

WILTSHIRE COUNCIL

WESTERN AREA LICENSING SUB COMMITTEE

13th OCTOBER 2021

**Application for Sexual Entertainment Venue
Venom Nightclub, Quartermaster Road, West Wilts Trading Estate, Westbury,
Wiltshire, BA13 4JT**

1. Purpose of Report

- 1.1 This report provides information for Members about an application made for a sexual entertainment venue (SEV) licence under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009, to assist them in determining the outcome of the application
- 1.2 All applications for the grant of a new licence will be determined by the Licensing Committee, irrespective of whether objections are received. At the hearing all parties will have the opportunity to address the Committee and ask factual questions of other parties. The Licensing Committee may also ask questions of all parties that they feel relevant to determine the application.

2 Recommendations

- 2.1 Having considered the application the Sub-Committee may:
- grant a licence in accordance with the application
 - grant a licence subject to additional and/or varied conditions
 - reject the application
- 2.2 It is Recommended that a sexual entertainment licence be granted for Venom Nightclub, Quartermaster Road, West Wilts Trading Estate, Westbury.

3. Summary

- 3.1 This report outlines an application for a new sexual entertainment venue for Venom Nightclub, Quartermaster Road, West Wilts Trading Estate, Westbury, Wiltshire, BA13 4JT. It also refers to Wiltshire Council's policy on Licensing Sexual Entertainment Venues and provides other pertinent information specific to this application.

4. Application

- 4.1 An application for a Sexual Entertainment Licence (SEV) was received on 28th August 2021 from Mr Barrie White for Venom Nightclub, Quartermaster Road, Westbury. A copy of the application is attached as Appendix 2.
- 4.2 The Licence, if granted is to provide the following forms of 'relevant entertainment', lap dancing, stage strip-tease and strip shows with full nudity.

The hours applied for are as follows:

Day	Hours
Monday	Closed
Tuesday	Closed
Wednesday	21:00 to 06:00
Thursday	21:00 to 06:00
Friday	21:00 to 06:00
Saturday	21:00 to 06:00
Sunday	Closed

- 4.3 Mr White already holds a premises licence under the Licensing Act 2003 for the premises concerned. The application under consideration is separate to the regime imposed by the 2003 Act. A copy of the current premises licence is attached as Appendix 3
- 4.4 The application was accepted by the Licensing Authority, as being served correctly, with all the required documentation and fees.
- 4.5 The applicant is required to serve a copy of their application on the Chief Officer of Police and to inform other interested parties by way of a notice on site and in the local newspaper.
- 4.6 These requirements have been satisfied for this application, with copies of the adverts sent into the Licensing Authority.
- 4.7 Mr White provided the Licensing Authority with additional supporting material: A Dancers welfare policy and customers code of conduct these are attached as Appendices 4 and 5.
- 4.8 Under Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 a premises can hold entertainment nights without a licence, providing that they do not exceed one a month. The Venom Nightclub have been operating similar nights to that applied for on an infrequent basis for a number of years.

Neither the Council or Wiltshire Police have received any complaints to date regarding the nature of, or activities that take place at the premises.

5. Representations

- 5.1 No representations have been received from any commercial businesses, schools, churches or other organisations in relation to this application.
- 5.2 No objections or representations have been received from the Police.
- 5.3 For information, the licensing authority consulted the Town Council and Democratic Councillor neither of which objected or made representations.

6. Suitability of Applicants

- 6.1 The Council's Policy on Licensing Sexual Entertainment Venues refers to the suitability of applicants. The Council may refuse an application if it considers that the applicants are unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason.
- 6.2 An applicant must be a fit and proper person to hold a licence. In determining suitability for a new licence or a transfer the Council will take the following into account:
 - (a) previous relevant knowledge and experience of the applicant;
 - (b) any evidence of the operation of any existing or previous licence held by the applicant, including any licence held in any other council area;
 - (c) any report about the applicant and management of the premises received from statutory objectors

7. Location of premises

- 7.1 The Council's Policy on Licensing Sexual Entertainment Venues deals with the locality of premises to be licensed as SEVs.
- 7.2 The policy also sets out the areas that are considered inappropriate to locate SEV's in having regard to:
 - (a) the character of the relevant locality;
 - (b) the existence of other similar businesses within the locality;
 - (c) the use to which any premises in the vicinity are put;
 - (d) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Inappropriate Proximity

- 7.3 Wiltshire Council's Policy states no new sex establishment will be permitted if it will be situated within "inappropriate proximity" to locations listed below:

- (a) near to housing;
- (b) near, or near to access routes to and from schools, play areas, nurseries, children's centres or similar premises;
- (c) in shopping centres;
- (d) near places of worship;
- (e) near a community facility or public building, including but not limited to swimming pools, leisure centres, public parks, youth centre's/club and sheltered housing;
- (f) near historic buildings or tourist attractions.

"Inappropriate proximity" is defined as a distance of 200m in direct line of sight between the proposed establishment and any locations listed above, or 100m distance if there is no direct line of sight.

7.5 Officers have noted that the premises is located in an industrial area on the periphery of Westbury and is not situated within in appropriate proximity to the locations listed at (a) to (f) listed in paragraph 7.3 above.

7.6 Location plans are attached as Appendix 6.

8. Conditions

8.1 Wiltshire Council's policy states that standard conditions will apply to all Sexual Entertainment Venues. The current standard conditions are set out in as Appendix 1 to the policy (Attached as Appendix 1).

8.2 The Licensing Committee may decide to impose additional conditions when it determines the application.

9. Legal Implications

9.1 On 13 July 2011, Wiltshire Council resolved that the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009 be adopted and shall apply within the Council's boundaries.

9.2 On 6 February 2012, the Licensing Committee resolved to adopt and implement the policy and regulations prescribing conditions for Sex Establishments from 1st March 2012

'Sexual Entertainment Venue' is defined within Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) ('the Act') as "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 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 an audience (whether by verbal or other means)."

9.3 Paragraph 12 of Schedule 3 of the Local Government (Miscellaneous

Provisions Act 1982) sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- i. To a person under the age of 18;
- ii. To a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- iii. To a person, other than a body corporate, who is not resident in an European Economic Area (EEA) State, or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- iv. To a body corporate which is not incorporated in an EEA State; or
- v. To a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal

A licence maybe refused where:

- vi. The applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- vii. 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 be refused the grant, renewal or transfer of such a licence if he made the application himself;
- viii. The number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- ix. That the grant or renewal of the licence would be inappropriate, having regard:
 - to the character of the relevant locality; or
 - to the use to which any premises in the vicinity are put; or
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

There is no right of appeal against a refusal to grant a licence for the reasons identified in paragraph viii or ix above.

10. Appeal

10.1 Refusal on any other grounds can be appealed to the Magistrates Court within 21 days. A decision to refuse a licence must be relevant to one or more of the above grounds and the decision must be necessary and proportionate.

10.2 Any conditions that are imposed must also be non-discriminatory, necessary and proportionate. They should not duplicate or contradict any conditions that appear on a licence issued under the Licensing Act 2003.

Report Author: Emma Hyde - Licensing Officer

Date of report 29 September 2021

Background Papers Used in the Preparation of this Report

- **Local Government (Miscellaneous Provisions) Act 1982**
- **Policing and Crime Act 2009**
- **Wiltshire Council Sex Establishment Licensing Policy**

Appendices

- 1 Wiltshire Council Sex Establishment Policy**
- 2 Application for Sex Entertainment Venue**
- 3 Premises Licence issued to Venom**
- 4 Dancers Welfare Policy**
- 5 Code of Conduct for Customers**
- 6 Location maps**