

**EXETER CITY COUNCIL (Licensing Authority)
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982, Schedule 3**

NOTICE OF DETERMINATION

Application under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 for a Sex Establishment Licence for a Sexual Entertainment Venue in respect of the premises known as The Monkey Suit 161 Sidwell Street, Exeter, EX4 6RH ('the Premises').

Decision of the Licensing Committee sitting at the Civic Centre, Exeter on Tuesday 12th September 2023 at 1730hrs to 1955hrs.

In attendance:

Councillors Asvachin (Chair), Warwick (Deputy Chair), Begley, Bennett, Ellis-Jones, Fullam, Foale, Holland, Parkhouse, Rees, Sheridan, Snow, Vizard.

Service Lead Environmental Health and Community Safety Simon Lane, Principal Licensing Officer Nigel Marston, Service Lead Legal Services Simon Copper, Team Lead ECL Contracts and Licensing Matthew Hall, Democratic Services Officer (Committees) Sharon Sissons.

The hearing commenced at 1730hrs and closed at 1955hrs.

In attendance for the Applicant was Mark Sherman the Director of Bar Dynamics Limited and manager of the Premises.

In attendance objecting to the application were Katherine Dawson, Cllr Yvonne Atkinson and Cllr Laura Wright.

The Decision

In determining this application, the Licensing Committee considered all the relevant evidence and information presented to it both written and oral, and took account of all the matters it is bound to take account of, in particular the following:-

- . Local Government (Miscellaneous Provisions) Act 1982
- . Exeter City Council Sex Establishment Policy July 2013 (the Policy)
- . Sexual Entertainment Venue Home Office Guidance
- . The Human Rights Act 1998
- . any equality and diversity considerations

The Licensing Committee refused the application unanimously on the following discretionary grounds set out in Schedule 3 Paragraph 12 of the Local Government (Miscellaneous Provisions) Act 1982.

Paragraph 12(3)(c) that 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.

And paragraph 12(3)(d) that the grant or renewal of the licence would be inappropriate having regard

- i. to the character of the relevant locality; or

- ii. to the use to which any premises in the vicinity are put; or
- iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

Reasons

The Licensing Committee applied paragraph 12(3)(c) of the Act and Policy 7 of the Council's Sex Establishment Licensing Policy headed 'The Number of Sex Establishments'. Policy 7 states that there is no locality within Exeter in which it would be appropriate to licence a Sex Entertainment Venue. Accordingly the appropriate number of this category of sex establishment for each and every locality within Exeter is nil. The Applicant's proposal that the Premises would not be operated as a traditional strip club attracting a largely heterosexual male audience was not a sufficient reason to depart from the Council's policy of nil Sex Entertainment Venues in the City.

The Licensing Committee applied paragraph 12(3)(d)(i) of the Act and Policy 8 of the Council's Sex Establishment Licensing Policy headed 'Character of Locality'. Policy 8 states that sex establishments are unsuitable uses in localities whose character is or is significantly one or more of the following: educational, residential, religious, family leisure, late night entertainment and shopping. The Applicant's submissions that the Premises would not operate until 2100hrs and would not be visible from outside of the Premises were considered inadequate reasons to grant the licence given the character of the locality and were therefore insufficient to depart from this policy. The Licensing Committee determined as a matter of fact that the character of the locality included educational, residential, religious, family leisure, late night entertainment and shops and that residential (flats on Sidwell Street and nearby student accommodation), family leisure (St Sidwells Point leisure centre) and late night entertainment (restaurants on Sidwell Street) did not close at 2100hrs. In addition, Sidwell Street is a busy pedestrian route for visitors, residents and workers with a number of Bus stops and the central Bus Station nearby. The Licensing Committee considered that the existence of a Sex Entertainment Venue would be inappropriate having regard to the character of the locality.

The Licensing Committee applied paragraph 12(3)(d)(ii) of the Act and Policy 9 of the Council's Sex Establishment Licensing Policy headed 'Vicinity'. Policy 9 states that the Council will not normally grant a licence where any premises within the vicinity are used for the following: School, place of worship, family leisure, domestic residential buildings, important historic buildings, youth facilities and important cultural facilities. The Applicant's submissions that there would be no external signage at the Premises and entertainment would only operate from 2100hrs did not provide any basis to grant the licence given the use to which premises in the vicinity are put. The Licensing Committee determined as a matter of fact that residential, (flats on Sidwell Street and nearby student accommodation), place of worship (nearby Mosque), family leisure (St Sidwells Point) and a Community Centre (St Sidwell's Community Centre) uses were all in the Vicinity of the Premises.

The Licensing Committee applied ground 12(3)(d)(iii) of the Act and Policy 10 of the Council's Sex Establishment Licensing Policy headed 'Layout Character and Condition'. Policy 10 states that the Council expects all parts of the premises to be fully accessible to disabled people. The Licensing Committee considered that the proposed accessibility for disabled people to the sex entertainment venue did not make it fully accessible to all disabled people. Notably there were no measures in place to provide access to the first floor of the premises for individuals with physical disabilities.

The Application was therefore refused on the grounds that a sexual entertainment venue at the Premises would be inappropriate having regard to the Council's nil policy, the character of the relevant locality and the use to which other premises in the vicinity are put.

Right of Appeal

The applicant may appeal against this decision in accordance with Paragraph 27, Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

21st September 2023