

LICENSING SUB-COMMITTEE

Wednesday 29 April 2009

Present:

Councillors Cole, Mitchell and R Smith

Also Present:

Licensing Solicitor and Member Services Officer (HB)

32

APPOINTMENT OF CHAIR

Councillor Cole was appointed Chair for this meeting.

33

DECLARATION OF INTERESTS

No declarations of interest were made by Members.

34

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 EXCLUSION OF PRESS AND PUBLIC

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the consideration of the following items on the grounds that they involved the likely disclosure of exempt information as defined in Paragraph 1 of Part I, Schedule 12A of the Act.

35

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976 REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE (MR B. B.)

The Principal Licensing Officer advised that the application be deferred as further information was awaited.

RESOLVED that the application be deferred.

(Report circulated to Members)

36

REVIEW OF HACKNEY CARRIAGE DRIVER'S LICENCE (MR M.C.)

The Principal Licensing Officer presented the report on Mr C, the holder of a Hackney Carriage Driver licence, to determine if he was a fit and proper person to hold such a licence. The police had provided information which called into question whether he was a fit and proper person as he had been convicted of the offence of common assault.

Mr C attended the meeting and spoke in support of his application. Following an incident between his daughter and her then boyfriend he had called the police to report the matter. As there had been a delay in the police arriving he had gone himself to the boyfriend's house to remonstrate with him and his family. Mr C had put the boyfriend in a head lock to calm him down and had subsequently been charged with common assault. Mr C felt that it had been his duty as a father to confront the boyfriend to seek an explanation for his behaviour. Mr C was sorry for his actions and has not been in any trouble since.

Mr C has held a Hackney Carriage Driver's licence for over 20 years.

The Licensing Solicitor asked how he would deal with aggressive passengers. Mr C stated that he would not engage in an argument or physical contact and that he would simply wait for the passenger(s) to leave the car. The offence related to a domestic issue and was different in his mind.

The Sub Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer.

RESOLVED that no action would be taken in respect of this incident and the licence to drive a Hackney Carriage or Private Hire Vehicle be remain in place but issued a strong warning as to future conduct.

(Report circulated to Members)

37 **APPLICATION FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE (MR Z.A.)**

The Principal Licensing Officer advised that Mr A was not in attendance. It was felt that the application should be deferred to enable Mr A to attend the hearing.

RESOLVED that the application be deferred.

(Report circulated to Members)

38 **APPLICATION FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE (MR A.R.)**

The Principal Licensing Officer presented the application for a licence to drive a Hackney Carriage or Private Hire Vehicle by Mr R who had been convicted of driving with excess alcohol. Mr R had submitted a letter giving details of the incident.

Mr R attended the meeting and spoke in support of his application. Mr R was seeking a licence to supplement his income to help support his family. The incident followed his consumption of two pints of lager in a pub in Shrewsbury whilst watching a football match. The twelve month disqualification had been reduced to nine months after completing a Drink Driver Rehabilitation course which Mr R had found very beneficial. Mr R added that he had stopped drinking five years ago.

The Sub Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer.

RESOLVED that the application for a licence to drive a Hackney Carriage or Private Hire Vehicle be granted subject to a strong warning that the licence was at risk in the event of any future offences and subject to the production of a second reference to the satisfaction of the Principal Licensing Officer.

(Report circulated to Members)

39 **APPLICATION FOR A LICENCE TO DRIVE A HACKNEY CARRIAGE OR PRIVATE HIRE VEHICLE (MR S.I.)**

The Principal Licensing Officer presented the application for a licence to drive a Hackney Carriage or Private Hire Vehicle by Mr I who had been convicted of a number of offences. Mr I had submitted a letter explaining his circumstances.

Mr I attended the meeting and spoke in support of his application. Mr I had applied

for a licence in order to operate on a self-employed basis. With regard to his convictions, Mr I stated that the last one had been five years ago and that he was now a changed person and a family man. Mr I wished to look to the future and provide for his family.

The community order had been made on conviction for instrument falsification but, following a breach of the order, Mr I had been sentenced to custody for nine months. The offence of possessing a bladed article arose when Mr I purchased a fishing knife as a souvenir on holiday in Devon. Mr I was found in possession of this during a routine vehicle check.

The Sub Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer.

RESOLVED that the application for a licence to drive a Hackney Carriage or Private Hire Vehicle be granted.

(Report circulated to Members)

(The meeting commenced at 9.30 am and closed at 10.35am)

LICENSING SUB COMMITTEE

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Present

Councillors Cole, Mitchell and R Smith

Also present

Licensing Solicitor and Member Services Officer (HB)

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DECLARATION OF INTERESTS

No declarations of interest were made by Members.

LICENSING ACT 2003

42

APPLICATION FOR A VARIATION OF A PREMISES LICENCE - EX4, FORE STREET, EXETER

In attendance were:

Mr Ali Anvari (AA)	: Applicant and owner, EX4
Gemma	: Assistant Manager Eden Lounge
Mr Tim Selley (TS)	: Solicitor, Crosse and Crosse
Ms Hannah Tapp	

Responsible Authority – Devon and Cornwall Constabulary:

Superintendent John Vellacott (Supt V)	: Commander for the Exeter area
Mr David Campbell (DC)	: Counsel for the Police
Sergeant Neil Harvey (Sgt NH)	
John Bean	
Lesley Carlo	

Interested Parties:

Mr Mark Honeysett (MH)	: Local resident (manager of Walkabout)
Ms Sarah Wesley (SW)	: Local resident
Rev Andrew Sails (Revd S)	: Mint Methodist Church

The hearing was convened under the Licensing Act 2003 to consider the variation sought to the EX4 premises licenses in order to allow the performance of dance and to extend opening hours. The Chairman introduced the Sub-Committee Members and Officers. The Licensing Solicitor explained the procedures to be followed.

The Application

TS advised that the application for variation had been submitted by Holbrick Ltd and that the application for an extension of hours would not be pursued today.

The issue related to activities planned for the first floor - the Eden Lounge. TS advised that a revised operating schedule had been served on the police. This had not been served on the Licensing Authority.

The Sub Committee adjourned to consider whether any prejudice arose from the lack of service of the revised operating schedule on the Licensing Authority and the Interested Parties as well as some of the agenda papers. The Sub-Committee determined that having allowed all parties the opportunity to consider the revised operating schedule (which was similar to the original) the hearing could proceed without prejudice to the parties. All Interested Parties would have been informed of the hearing, which had been appropriately advertised in the local press with a notice displayed within the premises. The agenda had been made available on the internet prior to the meeting.

The hearing reconvened

AA gave evidence that he was the current owner of the premises on which he had spent a significant amount of money since opening in 2007. The basement of the premises is used as a nightclub on Fridays and Saturdays and is available for private functions. The ground floor is a bar. The application was for the top floor only.

The premises had 3 separate entrances – one for each floor.

The Eden Lounge would be over 21's only with a Challenge 25 policy. There would be waited service. There were 16 - 18 CCTV cameras installed providing 24 hour coverage with tapes kept for 30 days.

There were 7 door staff. There would be 2 at the bottom of the stairs leading to the Eden Lounge and 2 at the top. The manager of the Eden Lounge was a personal licence holder as was the general manager.

The premises no longer held cheap drink promotions.

TS stated that the revised operating schedule largely repeated the conditions of the earlier version. It reflected the four licensing objectives with conditions added to tighten the overall operation and management of the Eden Lounge. Considerable care had been taken over the application.

Each dancing booth would be monitored on a 24 hour basis by CCTV cameras to ensure the safety of both dancers and customers. AA had been open about his intentions. One of the reasons behind the application was to improve business and keep the premises open.

AA stated that posters would not be displayed around the premises. A sign with the name Eden Lounge would be erected at the entrance to the club at the ground floor. The venue would not just target men but would also hold ladies nights and gay nights. An enquiry had been received for a party of women to learn pole dancing techniques.

TS stated that the "house rules" were separate to the operating schedule and for internal use only. The rules included no touching and no passing of telephone numbers by either the dancer or the customer.

AA stated that cameras covered all entrances and door staff had two way radios as well as being connected to the control centre. The cameras covered an area in front of EX4.

In response to questioning from Councillor Mrs Smith, AA confirmed he had experience of running another premises in Cowick Street but no experience of

running a lap dancing venue. The consequences of inappropriate dancer/customer contact would be that either or both were asked to leave. The smoking area was in the foyer in front of the ground floor entrance to EX4.

In response to questioning from Councillor Cole, AA confirmed that staff/customers would reach the smoking area from the Eden Lounge by the stairs. However, the dancers were not permitted to smoke during their hours of work. The advert for the Eden Lounge would not illustrate the nature of the activities but only the name would be displayed. EX4 will seek to attract both sexes although male clientele will predominate.

AA outlined measures to ensure the safety of dancers leaving the premises and advised that changing rooms were provided in the venue. The four door staff would ensure that the dancers left the building without harassment. The manager had four years' relevant experience.

Questioning was then allowed from the SW as she had to leave the meeting at the earliest possible opportunity. AA confirmed that any customers who behaved inappropriately would be ejected although generally the dancers would be able to control the situation. Ejected individuals would be asked to leave via the front entrance onto Fore Street. This would take them through the smoking area and so the top floor back entrance could be an option if security is compromised.

SW asked whether neighbouring residents were likely to experience increased public nuisance from the greater numbers likely to visit EX4, whether public safety was likely to be prejudiced and would the windows on the top floor be triple glazed. AA stated noise levels would be low to enable customers and dancers to converse. TS reminded that the application was not seeking to increase the hours of operation. The number of evictions from the Eden Lounge is likely to be small.

In response to further questioning from Cllr Mrs Smith, AA confirmed that he engaged security staff from his own company. All employees are registered door staff and are very experienced in handling the public in an appropriate manner.

Representations by SW (out of sequence – see above)

SW lived directly opposite. It was as if activities at the premises were taking place in her front room. Her sleep was suffering and this would be exacerbated by the increased noise and activity from the top floor. It was a lengthy process for her to apply for double glazing and some properties in the area were protected in any event. The level of violence on the street is also likely to increase. The police have been called on a number of occasions to break up fights on the street and, in the past, their switchboard has been engaged with other callers presumably reporting these incidents. SW alleged that recent violent outbreaks involved customers of EX4 and intervention by door staff there could inflame rather than cool matters down. SW could not confirm that all incidents related to EX4 but the congregation of people in the smoking area presents a flashpoint for trouble, as did the queues at the entrances for the various floors. SW stated that EX4 is not a well managed venue and matters have deteriorated over the last six months.

In response to questioning from Cllr Mrs Smith, SW confirmed she had resided there for 18 months.

In response to questioning from Cllr Mitchell, SW confirmed that she could not differentiate between incidents from EX4 and other premises in the area.

In response to SW, AA confirmed that he was happy to hear residents concerns and that noise and disturbance also came from Walkabout. AA had called the Police himself to break up incidents caused by individuals emerging from other premises on Fore Street.

In response to questions from the police SW confirmed that in her view passers by could come into conflict with smokers using the designated smoking area outside EX4 and EX4 management should accept greater responsibility for the behaviour of the customers outside their premises. Further, SW anticipated similar problems occurring in the area to the left of EX4 in the alleyway leading to the Bike Shed.

SW left the hearing. Questions from the other parties to clarify the Applicant's evidence resumed.

In response to questions from the police, AA confirmed that although no plans had been provided there was a rough sketch. Public safety would not be compromised when individuals are evicted from the premises if the separate entrance/exit from the top floor is used. There are three separate entrances to EX4. The main entrance to the ground floor is flanked on either side by pillars. The entrance to Eden Lounge is on the left. It is not possible to move directly from the basement or ground floor to the Eden Lounge. Access to each floor is via dedicated entrance.

AA did not think that, in the absence of clear signage, the general public would not realise that the top floor was a lap dancing venue. The potential opening hours were from 08.00hrs to 02.00hrs but the hours sought meant that members of the public would not inadvertently enter the Eden Lounge in the daytime as it would be closed.

AA did not think that the prevention of harm to children objective was undermined as children/young people would not be admitted by club staff who would only admit over 21s and would operate the Challenge 25 rule. Proof of age would be sought if necessary. Those only wishing to obtain a drink would be advised of the use of the top floor by door staff on entry at the bottom of the stairs. Public safety would not be compromised when evictions occurred because there is another exit available from the top floor. Door staff will escort individuals out and the CCTV cameras will also alert staff to problems.

AA stated again that dancers are not allowed to smoke when working. Other staff may utilise areas to the rear of EX4 adjacent to the Bike Shed and the Mosaic Bar.

DC asked whether other staff were treated differently to the dancers. Cllr Cole asked DC not to cross examine the applicant and to keep the tone of the questioning appropriate for the hearing.

DC referred to a recent application for a TEN for EX4. The Licensing Solicitor advised that the result of a previous application was not relevant to the consideration of the current application.

AA confirmed that he accepted that there were problems in the running of EX4 resulting in a meeting with Superintendent Vellacott on 7 April 2009 and that the police premises risk status has been revised because of these problems. As a result of problems at EX4 AA had agreed with police to cease the cheap drinks promotions.

AA confirmed that the manager had four years experience. AA believed that trouble is more likely to occur in nightclubs than dancing venues. Staff have assisted the police in the past when trouble has flared in this area, for example,

outside the Mosaic Bar after a recent football match in the City. AA accepted that he was responsible for the behaviour of customers in the smoking area outside EX4. AA stated EX4 is as responsible for the actions of passers by or customers after they have left the premises as any other premises operator. AA confirmed the smoking area is approximately ten feet wide and can accommodate some 20 people. The Church car park, the Bike Shed alleyway and the front of the Adams Hardware store are not the designated smoking area.

AA confirmed that he was prepared to include in the operating schedule a condition requiring demarcation lines to ensure that the dancers and customers are separated by three feet (a no contact zone). The dancers are monitored by CCTV cameras at all time. The dancers are experienced and can look after themselves but the CCTV is also for their protection. The dancers sign a contract agreeing to a standard of behaviour. CCTV cameras cover the area around the EX4 entrance so that behaviour can be monitored when they leave the club.

AA confirmed that the seating for customers within the booths would be fixed. There would be four VIP booths with sofas and the other booths would have with seats. All can be fixed to the walls/floors to facilitate a three foot rule. There will be seating for some 20-25 in the main area of the Eden Lounge.

AA confirmed that there would not be a conflict of interest between his role of running EX4 and his ownership of Night Owl Security whose staff are also employed at EX4. AA had 25 years experience in the security industry and all Night Owl door staff are registered and have relevant training in respect of lap dancing venues. Further training will be provided by the manager of the Eden Lounge.

The hearing was adjourned at 1317hrs and re-convened at 1400hrs.

Representations of Interested Party Revd S (out of sequence)

Revd S stated that he was representing the Mint Methodist Church and that he was also chair of the Exeter Inter Faith Group. Since submitting representations Revd Sails had received a large number of messages of support from other churches in the city.

The Licensing Solicitor advised that the Sub Committee could only have regard to representations received from Interested Parties in the vicinity of the premises. As such representations on behalf of churches not in the vicinity could not be considered. In any event, representations would have to have been submitted within the time limits. Revd S could only speak for the Mint Methodist Church.

The faith community had concerns about morality and ethics but Revd S accepted this was not the business of this meeting. Concerns were about public safety and criminal acts. Staff and customers using the smoking areas outside EX4 could spill over into the alleyway leading to the Bike Shed and impact on those using the church premises. The church had more than just a casual interest in the area as it sought to play an active role in the local environment. The Midnight Mint ran between 2230 hrs and 0130 hrs on Fridays from the car park offering tea, coffee and support to those enjoying a night out amongst the pubs and clubs of the area. In their experience, most of the people in that area at that time were good humoured.

As a church, there was real concern that the top end of Fore Street would not remain an enjoyable, safe and crime free area but could change significantly as part of an overall degeneration of Fore Street. It could become an area where

people would feel intimidated and frightened and would not therefore feel able to come for an enjoyable night out. There was an anxiety that the introduction of lap dancing would tend to attract those who could use it as a cover for criminal aspects of the sex industry. It would also increase the risk that girls and women who were potentially vulnerable would meet with unwelcome, intimidating and/or offensive attention and even physical attack. Other members of the public could be propositioned by those working in the club. The whole nature of the area would change and detract from the church's work in trying to enhance the environment and promote an acceptable community atmosphere. At present, the general night-time atmosphere compared favourably with other towns and cities and permitting this facility could change the nature of this part of Exeter.

The Licensing Solicitor advised that any premises already licensed for the performance of dance could introduce lap dancing without further application.

Revd S main concern was in respect of customers of the Eden Lounge coming back onto the streets. Some would be in an emotional state, could remain in the area and create problems for vulnerable women whose safety could be compromised. The type of establishment could be detrimental to the neighbourhood.

TS had no questions of Revd S

In response to questioning from the police, Revd S stated that the church's objections were not based solely on concerns for its 200 or so members but for the health and well being of the neighbourhood. The Church's concern was for the peace, justice and well being of everyone in the area and so Sunday opening of the premises was not the principal concern.

DC asked Revd S if he was aware of the Secretary of State's licensing guidance and the objective of the protection of children from harm. TS objected to this question. DC was reminded by the Chair that cross-examination was not allowed and he should exercise care on the nature of his questioning.

The Interested Party MH was then invited to clarify any points arising from the Applicant's evidence.

AA confirmed that the capacity of the venue was 530 with 180 in the basement, 250 on main floor and 100 on top floor. There would be a door at the top of the stairs and on the top floor there would be sliding windows which can be opened. Customers could not undo any locks because steel barriers prevent access to the windows. There would be two door staff located on the top floor, two at the bottom of the stairs, two on the ground floor and one in the basement.

Representation of Responsible Authority – Devon & Cornwall Constabulary

DC stated that the police regarded the application as ill thought out and incomplete. It would be difficult to modify or improve the conditions as they were. It was the police case that if they could not be modified the application should be refused.

Moreover, DC stated that the licensing objectives were not being furthered by the application. The conditions did not deal with issues of physical contact between dancers and customers with no consideration given to a 3ft rule. Ejection of persons behaving inappropriately had not been considered and the ability to move furniture was an issue.

DC stated that it was a concern of the police that the premises could open during the day time. Restrictions on signage left open the possibility that the general public would be confused about the nature of the entertainment at the venue.

The Licensing Solicitor stated that a number of the issues raised by the police were covered by other legislation and therefore not relevant.

DC said that Supt V would address the Sub-Committee on a number of issues and referring to police crime statistics for the locality.

TS objected to police submissions, stating that the letter of objection dated 15 April 2009 should be taken as the basis for their representations and that the introduction of detailed points of concern at this late stage was prejudicial to the hearing. AA in meeting with the police to discuss the management of the premises and the proposals for the top floor together with the introduction of a modified operating schedule had shown willingness to compromise. Raising further issues as representations for the first time today was unacceptable. No documentary evidence had been served in relation to the statistics referred to.

The Sub-Committee adjourned to consider the representations made by TS and then reconvened. The Licensing Solicitor advised that, following consideration of the representations made by the Police, Members had not felt that the issues raised were prejudicial but recognised that the Police had introduced new evidence not referred to in their original submission. Members felt able to put out of their minds any issues not considered to be relevant.

Supt V stated that it was his duty to address problems of crime and disorder and that community support and involvement in helping the policing of a neighbourhood should be encouraged. Policing of a city was now an element of the Local Area Agreement and was to be assessed within the new Comprehensive Area Agreement requirements. Supt V referred to the city wide crime statistics which he also advised were available on the internet.

Supt V explained his involvement with the premises and said that 90% of logs in that area were generated by seven premises. The police had asked AA to withdraw his application or ask for an adjournment and Supt V stated that AA had gone ahead today for purely financial reasons.

Supt V advised that 19% of all recent logs from Fore Street related to EX4 and that a number of incidents relating to drunkenness originated from these premises. AA was the only licensee in the city who had been invited to discuss management issues with the police. Because of these circumstances, Supt V felt the need to attend the Sub-Committee personally to oppose the application.

A disproportionate amount of incidents, including a serious assault, were attributable to the premises. As a result, all individuals apprehended for offences where alcohol was an issue had been asked where they had been drinking. In this way, incidents were traceable to EX4. The police would normally have been asking for a review but were of the view that this might amount to an abuse of process once the application to vary had been made. Supt V stated that it was not acceptable for AA to say that once customers had left EX4 they were someone else's responsibility.

Because of the number of licensed premises the police felt Fore Street should be designated a Cumulative Impact Zone (CIZ). A lap dancing club was likely to cause more of the problems characteristic of this designation, including incidents of serious violence and sexual assaults.

The Licensing Solicitor advised that general deployment of police resources in the city should not be taken into consideration by the Sub-Committee in determining the application as it was not a relevant consideration. The Chair stated that the statistics did not relate specifically to EX4.

DC said the fact that this was not designated as a CIZ did not prevent the police from making representations as if it were. EX4 was poorly run and allowing the application was likely to increase problems in the Fore Street area. The police would have asked for a review of the licence if this application had not been submitted. Conflict and disturbance emanating from the smoking area were likely to increase if lap dancing was permitted. Individuals who had just viewed erotic dancing would be "buoyed up" and likely to leer at women. Studies had shown an increase in sex attacks in areas where such clubs had opened. Attacks were no longer associated with individuals waiting on street corners but from those deliberately targeting vulnerable women and the vicinity of EX4 was one such area. DC also expressed concern regarding the possibility of children hearing comments from customers in the smoking area on their experiences of the club. There was also a concern for public safety relating to the removal of customers from the Eden Lounge down the stairs. The whole concept was ill conceived and that, although the police had been prepared to listen to the applicant, they had been forced to object to the application.

In clarifying the points raised by the police, AA expressed his embarrassment that he had been required to meet with the police. AA had not withdrawn the application because of the extra costs involved and he had been asked to improve on the management of the premises over a six month period which he had negotiated to a three month period. AA confirmed that he had been advised that the police were not satisfied with the operating schedule and it had been suggested to him that he should study best practise in respect of the operation of such premises elsewhere in the country.

In summing up, DC stated that the Sub-Committee could either to modify or reject the application and he urged the latter course of action. The police were experts at crime and disorder and DC asked who else the Sub-Committee would hear from on that subject. Supt V had many years' experience and had presented the case against the application with reference to crime statistics both for the area and relating to this establishment for the period December 2008 to January 2009. The police maintain that the application is flawed to such an extent that neither the application in its original form or the amended version with the updated operating schedule should be accepted. The application was in skeleton form only. The closing hours are unclear, varying between 0130 hrs and 0200 hrs and an opening hour of 0800hr is stated which is unrealistic. An indication of the days, if any, on which the venue will not open, would have been helpful. Although it has been stated that a dividing line of at least three foot will be provided in the booths to separate the performers from the customers, the schedule does not set out the practical means of achieving this. The securing of the fixtures and fittings both in the booths and in the club generally has not been detailed. This measure would help protect the applicants by discouraging inappropriate contact by the dancers with the customers. Similarly, details of the recruitment process of the dancers including age, background and nature of experience should have been provided, which would also be of practical benefit to the applicants.

Further information is required on how any evictions from the club will be responsibly and safely handled. Reference should be made in the operating schedule to the signage proposed which should clearly indicate the nature of the activities on the top floor given that there are limitations on the signs by virtue of

EX4 being a listed building. This is particularly relevant to the licensing objective of the protection of children from harm. Details should have been provided to ensure that the sign(s) would not cause offence to the general public as well as minors.

The applicant also has no previous experience of managing a facility of this nature.

The application therefore falls well short of acceptability and is sufficiently flawed to merit refusal.

In response to questioning from Cllr Cole regarding the objective of the protection from harm of children and whether those positioned at the doors be able to easily identify and prevent children from entering, DC referred to the Guidance on the exposure of children to profanities. DC stated that children would pass the premises at various times in the day including summer evenings and could therefore be exposed to conversations relating to lap dancing which could cause harm. Cllr Cole asked whether the current level of interaction between smokers outside EX4 and the general public was a problem as it appeared not to be so. DC stated that difficulties exist and these will be exacerbated when patrons of the lap dancing club also use the smoking area.

Supt V stated that both men and women who had just witnessed dancing of a sexual nature would be likely to talk of these experiences and if they had been drinking were likely to do so in a loud manner easily audible by any passing members of the public including children.

DC accepted that the overall capacity of EX4 would not be increased by the variation.

In response to questioning from Cllr Mitchell, Supt V confirmed that other than at the TEN application the police concerns about the current operation of the premises had not been raised with the City Council's Licensing Team. In addition to the meeting on 7 April 2009 there had been meetings between the applicant and police representatives on 4 February, 14 February, 26 February and 4 March 2009, all prior to the submission of the current application. The 19% of logs in Fore Street attributable to EX4 between December and April represented 13 in total but this does not include incidents when the Police have been called to EX4 but for which no logs were made. Supt V confirmed why, given concerns regarding the general operation of the premises there had been no application for a review. The local tasking group had been considering the issue over a period of time and normally a review would have followed but this was overtaken by the application for variation.

In response to questioning by Cllr Cole DC confirmed that the 19% of logs referred to covered seven licensed premises in Fore Street. Sgt NH stated that EX4 had only become a real concern in December 2008 when a 2 for 1 drinks policy had been introduced.

In response to further questions from Cllr Mitchell, DC conceded that with hindsight, given the increasing number of problems, it might have been prudent to have raised concerns with the Licensing Authority earlier but that it was the police responsibility to assess issues in the first instance. The police asked what the Licensing Authority could do anyway.

In response to questions from TS, Supt V confirmed that EX4 did stop the buy one get one free policy after discussions with the police. Agreement was reached after the meeting on 7 April 2009 when the 3 month period to improve on the management of EX4 was negotiated. Supt V also agreed that other city centre premises had smoking areas outside their entrances, although there may have

been a greater number of smokers at EX4. In relation to whether during any disturbances, common sense would prevail and door staff ensure that those being evicted did not come into contact with other customers Supt V said rules change when fighting occurs and in the heat of the moment it can be difficult to resolve conflict with the minimum of disturbance. The area already had a reputation for public disorder and sexual assault. Any evictions from EX4 can only exacerbate the situation. Supt V said there was no police policy for monitoring this area and no meetings have been called in respect of other premises. Supt V said that he was unaware of other concerns relating to sexual issues. Asked whether with the over 21's and Challenge 25 policies and a ratio of door staff to room capacity of 4 to 100, he thought responsible management proposals are in place Supt V replied there is a good staff to customer ratio proposed for the Eden Lounge. However, CCTV cameras have not prevented incidents in the past. Supt V confirmed that despite the concerns there had been no challenge to the Personal Licences of the management although management practises have been discussed. Supt V was aware of AA's other premises, with no issues arising, although it is different premises to a lap dancing venue. Supt V was aware that problems in the running of licensed premises could be referred to the Licensing Sub-Committee and said the Police seek to prevent incidents before they occur.

Representation of Interested Party MH

MH was making representations as a resident of Fore Street and on behalf of his fellow residents. Nuisance and disturbance in Fore Street would increase as a result of EX4 becoming a destination venue following from the introduction of lap dancing.

Although a problem on other days, noise also emanated from the smoking area on Sunday evenings which should be a quiet time of the week. The smoking area accommodated approximately 20 people and it was questionable if it would cope with additional smokers which would result from an increase in popularity of EX4. All three separate areas were likely to experience increased queuing and evictions which would exacerbate the noise nuisance. Smokers were also likely to move into adjoining parts of the street to smoke, thus widening the area where problems of noise, public disorder and crime could occur. EX4's CCTV cameras only covered the area immediately outside the club.

As the top floor windows were not sound proofed and there would only be one door at the top of the stairs any shouting would carry across to neighbouring properties. The absence of a door at the ground floor level was regrettable, as significant traffic could be anticipated between the top and ground floors as customers move from having a drink on the ground floor to the top floor.

In response to questioning from Cllr Cole, MH accepted that the overall capacity of the venue, the hours when alcohol were served and the venue's ability to play live or recorded music would not be affected as a result of the application.

In response to questioning by DC, MH stated that Walkabout had a licence for the performance of dance but did not provide dance of the adult variety.

Friday and Saturday nights are traditionally busy and noise levels remain problematic. The application will lead to increased activity on Sunday and Monday nights from 2300hrs onwards to the closure around 0130hrs and 0200hrs. Current noise levels are those normally associated with the public enjoying a night out but the addition of a new facility is likely to attract a different, more boisterous crowd. Often, such a venue attracts large groups of males and the noise levels are likely to increase.

In response to further questions from Cllr Smith, AA advised that a plaque with Eden Lounge would be displayed behind the paying area near the entrance. Cllr Smith asked how the club would monitor the customers to ensure that there was no contact with the performers including kissing, handshakes and the passing of tips and that no telephone numbers were exchanged. AA advised that the dancers would be monitored at all times by CCTV cameras. There would be no exchange of money as customers purchased tokens at the bar which they could use to tip dancers as well as for paying for dances. Tokens were in dollar format. There would be no contact during the performance of dance but there could be contact when passing tokens before or after a dance to either purchase a dance or as tips.

AA was asked to explain in detail how the system would operate. DC stated that the details of the operation of the dances should have been set out in the application. The Chairman stated that the application had been accepted as correct. AA explained that following payment of the entrance fee at the bottom of the stairs, the customer would enter the upstairs lounge where there would be a bar on one side, an open dance area in the middle and booths on the other side of the room set at a lower level. Four of the booths were defined as VIP and were larger than the others. Each booth would be separated from the dance area by curtains. Customers would collect tokens from the bar varying in value from £5 to £100. The minimum time period for a dance was three minutes. Four dances could be purchased for £50. There would be no exchange of money.

In response to questioning from Cllr Mitchell, the assistant manageress explained that the dancers carried small purses to hold tips and that she was prepared to review the system in respect of tips from customers.

Applicant's Right Of Reply

TS stated that the application was for variation to allow performance of dance. EX4 was not seeking an extension of hours at present. The suggestion put by the police was that the application was so disorganised that it should be refused. Appropriate care has been given to the application and a revised operating schedule had been given to the police a few days ago. Protection offered by the conditions is sufficient to secure compliance with the licensing objectives.

The protection of children from harm is not an issue. This is a facility for over 21's with Challenge 25 and ID checks so TS struggled to see a serious link with harm to children.

With regard to the prevention of crime and disorder and public safety, the operation of the facility will not lead to an increase in numbers, hours of opening or music at the premises but just the addition of performance of dance on the top floor. It is not believed that this activity will affect either of the above objectives. The door staff will be on duty to both collect the entry fee and control behaviour. CCTV will also be in operation. As the entry fee will be significant and the charges for dances are also quite expensive, it is not anticipated that a large number of people will visit the Eden Lounge.

It is accepted that different views can be taken in respect of the operating schedule and the Sub-Committee may, if it wishes, seek to introduce changes to the operating schedule through conditions as part of the granting of the application. The revised operating schedule provides a good basis for the granting of a licence.

In terms of general behaviour of the public around the premises, both Revd S and SW have stated that there is not a significant amount of public disorder although

this is at variance with the view of the police.

With regard to concerns that disorder will result from the removal of individuals from the Eden Lounge, it is expected that common sense will prevail and that the door staff will ensure that those being removed are kept away from other customers seeking to enter the top floor. It is believed that concerns relating to disorder are exaggerated.

The equipment required for the playing of music is already in place and its operation in the Eden Lounge will be at a lower level than for traditional music/disco events to allow the ability to talk to one another.

With regard to the smoking area, a large number of premises around the city centre have similar arrangements where customers smoke immediately outside the entrance to the premises.

With regard to the management of EX4 3 persons hold personal licences. In addition, one is experienced in running an establishment of this nature. The premises is therefore run on a responsible basis.

AA stated that TS had covered all necessary issues and he was happy to work with both the police and the Licensing Authority to alleviate any concerns and was also prepared to meet local residents.

AA confirmed to DC that he hoped to sell EX4.

The Sub Committee retired to make its decision in the presence of the Licensing Solicitor and the Member Services Officer.

RESOLVED that:

- (1) given the production of evidence of potential risk to public safety but with no evidence that the licensing objectives of the prevention of crime and disorder, prevention of public nuisance and protection of children from harm would be undermined, the application be granted, subject to the following additional conditions:
 - a) any customer asked to leave Eden Lounge should leave/be escorted down the stairs at rear of the property;
 - b) furniture in the booths to be fixed to the floor;
 - c) furniture in the bar to be of such design so as not to be easily moveable;
 - d) booths be marked with a line on the floor to ensure that performers and customers remain three feet apart; and
 - e) no contact to be permitted between the customers and performers in the booths.

The Sub-Committee recommended that a sign detailing the nature of the premises be displayed inside the entrance behind the point of payment.

(Report circulated)

(The meeting commenced at 10.55 am and closed at 5.55 pm)

Chair

