

**WILTSHIRE COUNCIL**

**SOUTHERN AREA LICENSING SUB COMMITTEE**

**10<sup>TH</sup> May 2012**

---

**Application for Sexual Entertainment Venue  
Club Rouge, 23–25 Milford Street, Salisbury**

**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 application.

**2 Recommendations**

- 2.1 Having considered the application and representations, 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 Club Rouge, 23 - 25 Milford Street, Salisbury subject to the standard conditions set out in the Council's adopted policy and a further condition requiring any changes in the layout or management of the premises to be approved in advance by the Council

**3. Summary**

- 3.1 This report outlines an application for a new sexual entertainment venue for Club Rouge, 23- 25 Milford Street, Salisbury. 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 29<sup>th</sup> February 2012 from Mr Robert Stephen Ash and Mr Kevin Leslie Welch for Club Rouge, 23-25 Milford Street, Salisbury. A copy of the application is attached as Appendix 2.

4.2 The application is to provide the following forms of 'relevant entertainment':- lap dancing, pole dancing and topless stage strip-tease.

The hours applied for are as follows:

Day	Hours
Monday	22:00 to 04:00
Tuesday	22:00 to 04:00
Wednesday	22:00 to 04:00
Thursday	22:00 to 04:00
Friday	22:00 to 04:00
Saturday	22:00 to 04:00
Sunday	Closed

4.3 Mr Ash and Mr Welch already hold 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 Senior Licensing officer, as being served correctly, within the transitional period, prior to the third appointed day (1 March 2012) 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. The applicants failed initially to advertise their application in a local newspaper within the required 7 days time frame. This was addressed, and the application was duly advertised in the Salisbury Journal on Thursday 29<sup>th</sup> March 2012. In order not to prejudice interested parties the 28 day consultation period was re-started and concluded on the 22<sup>th</sup> April 2012.

- 4.7 The premises have been operating in its current guise prior to the implementation of the Licensing Act 2003. Neither Wiltshire Council nor its predecessor Salisbury District Council have to date received any complaints regarding the nature of, or activities that take place at, the premise.

## **5. Representations**

- 5.1 Three (3) representations have been received in relation to this application within the consultation period.

A copy of the representations is attached as Appendix 4

A petition containing 43 signatures was received within the consultation period, this is an extension to the e-petition which received 2 signatories.

There are no Police objections; a copy of the response from Wiltshire Police is attached as Appendix 5

No representations have been received from any commercial businesses, schools, churches or other organisations in relation to this application.

## **6. Suitability of Applicants**

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.

- 6.1 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.

7.3 Officers consider that Club Rouge is in an area associated with the night time economy.

### **Inappropriate Proximity**

7.4 Wiltshire Council's Policy states no new sex establishment will be permitted if it will be situated within "inappropriate proximity":

- (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 visited the area and note the premises is in a shopping street, located near other late night venues. The application is to licence an existing business under the new legislation and the hours of operation are in line with other licensed premises with alcohol and regulated entertainment in the vicinity.

Location plans are attached as Appendix 6

A list of other licensed premises in the Town centre is attached as Appendix 8

## **8. Layout of premise**

8.1 Members should give consideration to the layout of the premises, and how this may impact on the way the business will be run if an SEV licence is granted. The plan submitted with the application should give Members some assistance in this regard, as should the site visit due to take place in advance of the formal hearing.

Photographs of the internal layout are attached for member's information as Appendix 7

8.2 Some of the standard conditions concern the layout of the premises.

## 9. Conditions

- 9.1 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)
- 9.2 The Licensing Committee may decide to impose additional conditions when it determines the application.
- 9.3 It is suggested that Members add a condition to confirm that any licence issued is for the premises in its existing layout and for the managers listed, and that any changes will need to be approved by the Council.

## 10. Legal Implications

- 10.1 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.

- 10.2 On 6 February 2012 the Licensing Committee resolved to adopt and implement the policy and regulations prescribing conditions for Sex Establishments from 1<sup>st</sup> March 2012 (third appointed day)

'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)."

- 10.3 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 may be 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

Any decision to refuse a licence must be relevant to one or more of the above grounds and the decision must be necessary and proportionate. 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.

## **11. Appeal**

There is no right of appeal against a refusal to grant a licence for the reasons identified in paragraph viii or ix above. Refusal on any other grounds can be appealed to the Magistrates Court within 21 days.

## **12. Human Rights**

When making their decision Members must give consideration to the rights applicants have under the European Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

---

Report Author: Linda Holland

Name, title and contact details: Linda Holland Senior Licensing Officer  
[linda.holland@wiltshire.gov.uk](mailto:linda.holland@wiltshire.gov.uk). Tel: 01249 706410

Date of report 25 April 2012

### **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 Club Rouge**
- 4 Representations**
- 5 Wiltshire Police letter**
- 6 Location maps**
- 7 List of other licensed venues in Salisbury City Centre**
- 8 Internal Layout photographs**