

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Committee</b>	09 September 2021	<b>Unclassified</b>		

Report of : <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Kathy Driver</b> <b>Principal Licensing Officer</b>	Title: <b>Local Government (Miscellaneous Provisions) Act 1982 (as amended) Application for a renewal of a Sexual Entertainment Venue Licence for Whites Gentleman's Club, 32 - 38 Leman Street, London E1 8EW</b>  Ward affected: <b>Whitechapel</b>
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## 1.0 Summary

Applicant: Name and Address of Premises:	<b>Whites Venues Ltd.</b> <b>Whites Gentleman's Club</b> <b>32-38 Leman Street</b> <b>London</b> <b>E1 8EW</b>
Licence sought:	<b>Local Government (Miscellaneous Provisions) Act 1982 (as amended)</b> <b>Application for a renewal of a Sexual Entertainment Venue Licence for the period from 1<sup>st</sup> June 2021 to 31<sup>st</sup> May 2022</b>
Objectors:	<b>Licensing Authority</b>

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and objections 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
Tower Hamlets S.E.V Policy		<b>Kathy Driver</b> <b>020 7364 5171</b>

### 3.0 Background

- 3.1 This is an application made by Whites Venues Ltd. for a renewal of a Sexual Entertainment Venue licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 for Whites Gentleman's Club, 32-38 Leman Street, London E1 8EW.
- 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 premise was last granted a Sexual Entertainment Venue Licence under the Local Government (Miscellaneous Provisions) Act 1982 (as amended) on 5<sup>th</sup> October 2018 which expired on 31<sup>st</sup> May 2019.

The renewal application for 2019 was made on 9<sup>th</sup> May 2019 of which the Licensing Authority made representation against the renewal. The matter was heard at a Licensing Committee on 3<sup>rd</sup> September 2019. The decision was to refuse the renewal, I attach a copy of the minutes as **Appendix 1**.

Following this decision the applicants have appealed, however due to the coronavirus pandemic the matter has yet to be heard. Until the appeal is determined, the licence is deemed to remain in force. In light of this appeal outstanding the applicants have submitted the renewal for the period 1<sup>st</sup> June 2020 to 31<sup>st</sup> May 2021 and 1<sup>st</sup> June 2021 to 31<sup>st</sup> May 2022. Members will be making decisions on both 2020 renewal and 2021.

- 3.4 This renewal application for 2021 is to permit the premises to operate as a sexual entertainment venue with opening hours as follows:
- Monday to Saturday from 19:30 hours to 04:00hrs (the following day)

See **Appendix 2**

- 3.5 The licence consists of conditions and hours relevant to the individual premises. In addition, the Tower Hamlets Standard SEV Conditions also apply. A copy of the last granted licence and the standard conditions are enclosed as **Appendix 3** and **4** respectively.

The hours currently permitted are:

- Monday to Saturday from 19:30hrs to 04:00hrs (the following day)

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

- John Ronald Gold – Manager
- Alan Southwick – Duty 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 23<sup>rd</sup> June 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. Without prejudice to Standard Condition 5, at least six SIA registered door supervisors shall constantly monitor the striptease entertainment in the Premises and ensure that all relevant conditions of this Licence are being complied with.

43. The relevant tariff must be drawn to the attention of each customer before they pay any fee or charge.

44. No charge may be made to any customer for any drink provided to a performer, hostess or companion unless a customer has expressly ordered it having been informed of the cost.

45. No charge shall be made to any customer for hire or use of any room, or reserved area within the Premises, unless the customer has first been made aware of the cost and signed an order from consenting for the charge to be made. The order form shall be counter-signed by the manager of the Premises. The order form shall state in a legible form:

- (a) the date and time of signature;
- (b) the room, or area to be used or hired by the customer;
- (c) the date, time and duration of the agreed hire or use of the room, or area;
- (d) the details as to what, if any, sexual or other entertainment will be provided and by how many performers;
- (e) the names of any agreed performers;
- (f) the total agreed price and manner of payment;
- (g) the full name of the manager; and
- (h) the full name of the customer.

The order form must be filled in and signed, and payment for the room or area taken, in the designated area shown on the attached plan. The designated area must be well-lit and covered by a CCTV camera which accurately records the transaction and the time and date of the footage. After payment is taken, the

customer shall be provided with a receipt and the Licensee shall retain a copy.

- 3.6 The premises also hold a licence under the Licensing Act 2003. A copy of the existing Premises Licence is enclosed as **Appendix 5**. The licence was originally granted on 13<sup>th</sup> March 2006 the current licence holder, Whites Venues Ltd, has been in place since 7<sup>th</sup> August 2012 and the DPS, Mr Mohammed Yassin Baboo, since 8<sup>th</sup> February 2019.

The licence granted the following licensable activities and opening hours:

**The sale by retail of alcohol:**

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

**Regulated Entertainment consisting of Recorded Music, performances of dance, Provision of facilities for dancing:**

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

**Late Night Refreshment:**

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)

**The opening hours of the premises:**

- Monday to Saturday from 12:00hrs (midday) to 04:00hrs (the following day)
- Note: However, New Year's Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 23:00hrs on New Year's Eve and 11:00hrs on New Year's Day.

- 3.7 The renewal applicant is Whites Venues Limited. The company is registered on Companies House as a dormant company. The applicant has provided details of the business structure. See **Appendix 6**. Below are the recorded directors as per Companies House: AGS Castings Limited Directors are; Mohammed Yassin Baboo and David Surlui  
AGS Investment Group Ltd Director is; Mohammed Yassin Baboo. This is also a dormant company.

- 3.8 Maps of the premises location are available in **Appendix 7**.

3.9 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 8**.

4.2 Photograph(s) of the exterior of the premises is available in **Appendix 9**.

#### 5.0 **Adverts and Flyers**

5.1 The premises has two external light boxes either side of the main doors displaying the opening times only. On our visit to the premises the public notice was in place inside the box. This can be seen in **Appendix 9**.

5.2 Copies of the adverts and flyers used to promote the premises are included at **Appendix 10**. The application form states *“flyers are distributed to drivers of private hire vehicles and hackney carriage licence holders only. These flyers provide information regarding introductory fees only. The flyers are not made available to members of the public”*.

It should be noted the flyers include a link to a website which is no longer accessible and therefore may not be current.

5.3 The premises also have a website: [www.clubwhiteslondon.co.uk](http://www.clubwhiteslondon.co.uk) \_There is no ‘Over 18’ entry tab. The website has links to Facebook, Instagram and Twitter, at the time of writing this report those links were not working. [www.clubwhites.co.uk](http://www.clubwhites.co.uk) as referred to in flyers is not accessible.

#### 6.0 **Standard Conditions**

6.1 The Council has adopted Standard Conditions that were revised on 23<sup>rd</sup> 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 3**.

#### 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 11**, namely:

- Code of Conduct for Dancers and Performers

- Dancers and Performers Welfare Policy
- Code of Conduct of Customers

7.2 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.

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

## 8.0 Assessment and information for the vicinity

8.1 **Appendix 12** is a map of the Licensing Service’s determination of the vicinity around the premises, set at 100 metres 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.

<p>Residential accommodation and commercial use</p>	<p>Commercial office space is situated directly above the premises. Including large office block next door.</p> <p>The locality is a mix of residential &amp; business/office space.</p> <p>New developments at Goodmans Fields include residential and commercial use, residential accommodation is also situated West Tenter St; North Tenter St; East Tenter St; St Mark St and Scarborough Street</p> <p><u>Buckle St/Leman Street</u> : Aldgate Place is 463 residential premises consisting of 1,2,3, and 4 bedroomed apartments</p> <p>18 floor Commercial Building at 1 Braham Street</p> <p><u>Alie Street</u> 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 (27 story block of apartments with 235 properties)</p> <p>No. 65 Leman St houses 617 rooms for student</p>
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	accommodation.
Schools	English Martyrs Catholic Primary School, St Mark St, E1 8DJ
Premises used by children and vulnerable persons	Job Centre, 83-85 Mansell Street, E1 8AP (with entrance at West Tenter Street)
Youth community and leisure centres	Anytime fitness, 18 Alie Street, E1 8DE David Lloyd Fitness Centre, 1 Alie Street, E1 8DE
Religious centres and public places of worship	Church of English Martyrs, 30 Prescott Street, E1 8BB St Georges German Lutheran Church, 55 Alie Street, E1 8EB
Access routes to and from premises listed above	The premises sit on the west side of Lemman Street (A1202), busy access road to the City.  There are a number of bus routes, as well as night buses.  Aldgate East Tube Station is a 2 minute walk away with Aldgate station and Tower Hill stations also nearby
Existing licensed premises in the vicinity	<u>Leman Street</u>  <b>Public House:</b> Lemman Street Tavern, Unit 3 North West Block, Goodmans Fields, 31 Lemman Street, London E1 8PT (addition).  <b>Public House:</b> Oliver Conquest, 70 Lemman Street, E1 8EU  <b>Supermarket:</b> Sainsbury, Unit 2, Southwest Block, Goodman's Fields, Lemman Street, E1 8EJ  <b>Restaurant and Public House:</b> The Old Dispensary, 19a Lemman Street, E1 8EN  <b>Public House:</b> Black Horse PH, 40 Lemman St, E1 8EU  <b>Restaurant &amp; bar:</b> Lemman Lock 15 Lemman Street

	<p><b>Restaurant:</b> Pizza Union, 29 Leman Street</p> <p><u>Alie Street</u>  <b>Public House:</b> White Swan, 21 Alie Street, E1 8DA</p> <p><b>Hotel:</b> Thyme (Premier Inn), Goodmans Fields, Alie Street, E1 8DE</p> <p><b>Restaurant:</b>  Pilpel, 60 Alie Street, E1 8PX</p> <p><b>SEV Premises: Flamingos</b>, 30 Alie St, E1 8DA</p> <p><u>St Mark Street</u>  <b>Restaurant:</b> Halal Restaurant, 2 St Mark Street, E1 8DJ</p> <p><u>Mansell Street</u>  <b>Supermarket:</b> Sainsbury, 27 Mansell Street, E1 8AA</p>
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## 9.0 Assessment and information for the Locality

9.1 **Appendix 13** contains the Ward Profile of Whitechapel produced by Corporate Research Unit in May 2014 to provide members with details in relation to the locality of the premise. It should be noted that though this was produced in 2014 it is the most up-to-date available.

9.2 What is the “relevant locality”:

- The relevant locality was assessed as being the being the Ward area in which the premises is situated.
- The premises sits on the A1202 (Leman Street) which junctions with Commercial Road and Whitechapel High Street which are red routes and sit on one of the main routes into Central London and out to the East.
- The locality is a mix of commercial and residential accommodation



### 9.3 The “character” of the locality:

- The premises is in Whitechapel Ward.
- The Ward Profiles downloaded from the Council's website are appended.
- The Ward abuts the City of London. The area is mixed residential/commercial and has around 5.8% of Borough's resident population.

### 10.0 Other Sexual Entertainment Venues

10.1 The following premises are licensed as Sexual Entertainment Venues.

- **Flamingos**                      30 Alie Street, London, E1 8DA
- **Metropolis**                      234 Cambridge Heath Road, London, E2 9NN
- **Nags Head**                      17-19 Whitechapel Road, London, E1 1DU
- **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 14**.

b) A press advert was placed in the Docklands and East London Advertiser on 3<sup>rd</sup> June 2021 by the Applicant, which is appended as **Appendix 15**.

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, No comments were received.

12.2 The Fire Brigade were consulted. No comments were received.

12.3 The Council expects the premises to have planning consent for the intended use and hours of operation, or otherwise have lawful planning status before making an application. Building Control were consulted. No comments were received.

12.4 Health and Safety were consulted, No comments were received.

12.5 Ward Councillors were consulted. No comments were received.

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

- the length of the delay;
- the amount of time that the applicant has to consider the representation before the hearing date;
- if other representations have been received before the deadline.

## 13.0 Representations

13.1 No representations were received by local residents or businesses.

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

13.3 There have been representations by the Licensing Authority. Please see **Appendix 16**.

## 14.0 Complaints and Enforcement History

14.1 The premises has received the following complaints from the period from September 2019 to date.

Date	Complainant	Nature of Complaint
19/2/2020	Member of public	Allegations of; employment infringements; lack of documentation of wages for employees; encouragement of customers to consume excessive alcohol.

14.2 The premises has received the following visits by the Local Authority from the period from September 2019 to date.

Date	Authority (TS/Lic)	Nature of visit
16/06/2020	Licensing	SEV public notice check.
15/06/2021	Licensing	SEV public notice check.

14.3 The premises has been subject to the following enforcement actions from the period from September 2019 to date.

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

#### 15.0 Policy - Appropriate Number of Sexual Entertainment Venues

15.1 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.

15.2 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.

15.3 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.

## **16.0 Home Office Guidance**

- 16.1 The Home Office issued guidance to local authorities in March 2010 to assist local authorities in carrying out their functions under the Act.
- 16.2 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.
- 16.3 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.
- 16.4 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.

## **17.0 Licence Conditions**

- 17.1 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.
- 17.2 The Council has produced standard conditions under paragraph 13, see 6.1, they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.
- 17.3 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 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.

17.4 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.

17.5 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.

## 18.0 **Sexual Entertainment Venues and Determination**

18.1 Members should consider the relevant legislation, the Council's SEV Policy and Standard Conditions (see **Appendix 17** and **Appendix 4** respectively).

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

## 19.0 **Legal Comments**

19.1 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')):

19.2 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 the grant or renewal of a licence for the premises within the twelve months preceding the date of the application and the refusal has not been reversed on appeal.

19.3 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).

19.4 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.

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

19.6 The Council's legal adviser will give advice at the Hearing.

## 20.0 Finance Comments

20.1 There are no direct financial implications of the recommendation in this report.

## 21.0 Appendices

<b>Appendix 1</b>	Licensing Committee decision of 3rd September 2019
<b>Appendix 2</b>	Renewal application
<b>Appendix 3</b>	A copy of the most current SEV Licence
<b>Appendix 4</b>	LBTH standard conditions relating to SEV's
<b>Appendix 5</b>	Premises Licence
<b>Appendix 6</b>	Company Business Structure
<b>Appendix 7</b>	Maps of the premises showing the site location
<b>Appendix 8</b>	Internal layout plans of the premises
<b>Appendix 9</b>	Photographs of the premises including public notice
<b>Appendix 10</b>	Copies of the adverts and flyers used to promote the premise
<b>Appendix 11</b>	Code of Conduct for Performers, Code of Conduct for Customers (House Rules) and Dancers Welfare Policy
<b>Appendix 12</b>	Vicinity Map
<b>Appendix 13</b>	Ward Profile
<b>Appendix 14</b>	Copy of Site Notice
<b>Appendix 15</b>	Copy of Press Advert
<b>Appendix 16</b>	Representation by Licensing Authority
<b>Appendix 17</b>	Copy of LBTH SEV Policy