

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Committee	26 September 22	Unclassified		

Report of : David Tolley Head of Environmental Health & Trading Standards Originating Officer: Kathy Driver Principal Licensing Officer	Title: Local Government (Miscellaneous Provisions) Act 1982 Application for a new Sexual Entertainment Venue Licence for Club Oops, 30 Alie Street, London, E1 8DA Ward affected: Whitechapel
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1.0 Summary

Applicants: **Santosh Nair**
 Name and **Club Oops**
 Address of Premises: **30 Alie Street**
London
E1 8DA

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

Objectors: **Licensing Authority**

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
 Tower Hamlets SEV Policy

Kathy Driver
 020 7364 5171

3.0 Background

- 3.1 This is an application made by Santosh Nair for a new Sexual Entertainment Venue (SEV) licence under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) for Club Oops, 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. An SEV 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 has operated as an SEV since March 2016. Mr. Santosh Nair has operated the SEV premises since 30th June 2016 under City Traders London Limited and more recently as an individual licensee.
- 3.4 Mr. Santosh Nair previously held an SEV licence granted on 25th June 2021. This licence expired on 31st May 2022. A copy is attached at **Appendix 1**. The Council’s standard conditions applied to the licence and are attached at **Appendix 2**.
- 3.5 The licence expired prior to a renewal application being made. That application was received by the Council on 1st June 2022 at 19:26 hrs. The effect of the failure to renew before expiry meant that the licence expired on 31st May 2022 and a new licence application was thus required..
- 3.6 A new licence application was made on 22nd June 2022. This is attached at **Appendix 3** and supporting documents, **Appendix 4**.

The hours applied for are:

- Monday to Sunday from 11:00 hrs to 04:00hrs (the following day)

(These hours are duplicated from the expired licence)

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

- Mr Santosh Nair – owner
- Mr. Wai Ying Nick Chan – General Manager

The applicant has offered the standard conditions as were attached to the lapsed licence in **Appendix 1 and 2**.

Members should also note DBS checks were received of Santosh Nair dated 21st June 2022 and Mr. Nicky Chan dated 9th June 2022. These are clear of any convictions, cautions, warnings.

- 3.7 The premises also hold a licence under the Licensing Act 2003. A copy of the existing licence is enclosed for Members' information as **Appendix 5**. The licence was granted on 10th March 2006. A transfer was made on 1st December 2016 to Santosh Nair. The Designated Premises Supervisor is Wai Ying Nicky Chan, which post has been held since 28th May 2020.

The licence permits 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, Performances of dance:

- 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 to 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 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.

3.9 Maps of the premises' location are available in **Appendix 6**.

4.0 **Layout of the Premises**

- 4.1 A layout plan of the premises is available in **Appendix 7**.

4.2 A photograph of the exterior of the premises is available in **Appendix 8**.

5.0 **Adverts and Flyers**

5.1 The premises has no advertising outside the premises other than its club name. It is unclear from the application as to whether the premises uses flyers/advertisements to promote the premises. There is no evidence of website linked to the venue.

5.2 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. These apply as default conditions that are attached to all SEV licences. These are given in **Appendix 2**.

7.0 **Codes of Conduct and Policies**

7.1 The Applicant has provided Codes of Conduct and policies as required by the Standard Conditions. These are attached at **Appendix 9**, and are the:

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

7.2 Members have discretion to modify the standard conditions or add appropriate conditions, if the application is granted.

8.0 **Assessment and information for the vicinity**

8.1 **Appendix 10** 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 the vicinity:

Residential accommodation	<p>The business is over two floors. It is unclear if residential is above.</p> <p>The locality is a mix of residential & business/office space.</p> <p>The vicinity is mix of office buildings and residential accommodation.</p> <p>Residential accommodation is situated at, West Tenter St; North Tenter St; East Tenter St; St Mark St; Scarborough Street Alie Street; Flats 1-11,22 Alie Street Flats 1-11, 57 Alie Street 1-23 Lattice House 1-6 Network House</p> <p>Leman Street; 1-59 Sterling Mansions, 75 Leman Street No. 65 Leman St houses 617 rooms for student accommodation (only partially within 100m boundary) Goodmans Fields Development, Leman Street Cashmere House,(Part of Goodmans Field development)</p>
Schools	<p>English Martyrs Catholic Primary School, St Mark St</p> <p>Royal College of Pathology, 6-8 Alie Street Global City of London College, 36 Alie Street</p>
Premises used by children and vulnerable persons	<p>Job Centre, 83-85 Mansell Street with entrance at West Tenter Street</p>
Youth community and leisure centres	<p>Anytime fitness, 18 Alie Street David Lloyd fitness centre, 1 Alie Street Premier Inn, 66 Alie Street Rena health & leisure, Leonardo Royal London, 45 Prescott Street</p>
Religious centres and public places of worship	<p>St Georges German Lutheran Church, 55 Alie Street Church of English Martyrs, Prescott Street</p>
Access routes to and from	<p>The premises sits on the southern side of Alie Street, Alie Street joins Mansell Street on western end and Leman</p>

<p>premises listed above</p>	<p>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>
<p>Existing licensed premises in the vicinity</p>	<p>Leman Street: Oliver Conquest, 70 Leman Street, E1 8EU</p> <p>Sainsbury, Unit 2, Southwest Block, Goodman's Fields, Leman Street, E1 8EJ</p> <p>Leman Street Tavern, Unit 3, North West Block, Goodmans Field, London E1 8PT</p> <p>Leman Bar, 19a Leman Street, E1 8EN</p> <p>Pizza Union, 29 Leman Street, E1 8PT</p> <p>Black Horse PH, 40 Leman St, E1 8EU</p> <p>Whites, 32-38 Leman Street E1 8EW</p> <p>Amazon Fresh, Unit 01, NW Block, 39 Leman Street, E1 8PU</p> <p>Berkley Homes (Capital)Plc, Unit 01, NW Block, 39 Leman Street, E1 8PU</p> <p>Alie Street: Premier Inn, 66 Alie Street, E1 8DE</p> <p>Royal College of Pathologists, 6 Alie Street, E1 8QT</p> <p>White Swan, 21 Alie Street, E1 8DA Thyme (Premier Inn), Goodmans Fields, Alie Street, E1 8DE</p> <p>Pilpel, Unit 5 60 Alie Street, London E1 8PX</p> <p>YoYo Oriental Supermarket, 61a Alie Street, E1 8EB</p> <p>Pasta Pit Stop, 77 Alie Street, E1 8NH</p> <p>Boom Battle Bar, Units 1,2,3 North East Block, Goodmans Fields, E1 8QG</p> <p>St Mark Street: Halal Restaurant, 2 St Mark Street, E1 8DJ</p>

9.0 **Assessment and information for the Locality**

9.1 **Appendix 11** 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 though this was produced in 2014 it is the most up to date available.

9.2 In regards to the “relevant locality” :

- The relevant locality was assessed as being within a 100 metre radius centred on the premises, 30 Alie Street.
- The premises sits close to the A1202 (Leman Street) to the East, 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. To the West is the A1211 (Mansell Street) which leads to Tower Bridge in the South and A major Aldgate junction in the North.
- The locality is a mixture of residential, commercial and transport infrastructure

9.3 The character of the locality:

- The premises is within Whitechapel Ward
- The ward has been assessed to have around 5.9% of the Borough’s residents.

10.0 **Other Sexual Entertainment Venues**

10.1 The following premises have applied to renew their SEV licences, which were granted under delegated authority.

- **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 statutory requirements 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 12**.

b) A press advert was placed in East London Advertiser on 30th June 2022 by the Applicant, See **Appendix 13** for extract.

11.2 The following is a list of those also consulted with regard to the application:

- The Police
- The Fire Brigade
- Building Control
- Health and Safety
- Ward Councillors
- Local residents within a 50m radius

12.0 Responses to the Consultation

None of those consulted in accordance with paragraph 11 responded to the application

13.0 Representations (other than from the statutory consultees)

13.1 No representations were received from local residents or businesses.

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

13.3 A representation was made by the Licensing Authority. Please see **Appendix 14**.

14.0 Complaints and Enforcement History

14.1 The premises has received no complaints in the last 12 months.

14.2 The premises has not been visited by the Local Authority in the past 12 months.

14.3 Members should note that due to coronavirus business restrictions premises of this nature were closed and unable to reopen until those were revoked. The premises were permitted to re-open on 18th July 2021 at 23:55hrs.

14.4 The premises has not been subject to enforcement action.

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 has adopted 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 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.
- 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 from the 3rd appointed day onwards.
- 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 15** and **2** respectively.)

19.0 Legal Comments

19.1 The Council must refuse an application for the grant or renewal of a licence on one or more of the grounds specified below (Schedule 3, para 12(1) of 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 an EEA state or was not so resident 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 an EEA state; or
- (e) that the applicant has been refused the grant or renewal of 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.

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 The Council's SEV Licensing Policy made specific provision for those SEVs trading in the borough when the 1982 Act was adopted and confirms it will not apply the nil SEV policy to existing businesses that were already trading as SEVs with authorisation, subject to certain requirements being satisfied. However, the policy similarly makes clear that if any of those venues cease to trade, there is no presumption that any new application will be treated more favourably.

19.5 There is a right of appeal to the magistrates' court, as set out in paragraph 27 of Schedule 3 of the Act. The decision of the magistrates' court may be further appealed to the Crown Court. In addition, the decision of the Committee may be appealed on established public law principles. It should be noted, however, that there is no right of appeal where the decision is to refuse the application on the basis of paragraph 12(3)(c).

19.6 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 objections or orally at the hearing which relate to moral grounds, for example, must not be considered by the Committee.

19.7 The Council's legal advisor will give advice at the Hearing.

20.0 Finance Comments

20.1 There are no direct financial implications arising directly from the report. However, there are possible cost implications if the decision is appealed. Licence fees are expected to cover the cost of administration and compliance.

21.0 Appendices

Appendix 1	A copy of the lapsed SEV Licence
Appendix 2	A copy of the Councils adopted standard conditions
Appendix 3	A copy of the application
Appendix 4	Supporting documents
Appendix 5	A copy of the existing Premises Licence
Appendix 6	Maps of the premises showing the site location
Appendix 7	Layout Plan
Appendix 8	Photographs of the premises
Appendix 9	Code of Conduct for Performers, Code of Conduct for Customers (House Rules) and Dancers Welfare Policy
Appendix 10	Vicinity Map
Appendix 11	Ward Profile of Whitechapel
Appendix 12	Copy of Site Notice
Appendix 13	Copy of Press Advert
Appendix 14	Representations of Licensing Authority
Appendix 15	Copy of LBTH SEV Policy