

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING COMMITTEE

HELD AT 6.30 P.M. ON MONDAY, 26 SEPTEMBER 2022

**THE COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5
CLOVE CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Kamrul Hussain (Chair)

Councillor Saied Ahmed (Member) - (Arrived late and did not participate in the decision making)

Councillor Suluk Ahmed (Member)

Councillor Gulam Kibria Choudhury (Member)

Councillor Peter Golds (Member)

Councillor Kabir Hussain (Member)

Councillor Ahmodul Kabir (Member)

Councillor Amin Rahman (Member)

Councillor Rebaka Sultana (Member)

Councillor Abdul Wahid (Member)

Members Virtually Present:

Councillor Sabina Akhtar (Member)

Councillor Shubo Hussain (Member)

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Committee held on 31st May and 14th July 2022 were agreed.

3. RULES OF PROCEDURE - LICENCES FOR SEXUAL ENTERTAINMENT VENUES

The rules of procedure were noted.

4. ITEMS FOR CONSIDERATION

**4.1 Application for a New Sexual Entertainment Venue Licence for Club
Oops, 30 Alie Street, London, E1 8DA**

The Licensing Committee considered an application by Santosh Nair for a new Sexual Entertainment Venue (SEV) licence to be held in respect of Club Oops, 30 Alie Street, London, E1 8DA (“the Premises”). The application fell to be determined by the Committee as the application had received an objection from Tom Lewis, on behalf of the Licensing Authority. References to page numbers are to pages within the main agenda pack.

Mr. Rankin addressed the Committee on behalf of the applicant. He reminded the Committee that issues of morality needed to be disregarded and the application determined on its merits. He submitted that a strictly-regulated premises was better than one that was not. Striptease had been taking place in these premises for some time.

Mr. Rankin explained that Mr. Nair had purchased the premises in 2016 and that he had employed a former local authority enforcement officer to run the premises for him. The premises were run well and without complaint. Mr. Nair had simply inadvertently believed that the licence expired on 1st June 2022 rather than 31st May 2022.

Mr. Rankin drew the Committee’s attention to its SEV Licensing Policy, which took effect from 1st June 2014, and which stated that the Council wished to reduce the numbers of SEV licences to nil. Exceptions were made to those businesses already trading at that time and the Premises was one of those listed (Page 135). He referred to the second and third paragraphs on Page 136 and submitted that the policy therefore did not apply because at the time of adoption the business was already trading. The policy was not intended to catch existing businesses operating at that time.

Mr. Rankin said that the final paragraph on Page 136 applied to new applications. This, however, was a failure to renew and was an administrative error. If Members were against him on policy grounds, however, he submitted that this should be treated as an exception for two reasons. The first was the particular circumstances, and Mr. Nair offered his abject apologies; the second was the consequence of refusal. The business employed seven staff and twelve dancers. They had suffered disproportionately because of the impact of covid restrictions. Despite being forced to close in March 2020 and not being permitted to re-open until July 2021, they were still required to pay rent. In addition, the consequence of the failure to apply to renew in time was that the Premises had been closed since June 2022.

Mr. Rankin told the Committee that the applicant met the exceptional criteria set out in the policy. The Premises are licensed under the Licensing Act 2003 and between the two licences there were some fifty-five conditions to be adhered to. The Premises had been visited by officers and by an independent auditor, Mark Halton, who provided a report (Pages 3-31 of the Supplemental Agenda pack). Mr. Halton expressed the view that the Premises were well-run and managed.

Mr. Rankin asked the Committee to consider the position if the Premises operated as a nightclub. He stated that four residents had asked Mr. Nair when they would be re-opening. That was not because they were patrons;

rather it was because the Premises' security staff patrolled the area and made it safer. Leaving aside the question of the strict application of the policy, he submitted that the Committee could safely grant the application.

Mr. Cannon addressed the Committee on behalf of the Licensing Authority. He asked that the application be refused. The Council's policy was clear; it had determined that the appropriate number of SEVs in the locality of the Premises was nil. The aim of the policy was one way, namely to reduce the number of SEVs to zero. In this instance, the applicant simply failed to renew on time. The licence clearly stated on its face that it would expire on 31st May 2022 and all that Mr. Nair was required to do was to submit the application by the end of that day. The consequence of that is that the licence lapses and the number of SEVs operating under the policy reduces from five to four.

Mr. Cannon further submitted that it was correct to say that the policy was not applicable to premises that were already trading but only if the three conditions were fulfilled. The failure to renew did not demonstrate high standards of management. The failure to renew had consequences. It was not difficult to complete a renewal application on time and the failure to do so was concerning. He asked the Committee to refuse the application on the basis of Paragraph 12(3)(c) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982.

During questions it was confirmed to Members that a renewal application had been submitted on 1st June 2022 and that a new application was received on 22nd June 2022.

It was accepted by both parties that this was a new application for an SEV licence. Any provisions relating to renewal therefore could not apply. It was a new application to be treated on its own merits. The Committee accepted, as Mr. Cannon submitted, that the consequence of a new application meant that the application risked falling foul of the Council's policy.

The SEV policy was adopted by the Council in 2014, eight years previously. It set out a clear intention that it did not wish to see an increase in the number of premises trading at the time that the policy was adopted. As Mr. Cannon submitted, there was a "ratcheting-down" in respect of the numbers. Mr. Nair would or ought to have known of the policy. The policy (Page 144) clearly stated that "in order to continue operating as a sex establishment the licence holder must make a renewal application prior to the expiry of the existing licence." This, combined with paragraphs 2 to 4 on Page 136, made very clear the risks to existing operators of failing to submit a renewal application on time. They would be classed as new applications and fall to be determined as such and as against the expressed intention of the policy.

Further, the introduction (Page 133) stated that "This policy is intended to be strictly applied and will only be overridden in genuinely exceptional circumstances. Such circumstances will not be taken to include the quality of the management, its compliance with licence conditions, the size of the premises or its operating hours." The policy confirmed that the appropriate number of sex establishments in each and every locality of the borough is zero (Page 137).

Those paragraphs too emphasise the importance of a prompt renewal and of the fact that any new applicant will need to demonstrate why the Committee should depart from this policy.

There were no representations in support of the Premises or objecting to the application. The only other information before the Committee was Mr. Halton's inspection report, dated 24th March 2022. Whilst that suggested the Premises were operating in compliance with its licences at that time, the failure to do so something so basic as to make a renewal application on time did cause the Committee concern as regards the standards of management.

Mr. Rankin suggested that the Committee could find an exception because this was a simple human error by Mr. Nair. The Committee did not agree. Mr. Nair has held the SEV licence in respect of the Premises for some six years. He would or ought to have been aware of the expiry date that was clearly expressed in bold upon the face of the licence. That he failed to do something so fundamental led the Committee to conclude that he did not display the high level of managerial responsibility that it would have expected to see and which is required to justify an exception to the policy. Human error is not exceptional and nor are errors of this particular nature; rather, they are all too common. The Committee noted that the expiry date was stated in bold on the face of the licence. Mr. Nair was not required to leave the application until what he thought was the last day. It would have been a simple matter to have made the application at any point in the twenty-eight days or so before what he thought the expiry date was. Had he done so, it is reasonable to assume that there would have been no objection by the Licensing Authority on policy grounds.

Mr. Nair was or ought to have been aware of the potential consequences of failing to submit his renewal application on time. No explanation was given to the Committee as to why he had made the decision to leave the renewal application until what he thought was the last minute. After being informed of the need to make a new application, that did not happen for another three weeks.

The Committee also had regard to the fact that the Premises employed a number of people, but this was also not determined to justify an exception to the policy.

For the reasons set out above, the Committee was not satisfied that this new application should be treated as an exception to its policy and the application is therefore refused pursuant to paragraph 12(3)(c) of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982, namely that the number of sex establishments in the locality of the Premises exceeds the number which the authority considers is appropriate for that locality.

Accordingly, the Committee unanimously;

RESOLVED

That the application for a New Sexual Entertainment Venue Licence for Club Oops, 30 Alie Street, London E1 8DA be **REFUSED**.

4.2 Gambling Policy 2022 - 2025

The Licensing Committee;

Resolved

1. That the report be noted.

The meeting ended at 8.15 p.m.