

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Committee	7 September 2016	Unrestricted		

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 renewal of a Sexual Entertainment Venue Licence for Club Enviee (Flamingos), 30 Alie Street, London, E1 8DA Ward affected: Whitechapel
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1.0 Summary

Applicants: Name and	City Traders London Limited Club Enviee (now Flamingos, formally Charlie's Angels)
Address of Premises:	30 Alie Street London E1 8DA
Licence sought:	Local Government (Miscellaneous Provisions) Act 1982 (as amended) Application for a renewal of a Sexual Entertainment Venue Licence
Objectors:	Local Residents

2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and then adjudicate 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 City Traders London Limited 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 Club Enviee (now Flamingos, formally Charlie's Angels) – 30 Alie Street, London, E1 8DA.
- 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 application was initially refused by the Tower Hamlets Licensing Committee. The Applicants appealed this decision. The appeal was granted by District Judge (Magistrates Court) Alison Rose on 1st February 2016. The appeal decision is exhibited for Members' information as **Appendix 14**.
- 3.4 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 for 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 11:00hrs to 04:00hrs (the following day)

The named management responsible for this premises as quoted on the SEV licence are:

- Demir Laho – Designated Premises Supervisor and General Manager
- Antonio Pomarico – Floor Manager

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;
- 3.5 Members may wish to note that at the point this report was composed, neither Demir Laho nor Antonio Pomarico continue to be employed at the venue. See Section 15 of this report for more information.
- 3.6 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 18:30hrs to 04:00hrs (the following day)
- 3.7 The premises also holds a licence under the Licensing Act 2003 that. A copy of the existing licence is enclosed for Members' information as **Appendix 2**. The licence was granted on 10th March 2006, varied on 8th September 2009 and subject to a minor variation in relation to the plans on 8th January 2014.

The licence granted the following licensable activities:

The sale by retail of alcohol:

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

Regulated Entertainment consisting of:

Recorded Music:

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

Performances of dance, provision of facilities for dancing:

- Monday to Sunday from 11:00hrs to 03:30hrs (the following day)
- On New Year's Eve all licensable activities may continue from the end of normal permitted hours to the commencement of permitted hours on the following day.

The opening hours of the premises:

- Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday from 11:00 hours to 04:00 hours the following day.
 - On New Year's Eve all licensable activities may continue from the end of normal permitted hours to the commencement of permitted hours on the following day.
- 3.8 A copy of the renewal application is enclosed as **Appendix 3**.

- 3.9 Maps of the premises location are available in **Appendix 4**.
- 3.10 Members should note that the two regimes run concurrently therefore the premises licence granted under the Licensing Act 2003 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 5**. The premises was visited on 28th June 2016, attended by Kathy Driver, Principal Licensing Officer and the premises' Manager of Operations. The layout of the premises was confirmed to be the same as contained in the application. In addition, a checklist of questions was completed. A copy of the checklist completed during that visit is available in **Appendix 6**.

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 that visit, the Licensing Officer was fully satisfied that all conditions of the licence were met. Management were fully cooperative, records were kept in good working order. However, the premises was closed to the public at the time of inspection and had been shut for some weeks; at the time of inspection there was no indication of when the venue would reopen.
- 4.3 A photograph of the exterior of the premises is available in **Appendix 7**.

5.0 **Adverts and Flyers**

- 5.1 No adverts or flyers used to promote the premises have been included in the application; however, Management informed the Licensing Officer at the inspection that clarification was required from the Licensing Authority on how they could advertise as they were concerned about breaching the Standard Conditions.
- 5.2 The premises has a website: <http://clubenviee.com/>. It is noted that there is an 'Over 18' entry tab.

5.3 There is no external advertising at the premises.

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 visits, the Code of Conduct for Customers was available throughout the premises, at the main bar and on tables. The Code of Conduct for Performer and the Dancers' Welfare Policy was also available.

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 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	The business is over two floors. It is understood that there are residential abodes above the premises, used by some of the dancers.
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	<p>The locality is a mix of residential & business/office space, though the area has become increasingly residential with the opening of Goodmans Fields east of the venue which had added hundreds of residential properties to the area.</p> <p>In the locality (wider ranging) Aldgate Place, north east of the venue is currently under construction but not yet inhabited.</p> <p>Aside from the new developments, residential accommodation is mainly situated West Tenter St; North Tenter St; East Tenter St; St Mark St and Scarborough Street</p> <p><u>Alie Street</u></p> <ul style="list-style-type: none"> • Flats 1-11,22 Alie Street • Flats 1-11, 57 Alie Street • 1-23 Lattice House • 1-6 Network House • Altitude Point, 71 Alie Street (large high-rise block of apartments) • 1-59 Sterling Mansions, 75 Lemman Street • No. 65 Lemman St houses 617 rooms for student accommodation
Schools	English Martyrs Catholic Primary School, St Mark St
Premises used by children and vulnerable persons	Job Centre, 83-85 Mansell Street with entrance at West Tenter Street
Youth community and leisure centres	<p>Anytime fitness, 18 Alie Street</p> <p>David Lloyd fitness Centre, 1 Alie Street</p> <p>Premier Inn, 66 Alie Street</p> <p>Grange Tower Hotel, 45 Prescott Street</p>
Religious	St Georges German Lutheran Church, 55 Alie Street

centres and public places of worship	Church of English Martyrs, Prescott Street
Access routes to and from premises listed above	<p>The premises sits on the southern side of Alie Street, Alie Street joins Mansell Street on western end and Lemman Street on east. These routes are main transport routes to and from Central London.</p> <p>There are a number of bus routes, as well as night buses.</p> <p>Aldgate East Tube Station is a 3 minute walk away with Aldgate station and Tower Hill stations also nearby</p>
Existing licensed premises in the vicinity	<p><u>Leman Street</u> Oliver Conquest, 70 Leman Street, E1 8EU</p> <p>Sainsbury, Unit 2, Southwest Block, Goodman's Fields, Leman Street, E1 8EJ</p> <p>The Old Dispensary, 19a Leman Street, E1 8EN</p> <p>Black Horse PH, 40 Leman St, E1 8EU</p> <p>Whites, 32-38 Leman Street E1 8EW</p> <p>Leman Street Tavern, 31 Leman Street, E1 8PT</p> <p><u>Alie Street</u> White Swan, 21 Alie Street, E1 8DA</p> <p>Thyme (Premier Inn), Goodmans Fields, Alie Street, E1 8DE</p> <p><u>St Mark Street</u> Halal Restaurant, 2 St Mark Street, E1 8DJ</p> <p>City Food Store, 8 St Mark St, E1 8DJ</p> <p><u>Mansell Street</u> Sainsbury, 27 Mansell Street, E1 8AA</p>

9.0 **Assessment and information for the Locality**

9.1 **Appendix 10** contains the Ward Profile of Shadwell 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, 556 Commercial Road.
- The premises sits on the junction of Commercial Road (the A13) and Butcher Row (leading southwards to The Highway (the A1203))
- The vicinity is a mixture of residential, commercial and transport infrastructure

9.3 The character of the locality:

- The premises is within Shadwell Ward
- The ward has been assessed to have around 5% of the Borough’s residents.
- The Wards profiles downloaded from the Council’s website are appended.

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 East End Life on the Thursday 9th 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
- 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

12.7 Local residents (Members should note that no written public consultation is required for the renewal process) made a number of written representations. These are available in **Annex 13**. Copies of these have been supplied to the Applicant's legal representative with all personal details redacted. Please find below a summary of their comments:

- On-going issues with waste from the premises
- Noise from customers on egress
- Noise from mini cabs outside the venue
- Anti-social behaviour from patrons of the venue, including harassment, nuisance, urination, vomiting and verbal abuse
- The proximity to a growing number of residential premises and a school and the resulting changing demographics of the area

13.0 Licensing Authority Recommendations Following Consultation

13.1 The application has received representation from local residents. The original application for the SEV was refused by the Licensing Committee as it believed that the true management of the premises was not correctly demonstrated by the application, that a gentleman named Abdul Ali (otherwise known as Ali Jacko) was intimately involved in the running of the business; he had attended the Hearing and gave instruction the venue's legal representative throughout that Hearing.

That decision was appealed, though the premises was permitted to continue trading under a waiver authorised by the Council. The appeal was granted by the Magistrates Court. The granting of the SEV Licence by the Magistrates Court was based on the premises demonstrating at Court, a high level of management.

Members should also note that the directorship of City Traders London Limited has also changed since, as Abdul Malik has left the company. Members should also take note that Mr Malik remains the premises licence holder; no transfer had been received at the point that this report was compiled. Members should carefully consider whether or not the premises does have an appropriate management system in place, taking into account the transient nature of the premises' employees since the granting of the SEV licence, see Section 14.2 for further information.

Members may also wish to note that this venue is the most complained about SEV premises. The Licensing Authority therefore has genuine ongoing concerns over the management of the venue.

14.0 Summary of Premises and Licence History

14.1 The current premises licence has been in place since 10th March 2006. It was varied on 8th September 2009 and again via minor variation in regards to the layout, as of 8th January 2014. A copy of the current licence is available in **Appendix 1**. Details of the company history from Companies House are available in **Appendix 15**.

14.2 The premises licence has however, seen a number of amendments over since the SEV licence was granted:

Date	Application
03/12/2015	Vary DPS for Vito Marino (Mr Marino subsequently left the premises)
14/02/2016	Vary DPS for Helen Williams. The application was eventually withdrawn after the Applicant's legal agent was advised that she held relevant offices and representation would be made by the Police.
23/02/2016	Vary DPS for Demir Laho
07/04/2016	Vary DPS for Antonio Pomarico
08/07/2016	Application for removal of DPS by Antonio Pomarico
12/07/2016	Vary DPS Application for Ajay Mohan. The Police had intended to make representation against the application as the Applicant is well known to the Police and had a number of offences, however, those offences had been 'NFAed' (no further action) therefore there were insufficient grounds.

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
21/08/2014	LBTH CCTV – via local resident	Complaint of noise from patrons arriving and leaving from the premises and from taxis running their engines outside.

18/02/2015	Local Resident	Complaint of noise from the premises. Noise from bottles being emptied. Public sex between a patron and a staff member. Public urination by patrons.
09/05/2015	Public	Complaint of litter in the area from the premises. Complainant referred to Commercial Waste Enforcement.
19/05/2015	Public	Complaint of waste in the area from the premises. Complainant referred to Commercial Waste Enforcement.
28/07/2015	Public	Caller advises that the owners of the club have gone into liquidation. PHL is an individual, no details with Insolvency Service, no further action.
28/07/2015	Public	Complaint that the premises licence holder is not in control of the venue, that the owner is Ali Jacko and that Abdul Malik is a front for the business. Tells us that the premises is associated with drugs and prostitution. Matter referred to Police.
03/08/2015	Public	Complaint of bad management and of CCTV of a customer being given to the Daily Mail newspaper. Advised that it would be for the customer to make a complaint to the Information Commissioner.
13/08/2015	Public	Complaint that at 01:00hrs saw a male slumped drunk in St Marks Street. Ali Jacko and PLH standing near male with Mr Jacko filming the man on the ground. The complainant put male in recovery position and called 999 for an ambulance and also called 101 to the Police. Complaint stated that the doormen, owner and PLH had no knowledge of first aid. Complaint recorded, no further action.

26/11/2015	Public	<p>Complaint of ongoing ASB in the area being directly attributed to the premises.</p> <p>Matter referred to Community Safety, complainant received visits from Caroline Watts (Case Investigation Officer) and from the Police SNT.</p>
20/01/2016	Public	<p>Complaint of fly-tipping by the premises.</p> <p>Matter referred to Commercial Waste Enforcement.</p>
01/02/2016	Public	<p>Complainant wishes to initiate a review of the premises.</p> <p>Complainant referred to Police and Community Safety. Resident did not initiate review</p>
17/02/2016	Public	<p>Informing the Authority that the current Management had left the premises.</p> <p>Advised that we had been informed.</p>
08/06/2016	Public	<p>Complaint that the DPS has departed the premises as of 31/05/2016. The premises has a sign saying "Closed for Refurbishment".</p> <p>Advised that if the premises is closed, this is the correct course of action for the licence holder.</p>
04/07/2016	Public	<p>Complaint that Ali Jacko is running the club and taking regular payments.</p>
04/07/2016	Anon Complaint	<p>From current DPS who wishes to remove himself from the licence.</p> <p>S.41 Form provided for removal of DPS.</p>
12/07/2016	Public	<p>Caller says that Abdul Malik, the director of the SEV licence holder, wants to resign. Tells us that Maria Guida of Fletcher Day Solicitors is under direct instruction from Ali Jacko.</p>

12/07/2016	Public	Ongoing complaint of waste at the rear of the premises. Metter referred to Commercial Waste Enforcement.
20/07/2016	Public	Complaint that the premises has again changed his name. Complainant advised that there is no offence or illegality in changing the name of a premises.

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

Date	Authority (TS/Lic)	Nature of visit
08/12/2014	Licensing	Notice check, all ok
13/11/2015	Licensing and Trading Standards	Overt compliance visit with Police and TS. Licensing Officer (LO) met with Vito Marino who advised had commenced employment the previous day. He advised that he had taken on the directorship of City Traders London Limited and that the Authority would be receiving applications to vary the Designated Premises Supervisor and Premises Licence. Mr Marino gave a tour of the building, showing the areas where dances take place, the locations of the toilets, the rear exit and the entrance to the performers' changing rooms. At rear exit, LO noticed that the premises did have a lockable bin on the street, which was unlocked and overflowing with rubbish. LO advised Mr Marino that this may not be acceptable to either the residents or Environmental Health. LO went through the LBTH Standard Conditions. Concerns raised that the Authority had not received notification that the current licence holder or himself to advise that the business was changing hands. Mr Marino advised Ali JACKO had approached him and asked him to work for the premises as he knew that he had

		<p>relevant experience in the industry as he had worked similarly for 'Secrets' in Hammersmith. Mr Marino advised that he did not have an employment contract and had no written mandate from his solicitor to show that the company had been transferred into his name.</p> <p>Going through the Standard Conditions, the LO advised disappointed to have found no changes to the exterior of the building. The illuminated sign advertising 'glamorous topless stage shows' still outside, the logo of the premises of a naked woman on a pole silhouette was still there, despite me having made it clear that it is not in keeping with the conditions. Mr Marino said they would be removed in the next three weeks. Concern that the premises had been operating under a waiver since July and had no effort at all to bring the exterior of the premises in line. It remained very obvious from the outside that the premises was a sexual entertainment venue.</p> <p>LO asked to see the Refusals Book. Not a single incident had been recorded since 22nd December 2014. However, there was an invoice for every week this year from Public Protection Security Limited addressed to Ali JACKO at the premises. The latest statement was for 1st November 2015. It showed that the premises only ever had two door staff. LO advised that the premises licence under the Licensing Act 2003 requires only two before 20:00hrs and then at least four during licenced hours. Therefore that was a breach of the licence. PC Perry advised would make a note and issue a Section 19 Closure Notice for the lack of incidence reporting and the understaffing of security. It was also noted Abdul Malik, the current Premises Licence Holder and Designated Premises Supervisor had signed in the Incident Book with the security staff, having started work that day at 16:00hrs, however, he was not on the premises. .</p> <p>Whilst in the reception area, LO noted that</p>
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		<p>the security staff did not move from the front door and made no observations of the dance floor or performers working with customers in the club.</p> <p>Mr Marino was unable to show Codes of Conducts signed by a performer. He was able to show me details of the dancers and their real names, with copies of ID. However, there was no evidence of a right to work and an inconsistency with passport photocopies and driving licences.</p> <p>LO asked Mr MARINO to show me how the CCTV worked. After some time, Mr MARINO admitted that he did not know how it worked. He made a phone call for advice, but was unable to operate it following the call, advising that the password he had just been given did not appear to work.</p> <p>LO noticed on the desk in the office that there was unopened mail franked for 9th November 2015. There were three letters addressed to Abdul ALI of 3 Vine Cottages, Sidney Square, London, E1 3EP and one letter addressed to JKO Holdings Limited (the Director of which is Abdul ALI), trading as Charlie's Angels, 30 Alie Street, London, E1 8DA.</p> <p>PC Perry issued Mr MARINO with the Notice with various breaches under the Licensing Act 2003.</p>
24/02/2016	Health and Safety	Smoking enforcement visit in regards to compliance of the external area. No further action taken.
14/04/2016	Licensing	Visit with the Police to meet new DPS Antonio Pomarico. Full licence check for both premises and SEV, all ok.
09/06/2016	Licensing	SEV Notice check, all ok
28/06/2016	Licensing	SEV compliance visit. Licensing Officer Licensing Officer was fully satisfied that all conditions of the licence were met. Management were fully cooperative, records were kept in good working order.

		However, the premises was closed to the public at the time of inspection and had been shut for some weeks; at the time of inspection there was no indication of when the venue would reopen.
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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 16** 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 renewal 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 Shadwell
Appendix 11	Copy of Site Notice
Appendix 12	Copy of Press Advert
Appendix 13	Representations of local residents and community groups
Appendix 14	Appeal Decision of Magistrates Court
Appendix 15	Companies House – City Traders London Limited
Appendix 16	Copy of LBTH SEV Policy