondence from members of the public, and heard from residents at the public meeting, to the effect that strip clubs were not welcome in the borough. It was also felt that there were other grounds on which the Council should be objecting to applications for licenses. A majority of the Working Group agreed that it was incumbent upon the Council to unambiguously state its desire to prevent the character of the borough being altered for the worse.
49. Residents were in favour of flat-out rejection of all future applications for licenses, and in discussions with other authorities mention was made of the possibility of a council exploring a more 'assertive' policy, in order to make clear to prospective strip clubs that it will not be easy to open up premises within the borough. On the other hand, advice (both from Licensing and Legal officers in a variety of authorities) unanimously was against such an approach, pointing to the potential drawbacks – financial and practical – of such a strategy. In particular, officers stated that it was illegal under the Licensing Act 2003 to have a policy that sought to reject every single application for a striptease license, regardless of circumstance.
50. With the concerns about the expansion of the night-time economy, the Group decided they would like a statement of intent from the Council which clearly outlines its intentions to prevent the borough becoming a magnet for strip clubs, whilst accepting that each case must continue to be considered on its merits. Members suggested undertaking work along similar lines to a Masterplanning exercise in order to provide a basis for this more assertive approach. Members were advised that this was likely to be challenged.

Recommendation

- R8 That the Council makes a clear (bilingual) public statement that it does not want strip clubs in the borough, in order to discourage applications for such premises.

➤ Tower Hamlets - Secrets

51. It was relevant to refer back to the case involving the granting of a license to Secrets in East Smithfields. Although this was under the old (Public Entertainments License) legislation, there are still some useful points to take from it. Initially, the Licensing Panel refused to grant a license to the owners, on such grounds as:
- *The nature of the establishment and hours sought was not in keeping with the character of the area, which was heavily residential...*

- *It was felt that the Borough already had enough striptease establishments and adding to this number may have a detrimental effect and begin to render the borough a “red light district” with the subsequent deterioration of the local environment.*
- *On balance, the negative impact of this application on the local area outweighed the need of the applicant to run their business*

52. The decision of the Magistrate’s Court, outlined in Appendix 2 (Justices’ Reasons), shows that they did not take into account any of the above reasons; or, if they did, they found no convincing evidence to corroborate the claims. Again, although the legislation is now different, the key point remains – an emphasis on direct evidence to support objections.

➤ Durham – Vimax Leisure

53. A case in late 2007 in Durham provides a useful example of this. Vimax Leisure applied for a license to run striptease for three days a week on an existing nightclub premises they owned. Durham City Council (DCC) awarded the license (the first of its kind in Durham), despite some objections from residents. The decision was then challenged by residents, and when the case went to the Magistrate’s Court on appeal, the magistrates found in favour of the residents’ objections (see Appendix 3), revoked the license and awarded costs against DCC.

54. The circumstances of this case were difficult to unravel, and different depending on which side’s point of view is being considered. DCC’s licensing officers and legal representatives were of the opinion that their original decision was simply based on the law as it stands, and the likelihood that rejecting the application would lead to a challenge and loss in the courts. They also felt that the decision made by the Magistrate’s Court was *not* based solely on the interpretation of law and that it was prejudiced by personal or moral opinion. The objectors and their witnesses pointed out that the Council did not give any evidence at the hearing, and argued that the Council was simply embarrassed by the overturning of the decision.

55. There are caveats to directly applying lessons learned from other instances, but the evidence presented by the objectors and witnesses was framed exclusively with reference to the four Licensing Objectives. In the Reasons of the Justices (see Appendix 3 again), they state clearly that *“we therefore consider that many of the objections were made not on moral grounds but reflected real and practical concerns”*. Further conversations revealed that at the time of DCC’s original decision to grant the license, objectors’ submissions had focused almost exclusively on moral disapproval, which they later admitted was inadequate.

56. In essence then, it appears that DCC may have been correct in their original decision, **based on the evidence that was presented**. However, in the appeal, the residents seemed to be much more organised, focusing their objections and tailoring their evidence to show how the four Licensing Objectives would be compromised. Both these instances show how crucial it is for residents to be informed of the correct procedures: there is a clear need to inform people how to frame their views so that what they say can be considered as viable evidence.

Recommendation

R9 That residents within the current 40m radius from any premises that are applying for a striptease license (in keeping with the set limit for consultation for **all** types of license applications) are given detailed information of what they need to do should they wish to make representations to object. In particular, it should be made clear that objections **must** be framed with reference to the four Licensing Objectives, and not under any other arguments.

57. As mentioned above, the current standard distance for consultation, for all premises applying for a license, is 40m. This was recently agreed and implemented, as of January 2008, following changes to the Council's Licensing Policy. Officers advised that exceptions could not be made (for example in the case of strip clubs) to engage in wider consultation – any changes would have to apply to all premises, which would bring burdensome costs and pressure on resources.
58. The 40m standard distance reflects the legislation, in that all applications for any type of license must be considered on equal grounds and merits. Some members wanted to draw a distinction between different types of premises; however, as they felt that the legislation did not correspond to the reality of how certain premises have more of an affect on residents than others. Officers and other members were very conscious of remaining within the law, so the Group agreed that they would like the Council to explore its options

Recommendation

- R10 That the Council considers ways in which, for strip clubs, consultation can be undertaken on a wider scale than the current 40m radius.
- R11 That the possibilities for referral to the 'saturation' policy are explored fully, to examine whether this could be utilised to minimise the number of clubs in the borough.

Equalities issues

➤ Strip Clubs, other aspects of the sex industry, and violence

59. The Group heard evidence from Safe Exit (see Public View, above) that argued for a link between strip clubs and prostitution (in particular from the study '*It's just like going to the supermarket: Men buying sex in East London*'). The Group also considered other evidence to this end, such as Julie Bindel's study. Arguments put forward by Dr Nicole Westmarland, Lecturer in Criminal Justice at Durham University, sought to link strip clubs to sexual violence, in the form of assaults (i.e. inappropriate touching) by customers on the dancers.
60. The Group sought opinion from other authorities as to the legal strength of such links between strip clubs and more nefarious activities. Both the other London authorities' officers, as well as Tower Hamlets officers, stated that they would **not** recommend to members to turn down applications for licenses based on a link between strip clubs and prostitution, or strip clubs and sexual violence. There would have to be more

robust evidence to show a direct link before such decisions could stand up in court.

➤ Equalities Impact Assessments (EQIAs)

61. However, this does not rule out exploring other aspects of existing legislation, from an equalities perspective, to see what options the Council has. Residents, members, and some of those experts consulted believed that the Gender Equality Duty (GED) affords such an option. The GED places an obligation on public authorities to promote gender equality and eliminate discrimination and harassment, and requires positive action to be taken to ensure that the needs of men and women are being considered equally.
62. Dr Westmarland points out that in the Secretary of State’s guidance to local authorities on discharging their functions under the Licensing Act 2003, the following passage can be found:
- “statements of policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, tourism, race equality schemes [and presumably now also gender equality schemes], and cultural strategies and any other plans introduced for the management of town centres and the night time economy. **Many of these strategies are not directly related to the promotion of the four objectives, but indirectly impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.**”* [emphasis added]
63. An EQIA involves looking at the benefits of a policy, to see the way that the policy is interpreted in real life from the perspective of a particular group. In this case, then, it would involve examining the four Licensing Objectives (the benefits) related to the licensing of strip clubs (the policy) from the perspective of women (the group).
64. The Group were keen to investigate ways in which legislation like the GED could be applied in this situation. Performing an EQIA on the licensing of strip clubs would therefore enable Tower Hamlets to examine whether or not the evidence of discrimination, violence, harassment etc. towards women is compelling.

Recommendation

R12 That the Council’s Equalities Team performs an EQIA on the licensing of strip clubs from the perspective of gender, to establish evidence in support of a more assertive approach to licensing and explore other opportunities for legal challenge (see recommendation 3).

Legislation change

65. One key point to come out of the visits to other London authorities was the impression that it was not through policy that these boroughs have fewer strip clubs than Tower Hamlets but through historical accident. Officers at City of London, who have no strip

clubs (despite having a high number of licensed premises), stated that they have had virtually no applications for licenses in the recent past. One officer posited that because Tower Hamlets has had – for whatever reasons – a higher concentration of such venues in the past, this makes it much more difficult to discourage further applications. This assertion is backed up again by reference to Overview & Scrutiny’s 2001-2002 Annual Report, where it is noted that “[o]fficers investigated why the City of London had no establishments offering this type of entertainment. Officers concluded that the City of London had no barrier on these”.

66. Tower Hamlets officers, as well as those in Westminster, City of London, Durham, Glasgow and other authorities who were canvassed all agreed that current legislation leaves councils with very little room for manoeuvre. As previously emphasised, the provisions of the Licensing Act 2003 – where strip clubs were **not** classified as sexual encounter establishments, and are effectively regarded (in law) as primarily dance entertainment – means that objections to them can only be considered in terms of the four Licensing Objectives.
67. As noted earlier, other types of premises associated with the sex industry (sex shops, peep shows, adult cinemas etc.) are classified as ‘sex encounter establishments’. Local authorities can set a limit on the number of sex encounter establishments in the borough, and can even specify particular numbers in different areas. Westminster has a set number of 18 (all of which are sex shops); Tower Hamlets has chosen to set its number at zero. In principle, if strip clubs were classified as sex encounter establishments, authorities would have a much freer rein in deciding whether or not to permit them to operate within their localities.
68. In practice, though, the distinction between (striptease) dance and ‘sexual encounter’ is ambiguous. There appears to be a grey area between the two; certainly from the layman’s perspective, the difference seems obvious, but this is not the case in law. Efforts could have been made to prevent dance drifting into what is effectively a peep show, with the Council looking to investigate how the legislation can be best framed to achieve this outcome. The majority of the Working Group agreed, by vote, that lobbying for legislation change would be the best option though.
69. Throughout the course of the review, OBJECT⁴ – a human rights campaign group – in a separate piece of work, have been campaigning to challenge existing legislation on strip clubs. Towards the end of this review, they made enquiries within Parliament and set up an MP Roundtable meeting (chaired by Baroness Joyce Gould) to discuss possible avenues to effect this legislation change. Contact was maintained with OBJECT by Scrutiny officers and the Working Group, meaning that both pieces of work could be coordinated. OBJECT have suggested that Tower Hamlets convene a London-wide event to encourage authorities to lobby government to change the primary legislation, allowing strip clubs to be classified as sex encounter establishments. OBJECT will provide assistance and advice for this event, with Tower Hamlets acting as host and prominent member of the lobbying group. The majority of the Working Group agreed, by vote, that this would be a good first step in trying to effect legislation change, and a signal of the Council’s intent in addressing this issue on a long-term basis.

Recommendations

⁴ <http://www.object.org.uk/>

- R13 That the Council seeks to lobby government to change primary legislation (as set out in the Licensing Act 2003) so that strip clubs can be classified as sex encounter establishments.
- R14 That the Council hosts a pan-London event (with the support of OBJECT) to engage with other communities and get greater levels of support and cooperation in these attempts to lobby government.

Conclusions

70. The Working Group welcomed the opportunity to examine, in depth, the various issues that arose out of this review. They recognised that there was a discrepancy between what residents feel and believe, and what officers held to be true. Members found out that the proliferation of strip clubs in Tower Hamlets seems more to do with historical accident than policy.
71. Members acknowledged that current legislation seemed to be highly restrictive in terms of allowing local authorities to fulfil the wishes of its residents. Therefore a vital (long-term) goal, reflected in the recommendations, is to campaign for legislation change.
72. The Group also strongly believed that the restrictions referred to above should not prevent them from recommending action where possible. Members share residents' concerns about the developing nature and character of the borough, and how policy in this area plays such an important role in determining what that nature is. Pushing existing legislation to its fullest through EQIAs, and making sure residents are aware of how they should frame their objections so they carry the greatest weight, will go some way towards creating an atmosphere where such premises are not allowed to flourish. The initiatives on advertising will go towards this too.
73. Members wanted to find ways to alleviate residents' fears about crime and safety both inside and outside the venues, with enforcement issues seen as key at all stages of the review. The recommendations reflect the need to give more protection to dancers by ensuring regulations are enforced, as well as assistance to residents in dealing with incidents when they arise.

Appendix 1 – Police Conditions for Striptease Licenses

1. All references to striptease in these conditions shall be deemed to apply to all forms of striptease or nudity by male or female performers.
2. At least one Personal Licence Holder shall remain on the premises at all times during licensed hours when the premises are open and trading.
3. At least two SIA registered Door Supervisors will remain on the premises at all times during licensed hours when the premises are open and trading in addition to two members of management.
4. The Designated Premises Supervisor (DPS) will ensure that at least one member of staff with specific obligation to ensure compliance with the performers/dancers code of conduct, will be present at all times when the premises are open and trading.
5. CCTV with time and date recording facility to be installed and maintained at the club in accordance with the advice of a Metropolitan Police Crime Prevention Officer. Recording media to be retained for at least 30 days and to be readily available for inspection by the Police or other statutory authority. At least two people will be trained to operate the recording equipment and be competent in its operation. A least one trained person shall be on premises at all times when the club is open and trading.
6. A Code of Conduct for Performers/Dancers to be lodged with the Police and Licensing Authority. All Performers/Dancers must sign the code of conduct as agreed by the Police in their proper name acknowledging they have read and understood, and are prepared to abide by the said Code of Conduct and copies so signed should be retained by the DPS and be readily available for inspection by the Police and Licensing Authority. Any breach of the agreed code of conduct shall constitute a breach of condition.
7. Details of all work permits and/or immigration status relating to persons working at the Club shall be retained by the DPS and be readily available for inspection by Police or Immigration Officer.
8. Menus and drinks' price-lists shall be clearly displayed in the foyer, reception and bar in such a position and size as to be easily read by customers. This price list should show all consumable items and any minimum tariff including charges or fees applicable to hostesses. The menus and drinks price-lists will also be on all tables.
9. A permanent written record will be maintained in the form of a refusals book kept at the club. This record will be signed by the DPS/Manager on a daily basis and record the details of any customer who refuses to pay his/her bill giving details of the customer's name, contact details and a detailed copy of the bill. This is to be available to the Police and/or Licensing Authority on demand.
10. A record will be kept at the club of the real names, addresses, stage names of all the hostesses/dancers, which will be readily available to any Police Officer and/or the Licensing Authority.
11. A notice outlining a Code of Conduct for the customer shall be positioned in the foyer, reception and bar area. It shall be of an adequate size and in such a position where it can be easily read and understood by the customer.
12. All hostess activity shall be conducted openly and at no time shall hostesses entertain customers in areas of the premises that are screened or curtained off from the view of the DPS (or other person acting with equivalent authority).
13. An incident book will be maintained at the premises. Upon request, it will be readily available for inspection by the police or other Licensing Authority.
14. There shall be no soliciting for custom by means of persons on the highway or any payment made to them by or on behalf of the DPS.
15. Whilst striptease is taking place no person under the age of 18 shall be allowed on any part of the premises and a notice shall be displayed in clear terms at each entrance that:-

NO PERSON UNDER 18 TO BE PERMITTED

16. On any day when the premises are open for entertainment not involving striptease, prior to striptease becoming available, a notice shall be prominently displayed in a conspicuous position in the foyer of the premises. This should be displayed at least one hour before striptease performances are due to start, advising customers when those performances are to commence.
17. The striptease entertainment shall be given only by paid performers/entertainers who are engaged exclusively for that purpose.
18. There shall be no physical participation by the audience and no contact between the performer/dancer and any of the audience during performances. There shall be no physical contact between the performers/Dancers.
19. There shall be no striptease performance to customers seated at the bar, or to standing customers. Performers/Dancers shall only perform on the designated stages, designated podiums or to seated customers at a table.
20. On each of the designated stages, there shall be no more than two performers at any one time.
21. In the VIP area, there shall be no more than four Performers/Dancers at any one time.
22. Any performance will be restricted to dancing and the removal of clothes, there must not be any other form of sexual activity.
23. All striptease shall take place in an area which is not visible from the street or overlooking buildings.
24. The Performers/Dancers shall be provided with a changing room which must be separate and apart from public facilities.
25. There shall be no sexually explicit external advertising likely to cause offence as to the nature of the activity being held at the premises.

Secrets (St. Catherine's) Limited -v- LBTH

Justices' Reasons

We have been hearing an application for a Public Entertainments Licence for the ground floor of premises at 43 to 45 East Smithfield. We are aware that this application was previously refused by the Council on the basis of the Council's own rules.

We have been hearing the matter afresh today and are not taking cognisance of decisions made in other places.

We note that there were no objections to the application by any of the statutory authorities. The Council's witness, Mr Perrins, told us that the police had suggested certain conditions to be attached to the licence, which they thought would be appropriate.

Technically, we are dealing with objections from local residents, which come down to matters of impact on the environment of noise, disturbance, security and litter. Given the evidence of the good operating practices presented by Messrs. Waite and Less in respect of their other premises, which was not challenged by any evidence to the contrary, we believe that they will be able to control disturbance and litter.

We have not been presented with any evidence to substantiate the proposition that a club of this nature would threaten the safety of women or children on the estates in the locality.

Turning to the matter of the impact of noise outside the premises. We heard that the club would be on a busy main road with a continual hum of traffic 24 hours a day. It has been maintained that clients would arrive and depart by private car or taxi. We have been told that the red route is not operational after 7:00pm. Our opinion is that, given that the arrivals and departures of clients would be staggered, the extra traffic would not have a significant impact over and above the present traffic noise.

Fears have been expressed about parking and slamming doors and we feel that this is likely to be outside the premises in East Smithfield rather than in Thomas More Street and therefore not likely to be a significant nuisance to residents.

Therefore we feel that the granting of this licence will not adversely affect the residents' right to the quiet enjoyment of their properties.

We allow the appeal and grant a Public Entertainments Licence with striptease waiver operational Mondays to Saturdays until 2:00am and Sundays until 11:00pm for the duration of one year and subject to such conditions as have been agreed on pages 54, 55 and 56 of the bundle of evidence prepared by the local authority. We make no order for costs.

APPENDIX

The decision was made by the Licensing Panel after considering the applicants need to pursue his business with the potential environmental impact on the local community. In striking a balance therefore the Panel determined to grant the application only with a variation as follows:-

1. The nature of the establishment and hours sought was not in keeping with the character of the area, which was heavily residential and housed a World Heritage site that attracts vast numbers of tourists each year. Furthermore, that the area may be regarded as of “Special Scientific Interest”.
2. It was felt that the Borough already had enough striptease establishments and adding to this number may have a detrimental effect and begin to render the borough a “red light district” with the subsequent deterioration of the local environment.
3. The levels of noise nuisance caused to local residents by access and egress of customers would be significant, and made worse by mini-cabs parking in Thomas More Square and then picking up at the premises.

The applicant did not appear to have a satisfactory proposal to deal with this problem.

4. On balance, the negative impact of this application on the local area outweighed the need of the applicant to run their business.

Appendix 3 – Magistrate’s verdict in Durham case

IN THE NORTH DURHAM MAGISTRATES COURT

IN THE MATTER OF AN APPEAL UNDER SCHEDULE 5 OF THE LICENSING ACT 2003 AGAINST A DECISION OF DURHAM CITY COUNCIL

BETWEEN

VIMAC LEISURE LIMITED

AND

DURHAM CITY COUNCIL

AND

KIRSTY THOMAS

AND

Dr. D. and Mrs. A. EVANS

REASONS OF THE JUSTICES

Whilst sitting in a court house in the North of County Durham we are in fact a bench from the South Durham Licensing Appeals Panel.

We have been asked to consider two appeals arising from the same decision of the Durham City Licensing Committee made on the 8th August 2007, in respect of premises known as The Loft, North Road in Durham City.

It was agreed as between the parties that we should hear firstly from the appellant company, Vimax Leisure Limited, operators of the Loft and original applicants; and indeed for purposes of clarity they have been known simply as the applicant throughout the current hearing.

Secondly, we heard from the appellants Ms. Thomas; Dr. and Mrs. Evans and witnesses on their behalf, collectively referred to, again for clarity as ‘the objectors’.

The City Council, through Mr. Langdon, whilst being respondents to the appeal have chosen not to make any specific representations.

In brief terms the applicant is aggrieved at the fact that the regulated entertainment sought, in this case table or pole dancing was limited by the Licensing Authority to Thursday, Friday and Saturday nights and further aggrieved by the prohibition on the circulation of promotional material.

The objectors in simple terms are of the view that the regulated entertainment should not have been allowed and argue that there have been contraventions of local policy as well as that given under section 182 of the Licensing Act 2003.

During this hearing we have heard from;

1. Jason Greenwood on behalf of Vimec
2. Kirsty Thomas
3. David Wood
4. Rev. Dr. Bash
5. Anne Evans
6. Dr Westmarland
7. Dr Martin
8. Esther Ashby
9. Emma Carter
10. Dr Boughton
11. Roberta Blackman-Woods

We also have had the benefit of the three bundles of documents prepared by each appellant and the City Council.

In arriving at our decision today we have had regard to;

1. the provisions of the Licensing Act 2003 (the Act), in particular the licensing objectives set out in section 4(2) with each carrying equal weight,
2. the guidance under section 182 of the Act,
3. The City of Durham Statement of Licensing Policy dated December 2004.

We will now address each of the four licensing objectives weighing the points made in evidence and by the advocates and consider whether the imposition of conditions that could address any relevant concerns.

Crime and Disorder

We accept and note with approval that statistics show that crime has fallen in Durham City but that;

1. they do not specify the location of diminution of crime,
2. crime and disorder could temporarily be displaced to Walkergate,
3. that as well as attracting business back to North Road Vimec could also bring back with it more crime and disorder,
4. we have been made aware of considerable evidence of recent problems on North Road from letters of objection and oral evidence. They have raised a host of significant issues with regard to protection of children and nuisance as well as crime and disorder itself.

From Emma Carter we heard of four incidents of late, from Dr Martin a long history of town and gown assaults on students and from Dr Bash of assaults on his friend.

5. We find that adding numbers of young men into this already volatile environment who are both influenced by alcohol and no doubt to varying degrees of sexual stimulation will aggravate rather than promote the objective.
6. Local Authority policy 11 states that the policy should not aggravate existing problems but on balance we think that lap dancing at the loft will do just that.
7. We are directed in 2.1 of the guidance to look to the police as the main source of advice concerning crime and disorder. However we cannot ignore the recent and compelling evidence of the above witnesses as to crime and disorder on North Road and have already found that the proposed activity is likely to aggravate matters.
8. We give substantial weight to the feelings of local people with relevant concerns and have taken the local circumstances into consideration.
9. We do not believe that the imposition of any additional conditions would address the concerns that we have.
10. On a balance of probability there is a serious risk of exacerbating problems of crime and disorder.

Public Safety

1. We accept that despite the inadequacies of the operating schedule, which is agreed to being "not brilliantly worded", it could be remedied. Any responsible operator could produce a manual which would address all shortcomings and contingencies, e.g. capacity, security and the safety and welfare of the dancers, but there are real risks if a management is found wanting.
2. Part of our responsibility, however, is not just to in-house personnel but to the public at large.
3. Further conditions could allay some of our concerns but not all of them, e.g. the touching of dancers.

Prevention of Public Nuisance

Policy 8 of the Licensing Authority states that its policy should "strike a fair balance between the benefits of the community and the risk of disturbance to local residents".

1. We feel that Durham is unique as an education and cultural centre but that it is a small compact City Centre where residential property is in close proximity to commercial and entertainment sites.
2. North Road is the main thoroughfare for local people and visitors arriving by bus and train. We accept that by day and night the area adopts different characteristics but that members of the public will inevitably be confronted by patrons during operational hours.
3. We have considered whether in the words of the Guidance the public nuisance is "disproportionate and unreasonable" and there is compelling evidence to support the view that lap dancing at the Loft would aggravate existing problems.
4. This is supported by written and oral evidence from local people who make use of North Road on a regular basis. Ms Thomas and the families of Prof Woods and Dr. Bash all avoid North Road and the University authorities indirectly advise their students to avoid this area. Emma Carter gave evidence of verbal and physical attacks on students and provided in however limited a form, some data on how many students, female in particular felt intimidated when walking in North Road.
5. A lap dancing club would aggravate the problem and the real fears of particularly young females being in close proximity of a concentration of clientele that would be attracted to the entertainment proposed.
6. No further conditions that we could impose would address these serious concerns, e.g. the further restriction of operational hours.

Protection of Children from Harm

Local Authority Policy 14 discourages applications for licences which involve a sex related element near schools, places of worship, hospitals, youth clubs or other premises where significant numbers of children are likely to attend.

1. With respect to the close proximity to the above of the proposed location of the lap dancing club, it could hardly be worse sited.
2. From Kirsty Thomas we learnt of childrens activities in the Shakespeare Centre, from Dr. Boughton of vulnerable hospital patients, from Dr. Martin of neighbouring schools and from Prof. Woods and Anne Evans of the hundreds of children who pass by on a daily basis, and from Dr. Bash and Kirsty Thomas of neighbouring places of worship. Here also the close proximity of bus and railway stations are very significant.
3. We accept that during the day children and young people passing by will simply be presented by a closed and locked door stating 'The Loft'. However during operational hours we find that children will be using the Shakespeare Centre and no doubt will congregate at the bus station and be again confronted

by a concentration of patrons attracted to this type of entertainment, thereby putting at risk the moral, psychological and even physical wellbeing of children and young people.

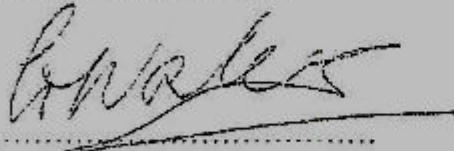
4. We accept that we could partly address this and possibly minimise risk by further restricting operational hours of regulated entertainment to for example 10.00 p.m.. This would not, however, address other concerns we have highlighted.

The Licensing Act 2003 came into force on the 24th November 2005 and immediately began to give local people a bigger voice in licensing decisions. Consultation with local people and focusing on the particular entertainment proposed in this specific location has therefore been fundamental to our decision making but we underline the fact that we have not been influenced by the sheer weight of number of people responding, but rather the relevance and weight of their arguments.

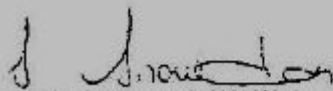
We therefore consider that many of the objections were made not on moral grounds but reflected real and practical concerns.

Accordingly we dismiss Vimax's appeal and allow the objectors appeal and refuse the application for a new premises licence in respect of the Loft whose operation would no doubt revert to its existing premises licence.

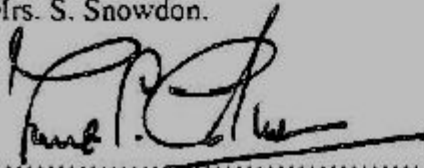
DATED this 10th December 2007



Mr G. Wales.



Mrs. S. Snowdon.



Mr P.S. Galloway.

Scrutiny in Tower Hamlets

To find out more about Scrutiny in Tower Hamlets

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