

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Committee	5th September 2016	Unrestricted		

Report of : David Tolley Head of Environmental Health & Trading Standards Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Local Government (Miscellaneous Provisions) Act 1982 (as amended) Application for a Renewal of a Sexual Entertainment Venue Licence for Metropolis, 234 Cambridge Heath Road, London E2 9NN Ward affected: St. Peter's
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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 Renewal of 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

Mohshin Ali
020 7364 5498

3.0 Background

- 3.1 This is an application made by Steven Victor Martin, Victor Martin and Melanie Jane Graham for a renewal of 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 Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended). A copy of the existing licence is enclosed as **Appendix 1**. The licence consists of the basic licence, plus additional conditions relevant to that premises only. In addition, the Tower Hamlets Standard SEV Conditions also apply and form part of the licence.

This licence was in force up to: 31st May 2016 or during the time that the licensee(s) is/are the occupier of the premises, whichever is the shorter period, or unless sooner surrendered or revoked.

The hours permitted are:

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

The named management responsible for this premises are:

- Melanie Graham - Manager
- Wendy Kearey
- Michael Antick
- Faye-Marie Lyons

This licence is granted subject to conditions as follows:

1. The Standard Conditions of the London Borough of Tower Hamlets made under paragraph 13 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as revised on 23rd June 2015 and sent to the Licence Holder as part of the

Decision Notice dated 17th July 2015. It is the duty of the licence holder to be aware of and abide by those conditions;

2. The following additional conditions specific to this Premises:

42. The number of persons to be accommodated in the Premises at any one time shall not exceed the following: (a) Ground floor bar – 190 persons at any one time; (b) First and Second floors combined maximum of 80 persons at any one time; and (c) the overall capacity should not exceed 270 persons at any one time, excluding staff.

43. The maximum number of members of the public permitted in the “screened off” segregated area on the ground floor (as shown on the attached plan) shall not exceed 12 at any one time.

44. Notices will be displayed at each exit requesting customers to leave quietly and in an orderly fashion and staff are to ensure that patrons leaving the Premises do so in an orderly manner at all times.

45. The two steel shutters sited at the exit doors shall be in the open position whenever the Premises is open to the public.

46. The inward opening final exit door on the emergency exit route from the First Floor bar shall be locked in the open position whenever the Premises is open to the public.

47. The pavement hatch exit flap should be kept clear and available whenever the Premises is open to the public.

48. Standard Condition 27 is exempt in respect of the Shower Scene (/Car Wash Scenario) on the second floor of the Premises only in so far as audience participation shall be permitted but shall be limited to the use and operation of the toy spray guns which must be of such manufacture so as not to cause any injury or harm to the performers and be tested to the British Standard Kite Mark of Safety.

49. Clear signage shall be displayed forbidding the toy spray guns to be aimed or targeted towards the performers’ genitalia, anus or eyes.

50. Performers must not encourage patrons to spray water at their genitalia or anus.

51. Performers must re-dress and / or have towels at the conclusion of a performance.

3.4 The current renewal application is to permit the premises to operate as a sexual entertainment venue with opening hours as follows:

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

- 3.5 The premises also holds a licence under the Licensing Act 2003. A copy of the existing licence is enclosed for Members' information as **Appendix 2**. The licence was originally granted on 24th August 2005.

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 (On and off sales):

- 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

- 3.6 A copy of the application is enclosed as **Appendix 3**.

- 3.7 Maps of the premises location are available in **Appendix 4**.

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

4.0 **Layout of the Premises**

- 4.1 Layout plan of the premises is available in **Appendix 5**. The premises was visited on Monday 20th June 2016 by a Licensing Officer with one the licence holders and a manager. A checklist of questions was completed and a copy of that checklist used at the meeting is available in **Appendix 6**. The licence holder advised that the premises will be going through structural changes and an application for a variation will be submitted shortly. At the time of writing this report the variation application was received and was at the consultation stage.

The checklist covered the following points:

- The Code of Conduct for performers
- The House Rules
- The Performer Safety Policy
- Retention of performers' personal details
- Details of Door Staff attending each evening

- The venue interior and exterior (for example, whether the interior of the premises is visible from the outside)
- Public access areas and approved access to dressing rooms
- CCTV Coverage
- Functionality of the CCTV
- Advertising, both externally to the premises and online
- Information on tariffs, including both dances and beverages

4.2 In conclusion from the visit, the Licensing Officer was satisfied that all conditions of the licence were met. Management were cooperative, records were kept in working order and there were no concerns.

4.3 Photographs of the premises are available in **Appendix 7**.

5.0 **Adverts and Flyers**

5.1 The applicant has stated on the form that they have “no business cards or flyers” and they “drive billboard around non London Borough of Tower Hamlets Road.

5.2 It was noted that there were no adverts at the exterior of the premises. The premises does however have a website, available at: <http://www.metropolisstripclub.com/> . There is no ‘Over 18’ entry tab.

6.0 **Standard Conditions**

6.1 The Council has adopted Standard Conditions that were revised on 23rd June 2015, which act as default conditions that are attached to all Sexual Entertainment Venue Licences. These are available as part of the licence in **Appendix 1**.

7.0 **Codes of Conduct and Policies**

7.1 The applicant has provided Codes of Conduct and policies as required by the Standard Conditions, see **Appendix 8**, namely:

- Code of Conduct for Performers
- Code of Conduct of Customers
- Dancers’ Welfare Policy

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

8.0 Assessment and information for the vicinity

- 8.1 **Appendix 9** is a map of the Licensing Service's determination of the vicinity around the premises, set at 100meters from the premises. It is noted that there has been no significant changes since the original application.
- 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• Charmeuse Court, Parmiter Street• Bethnal Student Living, Parmiter Street• First floor accommodation above 2 storey premises 3 to 15 Bishop's Way• 2 Bishops Way, 2 storey premises flat 1-10.
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

<p>Access routes to and from premises listed above</p>	<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>
<p>Existing licensed premises in the vicinity</p>	<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, • Café: The Café Chantant, Arch 300, Cambridge Heath Road, London E2 9HA • Chicken shop: Perfect Chicken, 491 Cambridge Heath Road, London E2 9BU • Mini-Market/off licence: Kivre Food Centre, 497- 499 Cambridge Heath Road, London E2 9BU <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 10** contains the Ward Profile of St Peters to provide members with details in relation to the locality of the premise. It should be noted that this is the most up-to-date available, though it dates to 2014.

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

- **Club Enviee (now Flamingos)** 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 11**.
- b) A press advert was placed in the Docklands and East London Advertiser on the Thursday 2nd June 2016 by the Applicant, which again is appended as **Appendix 12**.

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

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 Local residents (Members should note that no written public consultation is required for the renewal process), please find below a summary of their comments.

- None

13.0 Licensing Authority Recommendations Following Consultation

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

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 holders are Steven Victor Martin, Victor Martin and Melanie Jane Graham

14.3 The current Designated Premises Supervisor is Melanie Graham.

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
09/11/2015	Police	Allegation of male assaulted by bouncers at the Metropolis Club on 8 th November 2015. Police on scene. Complaint dealt with by Police.
16/09/2014	Local Resident	Complaint of noise of premises. CCTV looked at by PLH believe noise was from people from a nearby hostel.

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

Date	Authority (TS/Lic)	Nature of visit
20/06/2016	Licensing	SEV renewal application inspection visit. A Licensing Officer met with the licence holder and the manager and found the premises to be compliant with the SEV and the Licensing Act.
02/06/2016	Licensing	SEV notice check, satisfactory
06/11/2015	Licensing, Trading Standards and Police	Licence compliance check, all ok
10/02/2015	Licensing	SEV Compliance Visit, all ok.
27/01/2015	Licensing	SEV Compliance Visit, mainly ok, some minor CCTV blind spots.

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

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 13** 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 The Chief Finance Officer has been consulted on this report and has no additional comments to make.

22.0 Appendices

Appendix 1	A copy of the existing SEV Licence (including the LBTH Standard Conditions)
Appendix 2	A copy of the existing Premises Licence
Appendix 3	A copy of the application
Appendix 4	Maps of the premises showing the site location
Appendix 5	Location plan and internal layout plans of the premises
Appendix 6	Compliance Visit Checklist
Appendix 7	Photographs of the premises
Appendix 8	Code of Conduct for Performers, Code of Conduct for Customers (House Rules) and Dancers Welfare Policy
Appendix 9	Vicinity Map
Appendix 10	Ward Profile of St Peters
Appendix 11	Copy of Site Notice
Appendix 12	Copy of Press Advert
Appendix 13	Copy of LBTH SEV Policy