



## LICENSING AND ENFORCEMENT COMMITTEE

**MEETING** : Monday, 11th May 2015

**PRESENT** : Cllrs. Randle (Chair), Patel (Vice-Chair), Noakes, Lugg, C. Witts, Hanman, Brown and Chatterton

### **Officers in Attendance**

Gill Ragon, Head of Public Protection

Lisa Jones, Food, Licensing and Markets Manager

Darren Mountford, Senior Licensing and Markets Officer

Richard Barnett, Licensing and Enforcement Officer

Vikki Fennell, One Legal

John Teasdale, One Legal One Legal

Tanya Davies, Democratic and Electoral Services Manager

**APOLOGIES** : Cllrs. Llewellyn and Tracey

### **28. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **29. APPLICATION FOR A SEX ESTABLISHMENT LICENCE - ALAN WHITEHEAD, MINX CLUB, 12-16 LOWER QUAY STREET, GLOUCESTER, GL1 2JS**

#### **Presentation by Senior Licensing and Markets Officer**

The Senior Licensing and Markets Officer presented the Committee with an application for a Sex Establishment Licence by Mr Alan Whitehead at Minx Club, 12-16 Lower Quay Street, to use the premises as a Sexual Entertainment Venue. The Senior Licensing and Markets Officer summarised the key points in the report that Members needed to consider. The Committee was advised that two objections had been received; one from the Police regarding concerns about the legitimacy of Mr Whitehead's given address, and one from the Chief Constable for Gloucestershire received outside of the consultation period regarding concerns about Mr Ross Connock's involvement in the business following his conviction for a number of accounting offences. The Senior Licensing and Markets Officer advised that legal advice had been sought in respect of the objection received outside of the consultation period and deemed it appropriate to be considered.

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**Questions of Clarification on the Officer's presentation**

Speaking on behalf of the Applicant, Mr Winston Brown asked on what basis the objection received outside of the consultation period was being included.

The Solicitor explained that, under paragraph 3.26 of the relevant Home Office guidance, the Council was entitled to accept representations received outside of the consultation period if they were deemed to be relevant and were presented to the Applicant to respond; the objection from the Chief Constable for Gloucestershire was being accepted on that basis.

**Presentation by Applicant**

Representing Mr Alan Whitehead (the Applicant), Mr Winston Brown addressed the Committee in support of the application. Mr Brown noted that the Committee was considering the involvement of Mr Ross Connock in the running of the business and the objection that he was unsuitable due to having relevant convictions. He advised that Mr Connock had two previous convictions for drink driving that had occurred some time ago and he considered them not to be relevant to the licence application. He acknowledged Mr Connock's convictions for financial impropriety in relation to a similar business and argued that these were also not relevant to the application because Mr Connock was no longer involved in the running of the business. Mr Brown explained that Mr Whitehead was the owner and that Mr Ben Eyles, who had a clean DBS and relevant certification, was managing the premises. He advised that Mr Connock had been diagnosed with a serious health condition and had subsequently not, and would not in the future, be able to be involved in the business. Mr Brown stated that the discontinuation of Mr Connock's involvement in the business satisfied the concerns raised by the Police.

Councillor Witts asked why the application wasn't amended in advance of the meeting to inform the Committee of the discontinuation of Mr Connock's involvement in the business.

Mr Brown advised that the timing of the late objection by the Chief Constable for Gloucestershire meant that it was not possible to respond to the concerns raised in advance of the meeting.

Councillor Hanman stated that it appeared that Mr Whitehead's application was a front for Mr Connock's continued involvement in the business.

Councillor Noakes stated that the information presented by the Applicant was confusing, making it difficult to properly assess the application.

The Chair asked why it had taken nearly a year for the application to come to the Committee. She noted concerns in respect of failures to adhere to the conditions of the existing premises licence, including non-attendance at LVA meetings and non-participation in the City Safe initiative. The Chair referred to Appendix 6 to the report, an email to the Senior Licensing and Markets Officer dated 16 April 2015, in which the Applicant indicated that Mr Connock was still involved in the running of the business, and stated that she was concerned that the Applicant had little involvement in the business.

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Mr Brown circulated a letter confirming the existence of Mr Connock's health condition and stated that it provided confirmation that Mr Connock's could no longer be involved in the business.

The Vice Chair noted that the Committee was entitled to accept the objection from the Chief Constable outside of the consultation period and asked whether Mr Connock had been sentenced in respect of his convictions.

Mr Connock advised that sentencing had been deferred to 26 June 2015, but was likely to be deferred again until June 2016 in light of his medical diagnosis.

The Vice Chair stated that the Applicant had only discontinued Mr Connock's involvement in the business following the objection from the Chief Constable.

Mr Brown advised that the Applicant had responded to the objection once it had been raised in order to satisfy the concerns.

Mr Connock stated that Mr Eyles had been managing the business since November 2014 and that he had not visited the premises since that time. In reference to the email from Mr Whitehead, dated 16 April 2015, Mr Connock explained that My Eyles had continued to consult with him at home. He stated that he had no financial interest in the club and did not own the lease; he charged a consultancy fee when the business made a profit, but this had not happened for a number of months.

The Vice Chair asked Mr Whitehead to explain why he had put his old home address on the application when he had not lived there for some time.

Mr Whitehead explained that he had suffered a stroke in 2013 and hired Mr Connock to manage the business so that he could scale down his involvement. He stated that he had used an old address because at the time he made the application he did not know where he would be living due to extensive travelling; he used an old address and had the post forwarded.

Councillor Noakes stated that it was concerning that the applicant did not appear to have any significant involvement in the premises.

The Senior Licensing and Markets Officer explained that the club's current licensing allowed dancing, but not full nudity and that a sexual entertainment licence would impose tighter conditions than the current licence.

**Final Statements**

The Senior Licensing and Markets Officer reminded Members that they were being asked to determine one of the following options:-

1. To grant the Sex Establishment Licence application to use the premise as a Sexual Entertainment Venue as applied for;
2. To grant the Sex Establishment Licence application to use the premise as a Sexual Entertainment Venue subject to additional conditions; or

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3. To refuse the Sex Establishment Licence application.

On behalf of the applicant, Mr Brown advised that Mr Eyles had significant relevant experience and credentials and he circulated a number of certificates to Members of the Committee. He stated that the concern seemed to relate largely to Mr Connock's involvement and that it had already been confirmed that Mr Connock would have no further involvement in the business. He noted that the mandatory conditions had been met and that there was no objection to Mr Whitehead as the applicant. He stated that the licensee was permitted to appoint another individual to manage the premises and there was no objection to Mr Eyles.

Mr Whitehead advised that he would be happy to give an undertaking to attend the premises more regularly if the Committee so wished.

The Chair invited the Applicant and his representatives and the Press to leave the room in order for the Committee Members, in the company of the Democratic Services Officer and Solicitor, to deliberate their decision.

**The Decision**

On returning to the room, the Chair announced that the Committee had

**RESOLVED:-**

To grant the Sex Establishment Licence application to use the premises as a Sexual Entertainment Venue subject to the following additional conditions:

- (i) Minx to become an active member of the City Safe initiative and LVA with immediate effect.
- (ii) The business must be managed by an individual with a clean DBS at all times.
- (iii) Mr Ross Connock must not have any involvement, direct or indirect, with the premises or the running of the business, now or in the future.
- (iv) There must be a minimum of 2 SIA door supervisors at all times notwithstanding the minimum ratio of 1:50 customers.

The Chair outlined the reasons for the decision.

**Time of commencement: 17:00 hours**

**Time of conclusion: 18:35 hours**

**Chair**