

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Committee	28 April 2015	Unclassified		

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 Metropolis, 234 Cambridge Heath Road, London, E2 9NN Ward affected: St. Peter's
---	--

1.0 Summary

Applicants: **Steven Victor Martin, Victor Martin and Melanie Jane Graham**

Name and Address of Premises: **Metropolis
234 Cambridge Heath Road
London
E2 9NN**

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

Objectors: **None**

2.0 Recommendations

2.1 That the Licensing Committee considers the application and then adjudicates accordingly.

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

3.0 Background

- 3.1 This is an application made by Steven Victor Martin, Victor Martin and Melanie Jane Graham 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 Metropolis, 234 Cambridge Heath Road, London, E2 9NN.
- 3.2 A licence from the Council is required for the use of a premise as a sex Establishment. A sexual entertainment venue 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

The licence granted the following licensable activities:

Regulated Entertainment in the form of films, live music, recorded music, performance of dance (including striptease), entertainment of a similar description, provision of facilities for making music, dancing, or entertainment of a similar description:

- Monday to Sunday from 09:00hrs to 05:00hrs (the following day)

Late Night Refreshment:

- Monday to Sunday from 09:00hrs to 05:00hrs (the following day)

Sale by retail of alcohol:

- Monday to Sunday from 09:00hrs to 05:00hrs (the following day)

The opening hours of the premises:

- There are no restrictions on the hours during which this premises is open to the public

- 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 Sunday from 09:00hrs to 05:00hrs (the following day)

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

3.6 Maps of the premises location are available in **Appendix 3**.

3.7 Members should note that the two regimes run concurrently therefore the premises licence could effectively run without the SEV in operation, if alcohol and regulated entertainment was solely taking place.

4.0 **Layout of the Premises**

4.1 A layout plan of the premises is available in **Appendix 4**. The premises was visited on 27th January 2015, attended by a Licensing Officer and a Constable from the Metropolitan Police, Licensing Division. A checklist of questions was completed with the Applicant. A second compliance visit was conducted by the Licensing Authority on and 10th February 2015 to further reassess the CCTV. A copy of the checklist completed over both visits 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 those visits, the Licensing Officer had some initial concerns in relation to minor blind spots on the first visit and the retention length of the CCTV recordings. However, on the return visit, the Officer was suitably satisfied that there were no issues with the CCTV or the length of retention.

4.3 Photographs of the premises are available in **Appendix 6**.

5.0 **Adverts and Flyers**

5.1 Copies of the adverts and flyers used to promote the premises are included at **Appendix 7**.

5.2 The premises has a website: <http://www.metropolisstripclub.com/>

6.0 **Standard Conditions**

6.1 The 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 Applicant has also proposed additional conditions as part of their Application. See **Appendix 9**.

7.0 Codes of Conduct and Policies

7.1 The applicant 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 includes the premises' Dancers Welfare Policy and Audition Code of Conduct.

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.

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	<ul style="list-style-type: none"> • Cambridge Court on the corner of Parmiter Street and Cambridge Heath Road • Seth Court, Parmiter Street
---------------------------	--

	<ul style="list-style-type: none"> • Charmeuse Court, Parmiter Street • Bethnal Student Living, Parmiter Street • First floor accommodation above 2 storey premises 3 to 15 Bishop's Way
Schools	None
Premises used by children and vulnerable persons	<ul style="list-style-type: none"> • Edward Gibbons House, 1 Parmiter Street, part of Providence Row Housing Association, a hostel providing temporary accommodation for single homeless men and women with high support needs connected to drinking. • Drug Intervention Centre, 228 Cambridge Heath Road,
Youth community and leisure centres	<ul style="list-style-type: none"> • Bethnal Student academy (private language school), Bishop's Way.
Religious centres and public places of worship	None
Access routes to and from premises listed above	<p>Corner of cross roads – Hackney Road/Bishop's Way and Cambridge Heath Road.</p> <p>Cambridge Heath Overground station is opposite</p> <p>There a number of bus routes including night buses</p> <p>Bethnal Green tube station is about 5 to 10 minutes' walk away.</p>
Existing licensed premises in the vicinity	<p>Cambridge Heath Road same side as premises</p> <ul style="list-style-type: none"> • Takeaway Lemon Spice, 240 Cambridge Heath Road • Wholesaler Bestway Cash & Carry Ltd, 260-278 Cambridge Heath Road <p>Cambridge Heath Road opposite side as premises</p>

	<ul style="list-style-type: none"> • Mini-grocer Shop and Savers, 475-477 Cambridge Heath Road, • Restaurant Al Amin Tandoori Restaurant, 483 Cambridge Heath Road, <p>Hackney Road</p> <ul style="list-style-type: none"> • Takeaway Perfect Fried Chicken, 509 Hackney Road • Restaurant Raizes, 460 Hackney Road,
--	---

9.0 **Assessment and information for the Locality**

9.1 **Appendix 12** contains the Ward Profile of St Peters 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, **234 Cambridge Heath Road**.
- The premises sits on corner of the cross roads – Hackney Road/Bishop’s Way and Cambridge Heath Road. Hackney Road/Bishops Way is a major route through to the East London and Essex suburbs.
- Cambridge Heath road is part of the A107 that runs from Hackney south through Bethnal Green. It is a busy north south route.
- The vicinity is overwhelming commercial, with a smattering of accommodation.

9.3 The character of the locality is predominately commercial:

- The premises are in St Peter’s ward and a ward profile has been downloaded from the Council’s web site.
- St Peter’s Ward has about 7.3% of the Borough’s residents.
- The area has been assessed as:-
 - Around the premises it has a predominately commercial character.

- Away from the main roads, it changes character to more residential
- Opposite the premises are businesses operating in the arches underneath the viaduct carrying trains into Liverpool Street.
- The premises sits at a busy cross roads.
- The street level premises are mainly retail units.
- There is residential accommodation as described.
- There is accommodation catering for homeless single men and women who have support needs on account of problem drinking in the block adjoining the premises.

10.0 Other Sexual Entertainment Venues

10.1 The following premises have applied for Sexual Entertainment Venues under the new licensing Regime

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
White Swan	556 Commercial Road, London, E14 7JD

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 27th November 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

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

- None

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

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

- None

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

- None

13.0 Local Residents

13.1 Local residents living within 50m of the premises were consulted, , please find below a summary of their comments.

- None

14.0 Licensing Authority Recommendations Following Consultation

14.1 As the application has received no valid representations from any consulted parties, the Licensing Officer makes a recommendation to Members to grant this application.

15.0 Summary of Premises and Licence History

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

15.2 The current licence holders are Steven Victor Martin, Victor Martin and Melanie Jane Graham

15.3 The current Designated Premises Supervisor is Melanie Graham.

16.0 Complaints and Enforcement History

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

Date	Complainant	Nature of Complaint
16/09/2014	Local Resident	Complaint of noise of premises. CCTV looked at by PLH believe noise was from people from a nearby hostel.

16.2 The premises has received the following visits by the Local Authority:

Date	Authority (TS/Lic)	Nature of visit
10/02/2015	Licensing	SEV Compliance Visit, all ok.
27/01/2015	Licensing	SEV Compliance Visit, mainly ok, some minor CCTV blind spots.
23/04/2014	Licensing	Standard Licensing Act 2003 visit - however, premises closed upon arrival.

16.3 The premises has been subject to the following enforcement actions:

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

17.0 Policy - Appropriate Number of Sexual Entertainment Venues

- 17.1 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.
- 17.2 The Council has adopted a policy (The Sex Establishments Licensing 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.
- 17.3 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.

18.0 Home Office Guidance

- 18.1 The Home Office issued guidance to local authorities in March 2010 to assist local authorities in carrying out their functions under the Act.
- 18.2 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.
- 18.3 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.

18.4 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.

19.0 Licence Conditions

19.1 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.

19.2 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.

19.3 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.

19.4 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.

19.5 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.

20.0 Sexual Entertainment Venues and Determination

20.1 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?

20.2 A copy of LBTH Sexual Entertainment Venue Policy is produced in **Appendix 15** for Member’s information.

21.0 Legal Comments

21.1 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):

21.2 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.

21.3 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).

21.4 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.

21.5 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.

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

22.0 Finance Comments

22.1 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 expected to cover the cost of administration and compliance.

23.0 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	Copies of the advert and/or flyer used to promote the premise
Appendix 8	LBTH Standard Conditions list
Appendix 9	Additional conditions offered by the applicant
Appendix 10	Code of Conduct for Performers, House Rules, Dancers Welfare Policy and Audition Code of Conduct
Appendix 11	Vicinity Map
Appendix 12	Ward Profile of St Peters
Appendix 13	Copy of Site Notice
Appendix 14	Copy of Press Advert
Appendix 15	Copy of LBTH SEV Policy