

LETTER OF OBJECTION TO RENEWAL OF SEV LICENCE

FYEO 134-136 OLD CHRISTCHURCH ROAD

This is my objection to the premises used as FYEO being granted a Sex Establishment, SEV Sexual Entertainment Venue License.

It is set out for ease of reference, broadly in the order used in the Home Office Guidance on licensing Sex Establishments relating to refusals.

This guidance is not law, but is a reasonable summary of relevant law at the time it was written, with a few areas with room for improvement.

Unlike guidance from the government which parliament has allowed to be part of the law, eg that issued for highways and planning decision made by councils, this guidance can't add to or take away from the law. It is just guidance, not statutory guidance.

It is by now out of date as the Equality Act either wasn't in operation at the time it was written or its impact hadn't been considered.

It is misleading on at least three points.

One is saying at that refusals can only be made on certain points contained in Local Government Misc Act 1982. It should say, refusals made under the Local Govt Misc Act 1982 (LGMA 1982) can only be made on the points listed in that Act.

In fact in reaching a decision a council must consider all relevant law, so that law passed since the guidance was issued must be considered, as must all the law other than the LGMA which is relevant. Failing to consider any relevant law can result in a Judicial Review of a council's decision.

The second point is stating the moral objections cannot be considered by a council in reaching a decision. Veterans of licensing law will of course have immediately spotted the glaring error in this in omitting the word "purely" or "solely". This dates back to the days when the temperance movement was much stronger so that people would object to sale of alcohol on moral grounds. In fact, as BCP council discovered to its cost in a Judicial Review judgement, this omission is highly misleading as a moral objection can be made as long as it links to relevant law. Further, the case law which confirmed that purely moral objections couldn't be made went on to state that the dubious morals of those who might be attracted into a neighbourhood by the presence of a sex establishment could be considered when deciding on locality or the nature of nearby premises.

Thirdly it is misleading as it suggests that locality is only something to be considered in setting the number of premises a local authority considers appropriate to that locality. In doing so, it glosses over the ability of a local authority to refuse a license on the basis of locality, including the character of that locality, whether or not a number of establishments appropriate to that locality has been set by a policy. I have had at least one councillor, not on the licensing committee, feed back to me that they believe a policy must exist in order for refusals to be made on the basis of locality. Section 3(d) of Schedule 3 to the LGMA allows a refusal on the basis of character of the locality. Section 3(c) of the same schedule allows council to set a

maximum number of establishments, which BCP has not done. They are separate sections and the Home Office guidance has confused them. You definitely have power to refuse based on character of locality whether or not there is a policy in place limiting the number of licensed sex establishments in the locality.

I object on suitability of the applicant for the same reasons as last year and cite Hussain and others v L B Waltham Forest 2019 as the most recent confirmation of what was perfectly good law when I learnt about it over thirty years ago. At time of writing it is still on the Judiciary website on this link <https://www.judiciary.uk/wp-content/uploads/2020/11/Hussain-v-Waltham-Forest-judgment.pdf>

I also object on suitability on the basis that on a recent application to vary the premises license the applicant filed a plan which does not appear to comply with the relevant regulations made under the Licensing Act 2003. This is the subject of another objection to that application at time of writing.

The Judicial Review judgment on BCP's licensing policy suggested it was reasonable to give credit for a club having operated for some time. This doesn't mean that you are bound to grant a license because of this but that it is a reasonable consideration. However, I say that it cuts both ways and you shouldn't assume that just because someone has been operating for some time that there have never been any issues there. In the year leading up to the hearing last year your officer had visited and seen breaches which resulted in a reminder that the performers should not get too close to the customers. I would suggest that to reinforce this, that if you are minded to grant a license, that you set a condition that has been used by other authorities so is quite reasonable, that the dancers are always at least one metre away from all parts of their customer or customers during a dance where the level of nudity requiring a sex establishment license is reached or expected to be reached.

Also in the past the sister club in Southampton operated by the applicants was reported in the press to have experienced an incident involving a large amount of money being taken from a customer beyond what would reasonably be expected. I suggest that you impose a condition, if you do decide to license, that non cash payments can only be collected from customers into an account for which the applicant or at least one of the directors is a named account holder. In these days of hand held devices or even phones being used to collect payments that run on mobile phone networks, this would protect against a rogue member of staff repeating the incident reported in Southampton. Although the performers may, as is not uncommon in this industry, be self employed, there is nothing to prevent the applicant or its directors collecting the payments into an account for the performers in this way.

On suitability I ask you to consider the recent BBC report on a strip club in Newcastle also trading under the name FYEO which is highly critical of that establishment.

The above relates to suitability of applicant. I also object on basis of suitability of the premises, given that the alley at the rear of the property which previous documents filed suggested is the route to be used by performers to leave, is frequently partially blocked by overfilled bins and on occasions fly tipped food waste. This alley is not as I understand it under the direct control of the applicant, so that if the performers must leave in this way to avoid encountering customers in the street, then this doesn't seem safe. I have made various reports to Environmental Health showing pictures of the state of this alley and explained the smell coming from it on at least one occasion, so that expecting anyone working at the premises to walk here seems unreasonable.

I object on the basis of the locality given that it is reasonable to use the qualities of the locality included within BCP's now quashed Licensing Policy on Sex Establishments. It was not

quashed on the basis of unreasonableness of the qualities of a locality that could justify refusal, so it should be assumed that it is perfectly reasonable to refuse on those qualities. The area is a Conservation Area on the basis of being historic and is in fact one of the first parts of the mainly new seaside resort which the Victorians built. An historic tour of the buildings of Bournemouth is currently being trialed taking in a different period, commissioned to see whether tourists will come to Bournemouth to learn about its history. They came, this summer, and I went on the trial tour, which was very well supported. It should be assumed that the historic nature of the Old Christchurch Road area will attract people looking to learn about history, so is not compatible with sex establishment licensing for that reason.

The planning policies since 2013 at least have been permitting conversion to residential properties, and this has been compounded by recent policy to allow this to happen without parking. Planning applications abound in the area which are for residential or student accommodation.

Young people also abound in the area, with the previously mentioned new Academy at Stafford Road spilling out more schoolchildren onto the street, making any licensing, let alone 24/7 totally inappropriate. There are student residences nearby, foreign student parties with logo's back packs regularly make their way on foot up this road, and there is even student accommodation above the premises.

Vulnerable people also abound in the neighbourhood, with the drug rehabilitation services just up the road and a centre for refugee support having opened last year nearby. I have not visited the area in the morning recently so don't know if it is still as heavily populated with people sleeping in doorways, who are in every sense vulnerable.

At time of writing I haven't done a filtered search by ward on the planning section of BCP's website to see how many residential applications have been made, but hope to have done so by the time of any hearing.

Not in the policy, but also a perfectly reasonable consideration for locality, is the rise of "hot desking" establishments. For example Walton House on nearby Richmond Hill (nearby as in a short walk, ie just over five minutes) such an establishment offer 24/7 facilities. People walking or cycling as one would expect in a town centre low on parking facilities, can't be expected to dodge stag parties up to 30 strong either turning out in the early hours or on their way to the strip clubs. This applies to anyone working shifts such as NHS workers, carers and particularly to those starting work early in the morning cleaning at the same time that strip clubs close.

There are also various open spaces such as Horseshoe Common, the churchyard of St Peters and Bournemouth Gardens. It is not stated in the policy but the usual reason for discouraging sex establishments here is to discourage the use of the open spaces for prostitution. You do not need to see any evidence of these places being used for prostitution to reasonably refuse on this basis. In addition press reports of rapes and sex assaults at this location are not uncommon. I ask you to take into account the complaints in the feedback on a consultation on BCP's licensing policy (ibid) of harassment by strip club customers in deciding whether it is reasonable to assume that the presence of strip clubs contributes to the sexual assaults reported in the area. The presence of strip clubs contributes to a misogynist culture where women are objectified not just in the place of entertainment but afterwards in the home, in relationships, in the workplace, at college and in public places. It is your Statutory Duty under the Equality Act to promote good relations between the sexes and not just prevent but actually eliminate harassment so you are quite entitled to refuse to license on that basis. As mentioned above you do not need to limit your reasons for refusal to the LGMA 1982 but can refuse on

the basis of any relevant law. At time of writing BCP's webpage still doesn't include the duty to eliminate harassment as part of the Public Sector Equality Duty under the Equality Act, but I can assure you, it is part of that Statutory Duty. Failure to meet this duty was part of the reason for the Judicial Review, *ibid*.

As mentioned the quashing of the policy certainly doesn't stop you refusing on locality or anything else in the policy. If it had limited the number of sex establishments in the area then this would stop you relying on this part, but it didn't.

With regards to premises whose use makes the licensing inappropriate, the distance should be judged on walking distance, given that lack of parking and a traffic order preventing driving in the area at night make it inevitable that people will be walking past this establishment without the protection of a car. From that perspective, nearby is St Peter's Anglican Church, The Oratory Roman Catholic Church, The Shule, and the Mosque, all places of religious worship. Also nearby are the places mentioned above in the locality section.

In addition to the points regarding the Equality Act already mentioned impact on groups with protected characteristics needs to be considered. This includes but isn't limited to , sex, religion and disability.

A Christian priest objected in previous Bournemouth strip club hearing to licensing on the basis of damage to relations between the sexes, stating that he had seen in his pastoral work the damage which can be done when impressionable people are lured away from their partners. Another objection to a different establishment's license was made by Bournemouth's mosque, prompted by the window display. Another objection was made to a different establishment, on the basis that a vulnerable adult had used a credit card and his carer was very concerned by how much had been taken from him. As a result of this I believe that some sort of condition was imposed to form a policy to ensure that vulnerable adults were not exploited on the premises. It was women that complained of street harassment in the consultation already mentioned, and sex is a protected characteristic. I repeat that if an operator or the site of a premises is to be given credit for being open for some years, then you should also be open to hearing of issues that have given rise to complaints over those years. Having been granted a license in the past doesn't wipe the slate clean. You as a committee are entitled to look at exactly the same circumstances with fresh eyes and come to a different conclusion. You are also entitled to look at issues cumulatively over the years in deciding whether to license.

Other Law, human rights, general moral, equality act.

As well as law, it is also necessary to consider relevant policies of BCP council in reaching your decision, as part of the Administrative Law, the remedy for which is Judicial Review.

Licensing would conflict with BCP's tourism strategy which includes "improved accessibility and inclusivity" because of the harassment complained of by women in the feedback *ibid* by strip club customers. Promoting a misogynist cultural offering is not in line with improved inclusivity. The presence of the strip clubs in Bournemouth centre over three decades has driven out department stores through staff not wanting to walk near them, and is now driving out other facilities such as Halo nightclub which shut soon after a Freedom of Information report into sexual assaults at this establishment and others in Bournemouth town centre. <https://democracy.bcpccouncil.gov.uk/documents/s40800/Appendix%201%20for%20Tourism%20Strategy.pdf>

It is also at odds with the Bournemouth Town Centre Action Plan. With regard to upper Old Christchurch Road where the premises are situated, at 2.5.2 it specifically states that evening activities should not dominate to the detriment of daytime activities. Here the premises

immediately adjoining those occupied by the applicant have been largely empty, in contrast to most of the rest of Old Christchurch Road, for many years, as the Google Street view and people's memories can attest. I don't know why they are empty but would hazard a guess that the presence of the strip club there deters others from occupying the shop next door and bar and offices above. Some parts are occupied but much is not. <https://www.bcpccouncil.gov.uk/documents/planning-and-building-control/AAP-final-adopted-2.pdf>

It is also at odds with BCP's Cultural Strategy for the same reasons as the Tourism Strategy, namely a clash with the equality objective. Moreover "leveraging the power of culture for improved wellbeing and quality of life" is not something being met by the strip club industry according to the numerous people who have exited this work and now campaign against licensing of strip clubs. I am not however aware of any who specifically state that they have worked in the applicant's establishments. <https://democracy.bcpccouncil.gov.uk/documents/s40799/Appendix%201%20for%20Our%20Strategy%20for%20Culture%202023%20-%202032.pdf>

Bournemouth Central Ward's draft planning policy at BC5 shows the area immediately behind the premises as somewhere to bring more residents into the area, so supporting the assertion above that this is a growing area for residential use. Strategic Policy P5 for Bournemouth Central includes improvement of the safety of pedestrians on roads including Old Christchurch Road. Although this is usually equated with safety from being injured by a car, safety from the appallingly high street crime in Bournemouth Central according to the Crime Map based on police data and safety from street harassment by strip club customers is also relevant. Street crime has been shown to be higher in the areas around strip clubs in a large fairly recent American study. In my view sexual frustration, the business model of a strip club, must contribute not just to street violence against women, but also between men in the streets nearby and then later in domestic violence on returning home to a partner. Whilst in a strip club the customers are provided with some supervision by staff including security staff, but these people cannot offer any protection outside the club. The documents filed on how the applicant's establishment is run in last year's hearing made clear that this was a concern and went so far as to ban performers from visiting late night bars nearby in case of the presence of customers.

By undermining walking in the area licensing will be at odds with the Green Infrastructure Strategy <https://www.bcpccouncil.gov.uk/leisure-culture-and-local-heritage/parks-and-open-spaces/green-infrastructure-strategy>

Licensing will also be at odds with the spirit of BCP's bus service improvement plan which aims to make bus travel safer. The taxi rank has already been moved from outside these premises some years ago and the same problems will continue to deter bus travel using to stop across the road for early morning journeys that clash with strip club closing times. <https://www.bcpccouncil.gov.uk/Assets/About-the-council/BSIP-report.pdf>

BCP also has a safeguarding adults policy which includes vulnerable adults. Whilst it doesn't specifically cover preventing establishments being licensed where there are vulnerable people

present it is against the spirit of the policy which is designed to protect these people. To return to the locality element on which refusal to license can be made, case law, as previously mentioned states that people of dubious morality will be attracted into a neighbourhood by the presence of a sex establishment. There is no suggestion that there is any exploitation whatsoever in the applicant's premises. However, the risk is that outside the premises vulnerable people may be drawn into exploitative situations by those attracted into the locality. Those housed precariously or rough sleeping, those who are drug dependent and those who are refugees for example are all particularly vulnerable to exploitation because of very limited available income.

Licensing will further undermine the work of BCP's economic development team because, as mentioned, premises above and to the side of the applicant's premises are empty.

Green Infrastructure Strategy

Our objectives to support a sustainable environment, dynamic places, connected communities, brighter futures and fulfilled lives.

www.bcpCouncil.gov.uk

You may have heard the Human Rights legislation discussed in relation to strip club licensing.

In this country the main legislation is the Human Rights Act 1998. Adverts by third parties exist online offering stag on stage services at FYEO Bournemouth. If these are being offered, which I don't know, I suggest a license condition be imposed banning the humiliation of any customer as well as the existing conditions preventing bad treatment of performers. This can be justified under Article 3 "No one shall be subjected to ...degrading treatment..." listed in the Human Rights Act above.

Article 10 on freedom of expression is also frequently discussed. If the applicant should raise this I direct the committee to the ability to restrict this on the basis of various things, including "morals".

With regard to the Equality Act already mentioned above I would reiterate that if a moral objection is made, by someone who is part of a group with a protected characteristic, eg sex, religion, disability, veterans, poverty (as defined in BCP area) then the impact of licensing on people with that characteristic should be considered.

I would like to point out that although the documents filed last year mention that performers should get a police check of some kind done. As the applicant mentions at Companies House that they have only one employee, there is no legal duty to check right to work of anyone working at the premises. I would suggest that a condition be made for any license granted either that everyone working at the premises has a contract of employment with the applicant or that they produce right to work documentation to them to be kept securely and made available to council officers on request. I believe that there are many refugees in Bournemouth because of the hotel accommodation available so that the risk of exploitation is high.

Finally, if offered the opportunity of appearing before the committee to represent this objection to them, I would ask that I be permitted to read it through in the interests of fairness. I have attended several other hearings and the applicants appear to be able to go through their statements and it seems only right that I should be able to read this to the committee.