

Supplementary Papers for Licensing Sub-Committee

Date: Wednesday, 5 June 2024



5. Wiggle, 159 Old Christchurch Road, Bournemouth, BH1 1JS

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Additional correspondence from objector enclosed, regarding the following item:

An application has been received for the renewal of the Sexual Entertainment Venue Licence for the premises known as 'Wiggle', 159 Old Christchurch Road, Bournemouth, to permit relevant entertainment to continue for a further twelve-month period.

As the Licensing Authority has received one objection, this matter is brought before the Licensing Sub Committee for determination.

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From: [REDACTED]
Sent: Thursday, May 23, 2024 2:18 AM
To: [REDACTED] Licensing Com
<licensing@bcpcouncil.gov.uk>; Sarah Rogers - Licensing <sarah.rogers@bcpcouncil.gov.uk>
Subject: Wiggle Licensing Hearing 5th June 2024

Hi

Re Wiggle Licensing Hearing

As previously mentioned, I am dropping you this list of legal sources which I would like to rely on if necessary, depending on what is raised by the applicant.

Stepney Borough Council v Joffe 1949 1 KB 5997 reminder that in an appeal the burden of proof is on the applicant

Licensing Act 1964-to demonstrate that when the 1982 Act (below) came in there was a fitness test for a licensee.

Local Govt (Misc) 1982 Schedule 3, ie the current licensing regime for strip clubs-various including any person may object, any reason, not any relevant reason, can be given for objecting on suitability and citing that there is no presumption in favour of licensing, no requirement to show harm, no requirement in a location objection to show any change in its nature recent or ever and that local authorities decide on licensing not the police.

R v Birmingham City Council ex parte Sheptonhurst 1990 1 All ER 1026 no intention by Parliament that one year's decision will bind future hearings.

The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 stating the requirements for a plan filed under the 2003 Act.

2008 Thwaites (Daniel Thwaites v Wirral Mags Ct) case law on requirement to show harm, mentioning weight of police evidence

Public Health England guide to licensing objections discrediting misuse of Thwaites

Local Government Lawyer article discrediting Thwaites Philip Kolvin KC

Police Act 2009 placing strip clubs within the 1982 Act above

Equality Act 2010 making admissible the disproportionate impact of refusing moral objections to strip clubs where the morals are more commonly held by a group with protected characteristics. So if a moral objection motivated by religion, gender or any other protected characteristic is made, this can be considered when licensing.

Ex Parte Christian Institute 2010 (R v Newcastle upon Tyne City Council ex parte Christian Institute) that purely moral objections are not admissible. Also that concerns about the moral standards of those attracted into an area by the presence of a licensed sex establishment are admissible in deciding on an objection based on location. Also emphasising the decision in this case predates the Equality Act, which might be decided differently if it had not.

Home Office Guidance on Licensing Sex Establishments 2010-to emphasise that this is out of date as it predates the Equality Act and wrong on moral objections as it does not include morals of those attracted to a location and suggests wrongly that any moral motivation for objection invalidates other parts of an otherwise valid objection. Also to emphasise that this is not statutory guidance so can't add to existing law.

Cabman's Rest 2020 First-Tier Tribunal Property Tribunal (Residential Property)
CH1/ooMR/HNA2020/005 to contradict the assertion made by the applicant's legal representative at last year's hearing that the property was not dangerous.

I would also like to take the committee through the grounds on which a judicial review of their decision can be ordered or an appeal allowed.

Judicial review can arise if all relevant factors are not considered and/or if irrelevant factors are considered.

The relevant factors include all relevant law and facts.

Judicial review can also be granted for administrative unfairness, eg not advertising appropriately or following the committee's own stated procedure.

Lastly it can be granted on unreasonableness, but that this must be well beyond simply disagreeing with the decision of the committee.

Grounds for appeal are stated in the 1982 Act.

In addition to the above the following have arisen since filing or were overlooked by me at the time of filing my objection and I would like them considered by the committee.

Firstly, an SEV Sexual Entertainment Venue in Altrincham (aka Altringham was refused in April this year on the basis of location.

Secondly, I have recently noticed the applicant's own website listing ways in which a performer can keep themselves safe, presumably from customers, and that it offers package "deals" to stag groups of up to 30 men.

Lastly, the website actively encourages tipping, doesn't show the size of alcohol bottle provided as part of the packages and doesn't show the price of private dances. I don't think that this is a clear pricing policy. Actively encouraging tipping also makes calculation of moneys received by performers very difficult to keep account of for tax returns and declarations if paid welfare benefits.

I have recently learnt that self employed staff are not subject to the same workplace checks for their right to work in this country as those with employment contracts. I suggest that the committee considers imposing a condition either that all performers are provided with a contract of employment so that they are entitled to sick leave, job security and all other employment rights or that the applicant is obliged by a license condition to carry out checks on their right to work in this country.

I also suggest that a cab rank rule applies to the performers so that if a customer wants a private dance they must either use the next available dancer or pay those ahead of the dancer they wish to use in the queue a fee to be able to jump the queue. This would help the performers build up a sense of camaraderie and support for each other instead of being in competition for customers.

Kind regards



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