

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Committee	17 March 2015	Unclassified	LC 11/145	

Report of : David Tolley Head of Consumer and Business Relations Originating Officer: Andrew Heron Licensing Officer	Title: Local Government (Miscellaneous Provisions) Act 1982 (as amended) Application for a Sexual Entertainment Venue Licence for the Nags Head, 17-19 Whitechapel Road, London, E1 1DU Ward affected: Spitalfields and Banglatown
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1.0 Summary

Applicant: **Karpal Singh and Shamsheer Singh**
 Name and Address of Premises: **The Nags Head**
17-19 Whitechapel Road
London
E1 1DU

Licence sought: **Sexual Entertainment Venue Licence under Local Government (Miscellaneous Provisions) Act 1982 (as amended)**
Application for a

Objectors: **Local Resident**

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

3.0 Background

- 3.1 This is an application made by Karpal Singh and Shamsher Singh for a Sexual Entertainment Venue licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by reg 47 (4), Provisions of Services Regulations 2009 'the service regulations') and the Policing and Crime Act 2009 for The Nags Head, 17-19 Whitechapel Road, London, E1 1DU.
- 3.2 A licence from the Council is required for the use of a premise as a Sex Establishment Venue (SEV). A SEV is any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer.

Relevant entertainment means:

- any live performance; or
- any live display of nudity;

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- 3.3 The premises is currently granted a licence under the Licensing Act 2003 that permits sexual entertainment. A copy of the existing licence is enclosed as **Appendix 1**. The licence was originally granted on 7th October 2005 and amended via a minor variation on 11th November 2010.

The licence grants the following licensable activities:

The sale by retail of alcohol and the provision of regulated entertainment; consisting of recorded music, performance of dance (performed by striptease artists), anything of similar nature, the provision of facilities for making music and the provision of facilities for dancing (performed by striptease artists) and the provision of facilities for entertainment of a similar nature.

- Monday to Saturday from 11:00hrs to 03:00hrs (the following day)
- Sunday from 12:00hrs (midday) to 22:30hrs

The opening hours of the premises:

- Monday to Saturday from 11:00hrs to 03:30hrs (the following day)
- Sunday from 12:00hrs (midday) to 23:00hrs

- 3.4 This application is made in accordance with the transitional provisions as set out in the Policing and Crime Act 2009 (Commencement No. 1 and Transitional and Saving Provisions) (England) Order 2010. The application is to permit the premises to operate as a sexual entertainment venue with opening hours as follows:

- Monday to Saturday from 11:00hrs to 03:00hrs (the following day)
- Sunday from 12:00hrs (midday) to 22:30hrs

3.5 A copy of the application is enclosed as **Appendix 2**.

3.6 The Applicant describes the premises as follows:

“The Nags Head Gentleman’s Venue is located at 17 – 19 Whitechapel Road, London E1 1DU. The outside of the building is painted black to first floor level with exposed brickwork above. The words “The Nags Head” displayed; there is no other advertising. Entrance to the building is via black double door which open into a reception area which is screened from the rest of the premises. There is no direct view of the sexual entertainment within the venue from outside the venue.

Prominent notices are displayed in the lobby of the premises detailing charges, house rules, the code of conduct for dancers and that entrance is forbidden to those under the age of 18 when sexual entertainment is taking place. Entrance to the venue is gained by a single door attended by an SIA registered member of staff. The venue is divided into three areas, a main room and two private dance areas (denoted as private dance area and VIP dance area on the plans):

- *Main room – the main room comprises a fully staffed bar and a raised stage at the back of the room. Access to the stage is via a partitioned changing room and staircase. Male toilets are located to your right as you enter the venue and female toilets are located to the left of the private dance area. The entrance to the VIP dance area is adjacent to the bar. The is appropriately lit with a black wooden floor throughout (save for the back bar area). Again, the house rules are displayed prominently within the main room, namely at the entrance to the private and VIP dance areas.*
- *Private dance area – consists of an L-shaped area with three booths, each with a single-seater sofa and coffee table. Each of the three private dance booths is decorated in deep red and the area is carpeted.*
- *VIP dance area – consists of 4 booths next to the the main bar. Decorated in deep purple, each booth is carpeted and equipped with a small brown sofa. The largest of the booths includes a small L-shaped sofa.*

The Nags Head Gentleman’s venue trades seven days a week with the busiest trading periods on Thursday/Friday and Saturday evenings. Entertainment is provided via performances on the main stage and private performances. For performances on the main stage, the performer will collect monies from the patrons in the main area before ascending the main area stage and performing a fully nude striptease routine to a backing track.

For private performances, the performer will speak directly with the patron explaining the tariff to them before taking payment and escorting them to one of the private dance areas where they perform a fully nude striptease on a one-to-one basis. Performers in the main area, giving main stage performances and private performances do so in accordance with the venue code of conduct for performers.

(This digest has been prepared to assist the committee in understanding the nature of the venue in the absence of site visit. Should the committee have any further questions regarding the layout or operation of the premises then they are welcome to direct them via the operator's representative.)"

- 3.7 Members should note that the two regimes (Licensing Act 2003 and LGMPA 1982) run concurrently therefore the premises licence could effectively run without the SEV in operation, if alcohol and regulated entertainment were solely taking place.
- 3.8 Maps of the premises showing the site location are available in **Appendix 3**.

4.0 **Layout of the Premises**

- 4.1 Layout plans of the premises are available in **Appendix 4**; these were supplied by the Applicant at the point of application. The premises was visited on Monday 2nd March 2015 by Licensing Officer Andrew Heron. A checklist of questions was completed with the Applicant and his legal representative present. A copy of that checklist used at the meeting is available in **Appendix 5**.

The checklist covered the following points:

- Whether the interior of the premises is visible from the outside
 - Approved access to dressing rooms
 - External advertising
 - CCTV Coverage
 - Functionality of the CCTV
- 4.2 In conclusion from that visit, the Licensing Officer was mainly satisfied with the premises, however, it was noted that the current CCTV system did not adequately cover the private booth parts of the premises. There were significant blind spots and at times, no visibility of the booths. The Officer predominately bore in mind the LBTH Standard Conditions for SEV premises (see **Appendix 8**), most specifically Condition 13:

CCTV shall be installed to cover the inside and the outside of the premises covering all areas to which the public have access, including private performance areas and booths, entrances and exits but excluding toilets. All cameras shall continually record whilst the premises are open to the public and the recorded images shall be kept available

for a minimum of 31 days Recorded images shall be made available to an authorised officer or a police officer together with facilities for viewing. The recordings for the preceding two days shall be made available immediately on request. Recordings outside this period shall be made available on 24 hours' notice.

The applicant and their legal advisor explained at the meeting that they would look to install additional CCTV and would supply a replacement plan of the premises to demonstrate where additional cameras will be installed.

- 4.3 Since that meeting (and just before this report went to print) the Applicant's legal representative has contacted the Licensing Department in relation to the visit and proposes additional CCTV and conditions to address the concerns raised at that compliance check. A copy of that email and plan is contained in **Appendix 18**.
- 4.4 Photographs of the premises are available in **Appendix 6**; as supplied by the Applicant at the point of application.

5.0 Adverts and Flyers

- 5.1 Copies of the adverts and/or flyers used to promote the premises are included at **Appendix 7**.
- 5.2 At the visit conducted on 2nd March 2015, it was noted that there were no adverts at the exterior of the premises. The premises does however have a website, available at <http://nagsheadgentlemensvenue.com/>

6.0 Standard Conditions

- 6.1 As stated in paragraph 4.2, LBTH Council has adopted Standard Conditions that act as default conditions that are attached to all Sexual Entertainment Venue Licences. The Standard Conditions are generally considered to be appropriate for Sexual Entertainment Venues, with leeway provided for these to be varied by Members of the Licensing Sub-committee, or an operator applying to vary those conditions to suit individual circumstances. These are appended at **Appendix 8**.
- 6.2 The premises has also voluntarily offered additional conditions as part of their application, for Members to consider applying to the licence. Copies of these conditions are appended at **Appendix 9**.
- 6.3 At the visit conducted on 2nd March 2015, the Licensing Officer noted that at the entrance to the premises, attached to the House Rules sign, it stated that a private dance cost a 'suggested £20'. It was confirmed that this was the actual price and therefore not 'suggested'. This is

potentially a misleading price indication under The Consumer Protection from Unfair Trading Regulations 2008.

- 6.4 Members have discretion to modify the standard conditions or add appropriate conditions. Members may wish to consider the application of additional conditions in relation to pricing within the venue. Examples of conditions are set out below as a result of consultation with LBTH Trading Standards.

Display of comprehensive tariff

There shall be prominently and legibly displayed a comprehensive tariff of all charges and prices, including charges for the company of a hostess /dancer/companion and the hire of a room and or a booth (the tariff). The tariff shall include the price of all drinks available.

Entrance and reception area

The tariff shall be prominently and legibly displayed in such a position that it can easily and conveniently be read by customers before paying any fee for admission to the premises;

At each bar

The tariff shall be prominently and legibly displayed at each bar in the premises;

On each Table

The tariff shall be prominently and legibly displayed on each table

Room and Booths

The tariff shall be prominently and legibly displayed in each room and or booth

Tariff drawn attention to customers prior to transaction

The tariff shall be drawn to the attention of every customer before they have paid any fees or charges.

Customer only charged for items on tariff

No charge shall be made to any customer except for a service and for an amount shown on the tariff.

Customer made aware of and signs receipt for cost of room and booth hire

No charge shall be made to the customer for any room and booth hire unless the customer has signed a receipt having first been made aware of the cost.

Customer made aware of the cost of drink provided for to a dancer/hostess/companion

No charge shall be made to the customer for any drink provided for a hostess or companion unless the customer has specifically ordered it, having first been made aware of the cost.

7.0 Codes of Conduct and Policies

7.1 The Applicant, as part of the application, has provided Codes of Conduct and policies as required by the Standard Conditions, which are:

- Code of Conduct for Performers
- House Rules governing the conduct of customers

See **Appendix 10** (which also contains copies of the premises' Welfare Policy and Performer Guidelines as supplied by the Applicant)

7.2 During the compliance check visit, it was confirmed that the Code of Conduct for Performers was available in the dressing rooms. It was also confirmed that the House Rules was available in the public area of the premises.

7.3 If the application is granted subject to the Standard Conditions, the codes and policies will have to meet the requirements set out in the Standard Conditions.

7.4 Members have discretion to modify the standard conditions or add appropriate conditions.

8.0 Assessment and information for the vicinity

8.1 **Appendix 11** is a map of the Licensing Service's determination of the vicinity around the premises, set at 100meters from the premises (however the circle used is greater than that).

8.2 Determination of the "use" of other Premises in the "vicinity" - vicinity" is likely to be a narrower and smaller area than the "relevant locality" much will depend upon the physical location of the premises, its appearance and upon the nature and hours of its operation.

8.3 Below is a list of notable premises within vicinity as observed by Licensing Officer visiting the area on foot and using GIS maps:

Residential accommodation	There is no obvious residential accommodation above the Nags Head. The floors above the Whitechapel Road premises within the vicinity are primarily used for commercial purposes. There are residential developments accessed from Old Montague Street: Green Dragon Yard and Black Lion House.
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	Naylor Build Yard, residential accommodation next to Altab Ali Park, is on the edge of the vicinity.
Schools	There are no schools within the vicinity.
Premises used by children and vulnerable persons	There is a medical centre in Old Montague Street.
Youth community and leisure centres	There are none in the vicinity.
Religious centres and public places of worship	There are none in the vicinity.
Access routes to and from premises listed above	<p>The premises sits on the north side of the A11, Whitechapel Road, one of London's busiest arterial roads.</p> <p>Whitechapel Road is busy 24 hours a day.</p> <p>There are a number of bus routes, as well as night buses.</p> <p>Aldgate East Tube Station is a 5 minute walk away.</p>
Existing licensed premises in the vicinity	<p><u>Whitechapel Road same side as applicant premises</u></p> <ul style="list-style-type: none"> • Off licence Best Star One, 23 Whitechapel Road, E1 • Off Licence Tesco Stores Ltd 45 Whitechapel Road E1 1DU • Hotel Adagio London 45 Whitechapel Road E1 1DU <p><u>Whitechapel Road opposite side from applicant premises</u></p> <ul style="list-style-type: none"> • Restaurant Haji Nanna Biryani, 14 Whitechapel Road E1 1EW

- **Bar/night club** Rhythm Factory Cafe Bar & Jazz Club 16-18 Whitechapel Road, E1 1EW

Adler Street

- **Hotel** QBIC London City Hotel, 42 Adler Street, E1 1EE

Osborn Street

- **Bar and function space:** City Hotel, 12-20 Osborn Street, E1 6TE
- **Restaurant** Shahi Karahi 22 Osborn Street, E1 6TD
- **Bar** Apples and Pears, 26 Osborn Street, E1 6TD
- **Restaurant** Sonargaon Restaurant, 32-38 Osborn Street, E1 6TD
- **Public House:** Archers, 42 Osborn Street, E1 6TD

Whitechapel High Street

- **Restaurant and function space:** Whitechapel Art Gallery, 80 Whitechapel High Street, E1 7QX
- **Fast food Restaurant,** KFC Express, 84 Whitechapel High Street, E1 7QX
- **Restaurant:** Sushino En, 2 White Church Lane, E1 7QR
- **Restaurant:** Khushbu, 74 Whitechapel High Street, E1 7QX
- **Public House:** Bar Locks, 21 White Church Lane, E1 7QR

9.0 **Assessment and information for the Locality**

9.1 **Appendix 12** contains the Ward Profile of Spitalfields and Banglatown to provide members with details in relation to the locality of the premise.

9.2 In regards to the “relevant locality” :

- The relevant locality was assessed as being within a 100 metre radius centred on the premises, 17-19 Whitechapel Road
- The premises sits on the A11, one the capital’s busiest roads
- The vicinity is overwhelming commercial, with a smattering of accommodation
- Opposite the premises is Altab Ali Park. The Council’s maps show the area as St Mary’s Gardens

9.3 The character of the locality:

- The area has been assessed to have a commercial character with about 11% of the Borough’s residents across the two wards: Spitalfields and Banglatown and Whitechapel
- The premises is in Spitalfields and Banglatown ward, albeit on the boundary with Whitechapel ward
- The wards profiles downloaded from the council’s website are appended
- Both wards abut the City of London and have a commercial character, and have about 11% of the Borough’ s population - according to their profiles

10.0 **Other Sexual Entertainment Venues**

10.1 The following premises have applied for Sexual Entertainment Venues under the new licensing Regime within Tower Hamlets:

Charlie’s Angels	30 Alie Street, London, E1 8DA
Metropolis	234 Cambridge Heath Road, London, E2 9NN
Nags Head	17-19 Whitechapel Road, London, E1 1DU
Whites Gentleman’s Club	32-38 Leman Street, London, E1 8EW

11.0 Consultation

11.1 The application has been consulted on in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and the Tower Hamlets Sexual Entertainment Policy.

This has included:

a) A site notice at the premises displayed by the applicant during the required period. A copy of the notice is appended as **Appendix 13**.

b) A press advert was placed in the Docklands and East London Advertiser on the Thursday November 27th 2014, by the applicant, which again is appended as **Appendix 14**.

11.2 The following is a list of those also consulted in regards to the application:

- The Police
- The Fire Brigade
- Building Control
- Health and Safety
- Ward Councillors
- Development Control Team
- Local residents living within 50m of the premises

12.0 Responses to the Consultation

12.1 The Police were consulted, please find below a summary of their comments.

- None, no response received.

12.2 The Fire Brigade were consulted, please find below a summary of their comments.

- None, no response received.

12.3 The Council expects the premises to have planning consent for the intended use and hours of operation, or otherwise have lawful planning status before making an application for a new licence. Building Control were consulted, please find below a summary of their comments.

- None, therefore it is assumed that all planning permissions are acceptable.

12.4 Health and Safety were consulted, please find below a summary of their comments.

- None, no response received.

12.5 Ward Councillors were consulted, please find below a summary of their comments.

- None, no response received.

12.6 Development Control Team were consulted, please find below a summary of their comments.

- None, no response received.

13.0 Local Residents

13.1 Local residents living within 50m of the premises were consulted. One resident has made representation within the consultation period. Please find below a summary of their comments (a redacted copy of the representation is available in **Appendix 15**).

- The objector claims that the premises is a “disturbance, a threat and a danger”
- The objector claims to have witnessed drunken patrons being thrown out of the premises by the doormen
- The objector believe the premises attracts drug dealers and drug takers
- The objector claims that the patrons of the premises get into fights, endangered passers-by
- The objector claims that women, and local youth are approached inappropriately by patrons of the premises

13.2 A person making a representation must clearly state their name, address, and the grounds for objecting to the application and indicate whether they consent to have their name and address revealed to the applicant. Copies of representation have been provided to the Applicant prior to the committee hearing, the name and address of the objector were redacted at their request.

13.3 The Council will not consider objections that are frivolous or vexatious or which relate to moral grounds (as these are outside the scope of the Act).

13.4 Late representations may be admissible at the discretion of the Council if there’s sufficient reason to indicate that applicants will not be significantly prejudiced by the decision to allow a late objection to be considered. In making such a decision the Council will take into account:

- the length of the delay;
- the amount of time that the applicant has to consider the representation before the hearing date;

- if other representations have been received before the deadline.

13.5 The application also received x16 representations from dancers at the premises. All the representations were of identical wording and sent to the LBTH Licensing general email inbox. All have been acknowledged. For ease of the report, as all the representations identical in every way except for the name and address, only one of them is contained in **Appendix 16** for Member's perusal.

14.0 Summary of Premises and Licence History

14.1 A copy of the existing premises licence is available in **Appendix 1**.

14.2 The current licence holder is Karpal Singh and Shamsher Singh.

14.3 The current Designated Premises Supervisor is Karpal Singh.

15.0 Complaints and Enforcement History

15.1 The premises has received the following complaints in the last 24 months:

Date	Complainant	Nature of Complaint
15/10/2014	Public to Trading Standards	Claimed to have ordered double vodka, but the drink was watered down. The complaint is being investigated by TS

15.2 The premises has received the following visits by the Local Authority in the last 24 months:

Date	Authority (TS/Lic)	Nature of visit
02/03/2015	Licensing	SEV Compliance Visit – all OK, except for current CCTV positions
08/12/2014	Licensing	SEV Notice Check
20/03/2014	Licensing	General Licensing Compliance Visit – all correct at time of visit, Designated Premises Supervisor to sort written authority to sell alcohol

15.3 The premises has been subject to the following enforcement actions in the last 12 months:

Date	Authority (TS/Lic)	Nature of Enforcement
None	N/a	N/a

16.0 Policy - Appropriate Number of Sexual Entertainment Venues

16.1 The Council has determined that there are a sufficient number of sex shops, sex cinemas and sexual entertainment venues currently operating in the borough and it does not want to see an increase in the numbers of premises that are currently providing these activities.

16.2 The Council intends to adopt a policy to limit the number of sexual entertainment venues in the borough to nil however it recognises that there are a number of businesses that have been providing sexual entertainment in Tower Hamlets for several years. The Council will not apply this limitation when considering applications for premises that were already trading with express permission for the type of entertainment which is now defined as sexual entertainment on the date that the licensing provisions were adopted by the authority if they can demonstrate in their application:

- High standards of management;
- A management structure and capacity to operate the venue;
- The ability to adhere to the standard conditions for sex establishments.

16.3 The Council will consider each application on its merit although new applicants will have to demonstrate why the Council should depart from its policy. Furthermore if any of the existing premises cease trading there is no presumption that the Council will consider any new applications more favourably.

17.0 Home Office Guidance

17.1 The Home Office issued guidance to local authorities in March 2010 to assist local authorities in carrying out their functions under the Act.

17.2 The Council can refuse applications on grounds related to an assessment of the relevant locality. A licence can be refused if either, at the time the application is determined the number of Sexual Entertainment Venues, or Sexual Entertainment Venues of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a Sexual Entertainment Venue would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

17.3 The decision regarding what constitutes the 'relevant locality' is a matter for the Council. However, such questions must be decided on the facts of the individual application.

17.4 Once the Council has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, Sexual Entertainment Venues, or Sexual Entertainment Venues of a particular kind, it considers appropriate for that relevant locality.

18.0 Licence Conditions

18.1 Once the Council has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or standard conditions applicable to all Sexual Entertainment Venues, or particular types of Sexual Entertainment Venues.

18.2 Where the Council decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

18.3 Most sexual entertainment venues will require a Licensing Act 2003 licence as well as a Sexual Entertainment Venue licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on the each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licences or clubs premises certificate and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

18.4 In many cases licences granted under the 2003 Act to existing operators will contain conditions that relate expressly and exclusively to the provision of relevant entertainment. Such a condition might prohibit contact between a performer and customer during a lap dance. In these cases, in order to avoid duplication, where conditions on premises licences or club premises certificates relate only to the provision of relevant entertainment, they shall be read as if they were deleted from the 3rd appointed day onwards.

18.5 In cases where conditions on a premises licence or clubs premises certificate are inconsistent with, and less onerous than, the conditions in

the licence granted under the 1982 Act they shall likewise be read as though they have been deleted.

19.0 Sexual Entertainment Venues and Determination

19.1 Tower Hamlets Licensing Authority has received advice in relation to the determination of an application, Members would be wise to take a ten-point approach and provide answers to the following:

1. Determine the extent, nature and content of the “Relevant Entertainment”
2. Consider the Mandatory Grounds of refusal – are these engaged?
3. Discretionary Grounds (Internal): the ‘people’: Consider the suitability of the Applicant and other persons involved; are they suitable to hold and operate a Sexual Entertainment Venue licence?
4. Discretionary Grounds (Internal): the ‘premises’: Consider the suitability of the premises for a Sexual Entertainment Venue licence; is the premises suitable for the operation of the proposed relevant entertainment?
5. Discretionary Grounds (External): What is the “vicinity” in respect of the current application?
6. Discretionary Grounds (External): What are the uses of other premises in the vicinity in respect of the current application?
7. Discretionary Grounds (External): What is the “relevant locality” in respect of the current application?
8. Discretionary Grounds (External): What is the “character” of the relevant locality in respect of the current application?
9. Is a Sexual Entertainment Venue of the type contemplated in the application appropriate having regard to (i) the premises; (ii) the character of the relevant locality and (iii) the use of premises in the vicinity?
- 10.a Discretionary Grounds (External): What is the appropriate number – regardless of the LBTH/Policy Presumption – of Sexual Entertainment Venues (collectively & by type) in the relevant locality of the current application?
- 10.b Is the LBTH/Policy engaged by the current application? (b) Where the LBTH/Policy is engaged has the applicant established that the current application is an exception to that policy?

19.2 A copy of LBTH Sexual Entertainment Venue Policy is produced in **Appendix 17** for Member's information.

20.0 Legal Comments

20.1 The Council may refuse an application for the grant or renewal of a licence on one or more of the grounds specified below (Sch 3 para 12(1) LGMPA ('the Act'), as amended by reg 47 (4), Provision of Services Regulations 2009):

20.2 The mandatory grounds for refusal are as follows:

- (a) the applicant is under the age of 18;
- (b) that the applicant is for the time being disqualified from holding a licence;
- (c) that the person is a person other than a body corporate, who is not resident in the U.K. or was not resident in the U.K. throughout the six months preceding the date of the application;
- (d) that the applicant is a body corporate which is not incorporated in the U.K; or
- (e) that the applicant has been refused a sex establishment licence for the premises within the twelve months preceding the date of the application and the refusal has not been reversed on appeal.

20.3 The Committee has discretion to refuse the application if any of the following grounds for refusal apply under para. 12(3) of Schedule 3 of the Act.

The discretionary grounds for refusal are as follows:

- (a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or for any other reason;
- (b) that if the licence were to be granted, renewed or transferred, the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant who would have been refused a licence if they had applied themselves;
- (c) the number of sex establishments exceeds the number or is equal to the number which the council consider is appropriate for that locality; or
- (d) the grant or renewal of licence would be inappropriate because of:
 - i. the character of the relevant locality;
 - ii. the use to which the premises in the vicinity are put; or
 - iii. the layout, character or condition of the premises, vehicle, vessel or stall.

(In relation to premises, 'the relevant locality' means the locality where the premises are situated).

20.4 There is a right of appeal to the Magistrates' Court, as set out in para. 27 of Schedule 3 of the Act. An appeal against the decision of a

Magistrates' Court may be brought to the Crown Court. In addition, the decision of the Committee may be appealed on established public law principles.

20.5 The Committee should only consider those comments within the letters of objection or made orally at the hearing which are relevant to the mandatory or discretionary grounds for refusal. Comments contained within the letters of objection or orally at the hearing which relate to moral grounds, for example, must not be considered by the Committee.

20.6 The Council's legal officer will give advice at the Hearing.

21.0 Finance Comments

21.1 There are no direct financial implications arising directly from the report. However, there are possible cost implications if the Decision was appealed to the Magistrates' Court, Crown Court or if a Judicial Review was lodged. Licence fees are set to ensure that the cost of administration and compliance are recovered.

22.0 Appendices

Appendix 1	A copy of the existing licence
Appendix 2	A copy of the application
Appendix 3	Maps of the premises showing the site location
Appendix 4	Location plan and internal layout plans of the premises
Appendix 5	Compliance Visit Checklist
Appendix 6	Photographs of the premises
Appendix 7	Copy of advert and/or flyer used to promote the premises
Appendix 8	LBTH Standard Conditions list
Appendix 9	Additional conditions offered by the applicant
Appendix 10	Codes of Conduct and House Rules as provided by the Applicant (in addition to the premises' Welfare Policy and Performer Guidelines)
Appendix 11	Vicinity Map
Appendix 12	Locality: LBTH Ward information for Spitalfields and Banglatown
Appendix 13	Copy of Site Notice
Appendix 14	Copy of Press Advert
Appendix 15	Representations by Local Resident (name and address redacted)
Appendix 16	Copy of representation as received 16 times from difference dancers at the premises
Appendix 17	Copy of LBTH SEV Policy
Appendix 18	Email from Applicant's legal representative offering additional conditions and a plan.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for
register

If not supplied, name and telephone
number of holder

File Only

Andrew Heron
020 7364 2665