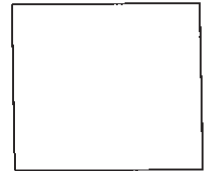




SHEFFIELD CITY COUNCIL Licensing Sub Committee Report



Report of: Steve Lonnia
Chief Licensing Officer, Head of Licensing

Date: Tuesday 11th April 2017 at 10:00 a.m.

Subject: **Spearmint Rhino, 60 Brown Street, Sheffield**

Author of Report: Steve Lonnia

Summary: To consider an application for the renewal of a sexual entertainment licence in accordance with Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 (as amended)

Recommendations: That Members note the content of the report, any further information supplied and make a renewal decision based on the evidence.

Background Papers: Attached to this report.

Category of Report: OPEN

REPORT OF THE CHIEF LICENSING OFFICER,
HEAD OF LICENSING, TO THE LICENSING SUB COMMITTEE

Ref No 48/17

Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) - Sexual Entertainment Venues

Premises – Spearmint Rhino, 60 Brown Street, Sheffield, S1 2BS

1.0 PURPOSE OF REPORT

1.1 To consider an application for the renewal of a sexual entertainment venue licence made under Schedule 3, Section 10, of the Local Government (Miscellaneous Provisions) Act 1982.

2.0 THE APPLICATION

2.1 The applicant is Sonfield Developments Limited.

2.2 The application was received on 22nd February 2017 and is attached to this report, labelled Appendix 'A'.

3.0 REASONS FOR REFERRAL

3.1 Representations concerning the application have been received from the following:-

- | | | |
|----|--|--------------|
| a) | Interested parties - Objectors (97) | Appendix 'B' |
| b) | Interested parties – Supporters (17) Neutral (1) | Appendix 'C' |

4.0 FURTHER INFORMATION

4.1 The hearing will be held in two parts in accordance with the hearing procedure. A departure from the procedure will only be considered at the discretion of the Chair and with full agreement of all interested parties present at the hearing.

4.2 Objections will be heard in part one of the hearing.

4.3 The applicant will be invited to present the application in part two of the hearing.

4.4 Copies of the invites sent to the applicant and interested parties are attached to this report labelled Appendix 'D'.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no specific financial implications arising from this application. However, additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all these costs. The impact of these additional costs (if any) will be kept under review and may be subject of a further report during the year.

6.0 THE LEGAL POSITION

6.1 Section 27 of the Policing and Crime Act 2009 amends Paragraph 2A of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and introduces a new

category of sex establishments called "sexual entertainment venues" which allows licensing authorities to regulate lap dancing clubs and similar venues.

6.2 Sheffield City Council has adopted the Sexual Entertainment Venue Provisions under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing & Crime Act 2009 so as to have effect as from the 1st May, 2011, in relation to the whole of the Sheffield City Council area for the purposes of regulating premises deemed to be sexual entertainment venues.

6.3 Section 27 of the Policing and Crime Act 2009 amends Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 and reclassifies lap dancing clubs as sexual entertainment venues and gives local authorities in England and Wales the power to regulate such venues.

6.4 For the purposes of these new provisions "sexual entertainment venue" is defined as:

"any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer".

6.5 The meaning of "relevant entertainment" is defined as;

"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)".

6.6 The Licensing Authority will have regard to the Home Office Guidance when exercising its functions in order to promote best practice and consistency across England and Wales.

7.0 EQUALITY CONSIDERATION – PUBLIC SECTOR EQUALITY DUTY

7.1 The Public Sector Equality Duty was created by the Equality Act 2010, and replaces the race, disability and gender equality duties. It is supported by the specific duties contained in The Equality Act 2010 (Specific Duties) Regulations 2011.

7.2 The equality duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

7.3 These are sometimes referred to as the three aims or arms of the general equality duty. The Act explains that having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.

- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

7.4 The Act states that meeting different needs involves taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that compliance with the duty may involve treating some people more favorably than others.

7.5 The equality duty covers the nine protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Public authorities also need to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership status. This means that the first aim of the duty applies to this characteristic but that the other aims (advancing equality and fostering good relations) do not apply.

7.6 Therefore members should when making any decisions consider the above duty.

7.7 An Equality Impact Assessment has been completed and approved by the Council's Equality Team and attached at Appendix 'E' are the notes from that assessment. Members should be aware that equality impact assessments are under constant review.

8.0 POLICY – SEXUAL ENTERTAINMENT VENUE POLICY CONSIDERATIONS

8.1 Members should be aware of Section 7 of the current policy with regards to the Location of Licensed Premises. The Sexual Entertainment Venue Policy published in April 2011 is in the process of being reviewed. It is anticipated that the new policy will be finalised by the Summer of 2017.

8.2 Members will need to consider whether in the application attached the proposed premises is in their opinion in close proximity to:-

- a) a school, nursery or other premises substantially used by or for children under 16 years of age;
- b) a park or other recreational area used by or for children under 16 years of age;
- c) a church or other place of religious worship;
- d) a Hospital, Mental Incapacity or Disability Centre or similar premises;
- e) the Cultural Hub of the City (i.e. close to the Peace Gardens and Tudor Square etc.); and/or
- f) a central gateway to the city or other city landmark, historic building or tourist attraction.

8.3 Members will also need to consider the following factors when deciding if an application is appropriate:-

- a) cumulative adverse impact of existing sex establishment related activities in the vicinity of the proposed premises;
- b) proximity to areas with high levels of crime;
- c) whether the premises has met the relevant planning requirements; and/or
- d) the design of the premises frontage (signage/images etc)
- e) any relevant representations regarding the application.

9.0 HEARINGS REGULATIONS

- 9.1 The hearing procedure is set out in Schedule 3 of the Local Government Miscellaneous Provisions Act 1982 at Section 10. A copy of the hearing procedure is attached at Appendix 'F'.

10.0 APPEALS

- 10.1 In the event that an application for the grant, renewal or transfer of a sexual entertainment venue licence is refused, the applicant may appeal to the Magistrates' Court within 21 days of receiving notification of the decision.
- 10.2 If the application is refused on paragraph (c) or (d) of the discretionary grounds specified in Appendix 'G', there is no right of appeal.
- 10.3 There is no statutory right of appeal for objectors where an application is granted.

11.0 RECOMMENDATIONS

- 11.1 That Members carefully consider the application and / or any representations made and take such steps as the Committee consider necessary for the promotion of the Council's Sexual Entertainment Venue Policy and with regard to relevant legislation and the Home Office Guidance.

12.0 OPTIONS OPEN TO THE COMMITTEE

- 12.1 To grant the sexual entertainment venue licence application in the terms requested.
- 12.2 To grant the sexual entertainment venue licence application, with additional or amended conditions.
- 12.3 To defer the application.
- 12.4 To refuse the whole or part of the application.

Stephen Lonnia
Chief Licensing Officer
Head of Licensing
Business Strategy and Regulation
Place Portfolio
Block C, Staniforth Road Depot
Sheffield S9 3HD

11th April 2017

Appendix A

The Application

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SEXUAL ENTERTAINMENT VENUE APPLICATIONS

Application for the Renewal of a Sexual Entertainment Venue Licence

Licensing Service
Place Portfolio
Block C, Staniforth Road Depot
Staniforth Road
SHEFFIELD
S9 3HD

Telephone Number: 0114 273 4264
Fax Number: 0114 273 5410

Or visit our website: www.sheffield.gov.uk
Or email us at: general.licensing@sheffield.gov.uk

Opening Times

Monday to Friday 10:00am to 4:00pm

Sheffield *where everyone matters*



Application for Renewal of a Sexual Entertainment Venue Licence

Notes to Applicant:

All questions must be answered unless otherwise stated.

If relevant questions are not answered, the application will be deemed incomplete and returned to the Applicant.

I / WE HEREBY APPLY to the Sheffield City Council for the renewal of a licence to use a premises as a Sexual Entertainment Venue.

A. THE APPLICANT

Q1	Is the Applicant:			
	a.	An individual?	<input type="checkbox"/>	Answer question 2
	b.	A company or other corporate body?	<input checked="" type="checkbox"/>	Answer question 3 & 4
	c.	A partnership or other unincorporated body?	<input type="checkbox"/>	Answer question 5

Q2	Answer only where the applicant is an individual.	
	Full Name of the Applicant	
	Applicants permanent private address	
	Occupation (during preceding six months).	
	Telephone No.	

You need to complete Annex A. Now go to question 5

Q3	Answer only if the Applicant is a company or other corporate body.	
	Full Name of the Applicant	SONFIELD DEVLEOPMENTS LIMITED
	Applicant's trading address	60 BROWN STREET, SHEFFIELD, S1 2BS
	Applicant's registered address (if different)?	C/O 161 TOTTENHAM COURT ROAD, LONDON W1T 7NN

	What is the registered number of the Applicant?	04315210
	Has the Applicant previously been known by any other name, and if so, what?	NO

A3

A4

	What are the full names of the Directors and Company Secretary?	KATHY JoANN VERCHER JOHN ROBERT SPECHT SPEARMINT RHINO SECRETARIAL SERVICES LIMITED
	Are any persons responsible for the management of the Applicant other than the Directors and Company Secretary? If so, state their names	Yes [] No [x]
	For all persons with a shareholding greater than 10% in the Applicant state the names, and registered address where it is a body corporate of all persons and their percentage shareholding at the date of application.	SPEARMINT RHINO VENTURES (UK) LIMITED C/O 161 TOTTENHAM COURT ROAD, LONDON W1T 7NN
	For any body corporate with a shareholding holding greater than 10% in the Applicant, state the names of its Directors and Company Secretary.	KATHY JoANN VERCHER JOHN ROBERT SPECHT
All individuals named above need to complete Annex A. Now go to question 5		

Q4	Answer only if the Applicant is a partnership or other unincorporated body:	
	Full Name of the Applicant	
	Applicants trading address	
	What are the names, of the Applicants Partners?	
	Are there persons responsible for the management of the Applicant other than the Partners? If so, state their names.	
	Has the Applicant previously been known by any other name, and if so, what?	
All individuals named above need to complete Annex A. Now go to question 6		

Q5	Will the business for which a licence is sought be managed by or carried on for the benefit of a person other than those already mentioned in answer to Q2 to Q4 above. This includes third parties such as funders and suppliers where the arrangements are not on normal arms length commercial terms or any persons who may share in the profits.	Yes [] No [x]
	If the answer is yes, state their name(s). If a body corporate body, state their place of registration and registered number, and the name(s), of all Directors, the Company Secretary and those with a greater than 10% shareholding.	

Q6	Has any body corporate or unincorporated named in Q3 to Q5 above:		
	• Ever been convicted of a criminal offence, issued with a caution, or bound over to be of good behavior?	Yes []	No [x]
	• Ever had a grant or renewal application for a sex shop, sex cinema or sexual entertainment venue licence refused or such licence revoked?	Yes []	No [x]
	• Ever been the subject of insolvency proceedings?	Yes []	No [x]
	• If Yes please provide full details including dates (this can be done on a separate piece of paper).		

Note: Question 6 does not apply to individuals as they are required to answer similar questions in Annex A.

Q7	Does the Applicant have a trading name different from that given in answer 2, 3 or 4 above? If so, state the trading name.	SPEARMINT RHINO
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Q8	Does the Applicant operate any other sex shop, sex cinema or sexual entertainment venue in Sheffield whether licensed or not?	Yes []	No [X]
	If so, state the name, address and type(s) of sex establishment (e.g. sex shop, sex cinema, sexual entertainment venue).		

Notes to Applicant:

Each of the individuals named in Questions 2, 3, 4 and 5 must complete a copy of the form attached at Annex A to this application.

These form part of the application and must be submitted with this application. If not, the application will not be regarded as complete and will not be processed.

It will be rejected if not made complete within seven working days of receipt.

B. THE PREMISES, VEHICLE, VESSEL OR STALL

A6

Q9	Is this application in respect of:	Premises	<input checked="" type="checkbox"/> Go to Question 11
		Vehicle	<input type="checkbox"/>
		Vessel	<input type="checkbox"/>
		Stall	<input type="checkbox"/>

Q10	Answer only where the application is for a vehicle, vessel or stall		
	Give a description and state all locations where the vehicle / vessel / stall is proposed to be located during use as a sexual entertainment venue. If moving please describe the route to be taken and any places where it will be stationary.		
Now go to question 12			

Q11	Postal address of premises: SPEARMINT RHINO 60 BROWN STREET		
	Post Town: SHEFFIELD	Postcode: S1 2BS	
	Telephone Number:	Email Address: receptionuk@spearmintrhino.com	

For Q12 to Q17 reference to premises should be taken to include vehicle, vessel or stall as appropriate.

Q12	Is the whole of the premises to be used as a sexual entertainment venue?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>
	If not, state the use of the remainder of the premises		
	State the names of those who are responsible for the management of the remainder of the premises		

Q13	State the nature of the Applicant's interest in the premises.	a.	Owner	<input type="checkbox"/>
		b.	Lessee	<input checked="" type="checkbox"/>
		c.	Sub-lessee	<input type="checkbox"/>
	If the Applicant is a lessee or sub-lessee, state:			
	(i) the name and address of the landlord	Keith Wilson Katsuri Petia Paphos, Cyprus		

	(ii) the name and address of the superior landlord (if any)	
	(iii) the amount of the annual rental	£165,000
	(iv) the length of the unexpired term	9 years
	(v) the length of notice required to terminate the tenancy	Not less than 6 months

Q14	State the current use of the premises	SEXUAL ENTERTAINMENT VENUE
	Is there planning permission for the premises (or any site where a vehicle, vessel or stall is to be placed) which covers use as a sexual entertainment venue?	Yes [X] No []
	If so, state the date of the planning permission	07/01/2002
	If not, state whether and why the use as a sexual entertainment venue is lawful, e.g. because there is a certificate of lawful use, give full details.	

Q15	Are the premises licensed under any other Act, e.g. the Licensing Act 2003?	Yes [X] No []
	Provide full details:	
	(i) Legislation	Licensing Act 2003
	(ii) Premises Licence Holder	SONFIELD DEVELOPMENTS LIMITED
	(iii) Designated Premises Supervisor	PETER MERCER
	(iv) Licence number	SY 0971 PR
	Does the Applicant intend to obtain or vary a licence under any other Act?	Yes [] No [X]
	Provide full details:	
	(i) Legislation	
	(ii) Type of application	
	(iii) Licence number	

Q16	Is customer access to the premises:	Directly from the street or a public thoroughfare? [X]
		From other premises? [] Please provide details:

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Is each customer access from the street to be supervised at all times the premises are open to the public?	Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/> If the answer is No give full details of proposed door controls and supervision:
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Q17 Are the premises, so constructed or adapted and laid out as to permit access to, from and within the premises (including WC facilities) for members of the public who are disabled?	Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/> If the answer is No give full details of proposals for affording such access:
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Q18 Are the premises being used as a sex shop, sex cinema or sexual entertainment venue at the date of this application?	Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/>
If the answer is Yes, state the name and address of the body or person now operating the business.	Name: SONFIELD DEVELOPMENTS LIMITED Address: C/O 161 TOTTENHAM COURT ROAD, LONDON W1T 7NN

C. MANAGEMENT OF THE BUSINESS

Q19 State the identity of the person who will be primarily responsible for the day to day management of the business at the premises.	Name: PETER MERCER – GENERAL MANAGER
Will that person be based at the premises and will the management of the business there will be his/her sole and exclusive occupation.	Yes [<input checked="" type="checkbox"/>] No [<input type="checkbox"/>
Which person(s) will be responsible for the day to day management of the business in the absence of the person named above.	Name: MICHAEL DAVID GOODWIN (MANAGER)

	Name: ANDREW FOSTER (REGIONAL MANAGER)
Confirm that the relief manager(s) or one of them will be based at the premises full time in the absence of the Manager.	Yes [X] No []
You should ensure that any person listed in this question is also included in Q2 to Q5 above as appropriate.	

Q20 State all times at which the premises will be used as a Sexual Entertainment Venue			
Day	Start	Finish	Please give further details here:
Mon	00:00	24:00	
Tue	00:00	24:00	
Wed	00:00	24:00	State any seasonal variations:
Thur	00:00	24:00	
Fri	00:00	24:00	Non-standard timings. Where you intend to use the premises at different times from those listed in the column on the left:
Sat	00:00	24:00	
Sun	00:00	24:00	

Q21 State proposals in respect of: (A plan of the exterior must be submitted)			
Exterior Signage	Nature:	1. SIGN ABOVE THE FRONT DOOR. 2. WINDOW SIGN, LOGO AND WEB ADDRESS 3. SIGN AT SIDE OF BUILDING.	
	Size:	1. 4FT BY 9FT 2. 6FT BY 9FT 3. 2FT BY 7FT	

		Images:	PHOTOS PROVIDED
		Copy Supplied:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Advertising	Nature:	EVENTS BOARD NEXT TO FRONT DOOR	
	Size:	A1/A2	
	Images:	PHOTO	
	Copy Supplied:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Window Displays	Nature:	SEE ABOVE	
	Size:		
	Images:		
	Copy Supplied:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

Q21	State any proposals for solicitation or advertisement of business in public areas (in doing so you should take account of the Council's Policy and the Standard Terms and Conditions that will apply to the licence if granted) :		
Fliers	Images:	FLYERS/VIP PASSES DISTRIBUTED WHERE LAWFUL AND ON DISPLAY IN HOTELS BY AGREEMENT	
	Copy Supplied:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Business Cards	Images:	SEE PHOTO	
	Copy Supplied:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Other	Images:		
	Copy Supplied:	Yes <input type="checkbox"/> No <input type="checkbox"/>	

Q22	What means are to be taken to prevent the interior of the premises being visible to passers-by?	ENTRANCE FOYER IS VISABLE FROM THE OUTSIDE. NO AREAS WHERE RELEVANT ENTERTAINMENT IS VISABLE FROM THE
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		OUTSIDE DUE TO THE LOCATION OF THE ROOMS AND WINDOWS BEING BLACKED OUT/BOARDED.

Q23	<p>State what age restrictions are to be applied in respect of admissions, and how are these to be enforced.</p> <p>In answering, state what forms of identity will be accepted.</p>	<p>NO- ONE UNDER 18 PERMITTED</p> <p>PASSPORT/ DRIVING LICENCE</p>
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Q24	<p>State the arrangements for CCTV and for retention of recordings.</p> <p>In answering, state whether all public areas are to be covered by CCTV at all times the business is open and whether the feed from all cameras will be recorded.</p>	<p>ALL AREAS OF THE PREMISIES, INTERNAL AND EXTERNAL ARE COVERED BY CCTV, THERE HAVE BEEN NO CHANGES TO THE SYSTEM AND ALL CAMERAS RECORD WHILST THE PREMISIES IS OPEN FOR BUSINESS. RECORDINGS ARE GENERALLY KEPT FOR 70 DAYS, COPIES OF RECORDINGS CAN BE PROVIDED TO POLICE AND LOCAL AUTHORITY SUBJECT TO DATA PROTECTION ACT 1998.</p>
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Q25	<p>State whether the proposal is for full nudity (nudity is defined as per the Council's Policy).</p>	<p>Yes [X] No []</p>
	<p>Give full details of the nature of the entertainment.</p> <p>Lap Dancing</p>	<p>IN BOOTHS</p>
	<p>Pole Dancing</p>	<p>ON STAGE</p>
	<p>Stage Strip-tease</p>	<p>ON STAGE</p>
	<p>Other</p>	<p>ANYTHING OF A LIKE KIND</p>
	<p>State whether arrangements are proposed for private booths or areas. If so, provide full details (highlighted on accompanying plans),</p>	<p>SEE PLANS, AREAS COVERED BY DOOR SUPERVISORS.</p>

	including proposals for supervision of such areas.	
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Q26	This question need not be answered in the case of renewals.	
A	State proposals for preventing nuisance to residents and businesses in the vicinity: RENEWAL	
B	State proposals for promoting public safety: RENEWAL	
C	State proposals for preventing crime or disorder: RENEWAL	
D	State proposals for protecting children from harm: RENEWAL	
E	Set out the system for training all staff in the Code of Practice for performance, and enforcing compliance. <i>(Note: the Code of Practice must be attached to this form.)</i>	RENEWAL
F	Set out the system for notifying customers of the Rules for Customers, and for monitoring and enforcing compliance. <i>(Note: the Rules for Customers must be attached to this form.)</i>	RENEWAL
G	Set out the system for monitoring compliance with the venue's Policy for Welfare of Performers. <i>(Note: the Policy for Welfare of Performers must be attached to this form.)</i>	RENEWAL

Q27 Set out any further information which you wish the authority to take into account.

Include here any proposed conditions (you may attach a schedule of such conditions) or any reason relied upon to provide an exception to the authority's Sexual Entertainment Venue Policy or Standard Conditions (any such application will be referred to Licensing Sub-Committee for determination).

THE PREMISES HAS OPERATED FOR A NUMBER OF YEARS AND THERE IS NO CHANGE TO THE CURRENT OPERATION OR TO THE PLANS. DETAILS OF WHICH HAVE BEEN SUBMITTED PREVIOUSLY.