

THE LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE AGENDA



**TUESDAY 26 NOVEMBER 2013 IMMEDIATELY
FOLLOWING THE FULL LICENSING HEALTH AND
SAFETY COMMITTEE**

**COUNCIL CHAMBER, HEMEL HEMPSTEAD CIVIC
CENTRE**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Cllr G Chapman	Cllr Lawson (Chairman)
Cllr Conway	Cllr Link
Cllr Fantham	Cllr G Sutton
Cllr Mrs Green (Vice-Chairman)	

Substitutes: Councillors Mrs Bassadone, Bhinder, R Hollinghurst, Rance, Ryan and R Sutton. (Please note Members may only be appointed as substitutes if they have been trained for Licensing Committee).

For further information, please contact Clare Thorley on Tel: 01442 228226, or Email: clare.thorley@dacorum.gov.uk Information about the Council can be found on our website: www.dacorum.gov.uk.

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1. INTRODUCTIONS

2. MINUTES

To confirm the minutes of the meetings held on 2 October 2013.

3. APOLOGIES FOR ABSENCE

To receive any apologies for absence

4. DECLARATIONS OF INTEREST

A member with a disclosable pecuniary interest or a personal interest in a matter who attends a meeting of the authority at which the matter is considered -

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent

and, if the interest is a disclosable pecuniary interest, or a personal interest which is also prejudicial

- (ii) may not participate in any discussion or vote on the matter (and must withdraw to the public seating area) unless they have been granted a dispensation.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Members' Register of Interests, or is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal and prejudicial interests are defined in Part 2 of the Code of Conduct For Members

[If a member is in any doubt as to whether they have an interest which should be declared they should seek the advice of the Monitoring Officer before the start of the meeting]

5. PUBLIC PARTICIPATION

An opportunity for members of the public to make statements and ask questions in accordance with the rules on Public Participation

6. EXCLUSION OF THE PUBLIC

To consider passing a resolution in the following terms:

That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the item in Part II of the Agenda for the meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during this item there would be disclosure to them of exempt information relating to an individual which would be likely to reveal their identity (Item 7).

**7. APPLICATION FOR PRIVATE HIRE DRIVERS LICENSE FOLLOWING
MOTORING OFFENCES**

See Part II agenda for more details.

DACORUM BOROUGH COUNCIL

LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE

02 OCTOBER 2013

Present-

MEMBERS:

Councillors G Chapman, Conway, Lawson (Chairman), Link, G Sutton

OFFICERS:

R Hill	Licensing Team Leader
B Lisgarten	Legal Governance Team Leader
C Thorley	Member Support Officer

Other Persons Present:

JS (Applicant, Item 6)
Mr Fender (Applicant's Representative)
A Scarf (Manager of premises (Item 6))
S McCurdy
Councillor Hilary Killen (Watling Ward Borough Councillor)

1. INTRODUCTIONS

2. MINUTES

The minutes of the meetings held on 30 July 2013 were confirmed by the members present and then signed by the Chairman.

3. APOLOGIES FOR ABSENCE

Apologies for absence were given by Councillor's Green and Fantham.

4. DECLARATIONS OF INTEREST

The Chairman said these would be dealt with once the item was being discussed.

5. PUBLIC PARTICIPATION

The Chairman said this would be dealt with once the item was being discussed.

6. APPLICATION FOR GRANT OF SEX ESTABLISHMENT LICENCE

The Chairman introduced the item and stated that the Sub-Committee were to consider the Application for Grant of a Sex Establishment Licence for Junction 9 situated at London Road, Flamstead, Herts AL3 8EX.

R Hill then provided the following background to the application; R Hill explained that the premises were licensed as a sexual entertainment venue until May 2013. A renewal application was made prior to the expiry of the licence, which was rejected when a defect with the public notification of that application came to light. As such, the continuation rights bestowed by that application ceased to have effect in July.

R Hill stated that this application was now for a new licence. All notification requirements had been satisfied in respect to the current application.

R Hill said that no objections had been received from the police in respect of this application.

However R Hill stated that objections to the application have been received from local residents, businesses and the parish council, and could be found at Annex E of the report.

R Hill said that in response to references within the objections about the continuing usage of the premises, licensing officers had made a number of unannounced visits to the premises. On Friday 30 August 2013, nude dancing was observed taking place, and officers spoke to the manager of the property at the time to affirm the lack of licence. As the legislation permitted one sexual entertainment event per month without a licence, no further action was deemed possible. On a further visit one week later, performers were clothed.

R Hill mentioned that officers had also spoken to the premises management in June of this year, during the first application, in respect of the signage displayed outside the premises which depicted silhouettes of female dancers in various poses. A standard condition attached to SEV licences prohibited the display of signage unless required by law or approved by the Council. Several of the objections found in the appendices of the report referred to this signage.

The Chairman thanked R Hill for his introduction and asked the other individuals present at the meeting to introduce themselves. The applicant's representative introduced himself as Mr Fender, the applicant's agent. J Shayler, the applicant and owner of Junction 9, and A Scarf, the manager of Junction 9 were also introduced.

In addition Councillor H Killen was also in attendance representing her ward and also attending on behalf of a number of other objectors who were unable to attend the meeting. S McCurdy, a local business owner (Majestic Trees) was also present.

In regards to declarations of interest the Chairman stated that the premises was not in his ward and that he had not previously visited it and asked the members present on the Sub-Committee if this was also the case for them. They reiterated the premises were not in their ward and they had not previously visited it.

The Chairman then allowed the applicant's representative to make a short statement in relation to the application. Mr Fender began by giving a brief summary of the location of the premises and its operating hours. Mr Fender highlighted that there was a section of land between the premises and the nearest residential buildings of approximately 2 acres. Mr Fender stated that he could see no legal ground for refusal of the application on discretionary grounds as there was no suggestions that the applicant or the premises management were in any way inappropriate individuals to run such an establishment. Mr Fender surmised that he could only foresee the application being refused if the Sub-committee decided that the premises was inappropriate given its locality or its potential to be unfitting to the character of the local area.

Mr Fender stated that whilst his client had been the licence holder for the concerned premises there had been no history of anti-social behaviour, no crime and that the premises had not been a point of concern for the authorities. Mr Fender highlighted that this point was verified by the fact that the police had no comments in relation to this application. Mr Fender also pointed out that until this recent licence application the premises had not received any concerns from the local residents. Mr Fender said that another licence application for Junction 9 had been made in 2012 and again no concerns from the local residents had been received.

Mr Fender acknowledged that the concerns raised in the letters of objection followed similar themes but he wanted to highlight that out of the entire population of Flamstead only 9 had felt strongly enough about the presence of Junction 9 to write into the Council, Mr Fender stated that surely if the presence of Junction 9 was of that much concern to the local residents then more would have wished to register their objections.

Mr Fender also highlighted that although two local businesses had complained about the renewal of Junction 9's licence with various concerns and implying that Junction 9 was having a negative impact on their businesses he was of the impression that these businesses, specifically Majestic Trees, appeared to be flourishing as the recent industry accolades on their website suggested. Mr Fender also commented that there was a set of industrial units adjacent to Junction 9 the owners of which had not complained, and surely they would have had the presence of Junction 9 been detrimental to businesses in the local area.

Mr Fender also said that in relation to Flamstead Parish Council's objections to the premises he had looked at the published minutes of the council and could find no reference to Junction 9 which suggested that the issues that Councillor Killen raised in her letter may have been exaggerated.

Mr Fender summarised by saying that whilst he acknowledged there were a few individuals who were opposed to the premises he urged the Sub-Committee to focus on the facts, which showed that since the applicant had been responsible for the premises all licence conditions had been complied with. In addition there had been no change to the locality in terms of character or layout and if granted Junction 9 would continue to operate as a legitimate business.

The Chairman thanked Mr Fender for his thorough presentation. The Chairman drew Mr Fender's attention to condition number 21 of the report which concerned the displays and advertisements outside of the premises. The Chairman asked if the current signage at Junction 9 really was compliant with this. The Chairman stated that he thought the signage was tawdry and that it was designed to capture the attention of passers-by. Mr Fender said that this signage had been seen by the

Council's visiting officers but that if it was deemed to be inappropriate his client would endeavour to comply with any requests made in relation to this signage.

The Chairman then invited Councillor Killen to speak. Councillor Killen began by saying that she had been a resident of Flamstead for 29 years living to the north of Junction 9. Councillor Killen explained that as a result she was very familiar with the premises and had seen numerous changes take place over the years. Councillor Killen said she had seen it transition from a hauliers inn to a family pub with a children's play area, and then to the establishment it is today.

Councillor Killen stated that in addition she was a ward Councillor and was representing residents who did want to attend the Sub-Committee to express their views but who were unable to do so due to work commitments.

Councillor Killen stressed that none of the objections of these individuals were based on general moral grounds and that all the objections related specifically to Junction 9.

Councillor Killen explained that the first issue was based on location. Councillor Killen said that some residents felt it was inappropriate in regards to the rural and residential character of the neighbourhood. The second issue related to recent changes to the physical appearance of the premises and the manner in which the establishment appeared to be managed which raised concerns over the ability or willingness of the applicant to comply with legal requirements and therefore his suitability to be granted a renewal.

Councillor Killen stated that the location and nature of the premises did not fit with the Council's Core Strategy as Flamstead had been recognised by the Core Strategy as one of the small villages within Dacorum which had; "been selected as places where limited development is possible without serious environmental detriment. This development is restricted to minor housing proposals and facilities to meet local needs (i.e. for those people needing to live and/or work in the Green Belt) so that the character of the villages and Green Belt location is protected."

Councillor Killen drew attention to this because she felt it was relevant to the context of this specific locality and so too to the decision to be made on whether the establishment was appropriately located. Councillor Killen said that Dacorum recognised the need to preserve and protect the rural characteristics of certain areas of which Flamstead was one.

Councillor Killen questioned if, based on this, was the Committee satisfied that this particular locality was appropriate for this sexual establishment?

Councillor Killen drew attention to other small businesses in the Flamstead area and said that they contributed to and enhanced the vibrancy and cohesiveness of the community. Councillor Killen stated that to varying degrees they all integrated and supported village events. Councillor Killen said that all of these businesses had either, improved the area, or would continue to do so. In contrast Junction 9 had chosen not to integrate into village life and had physically barricaded itself off with wooden paneling and fencing and the erection of hoardings and signage which did not fit into the local rural scene.

Councillor Killen also mentioned that local house prices were affected by the location of Junction 9. Councillor Killen referenced a situation where estate agents had to advise a reduction of approximately £200,000 to the sale price of a house in the vicinity in order to secure the sale.

Councillor Killen stated that some may be of the opinion that the premises was located out of the way but due to the signage the premises was prominent and so was having adverse affects on the local area. Councillor Killen pointed out that the only other licensed establishment in Dacorum, a sex shop in Apsley, had no signage or external sign of its activities in total contrast to Junction 9.

Councillor Killen summarised by saying that due to the points she had just mentioned she requested that the Sub-Committee exercised their discretion and refused the application from Junction 9.

Following Councillor Killen's statement the Chairman asked if anyone had any questions. Mr Fender requested the opportunity to respond to the comments made by Councillor Killen. Mr Fender stated that allegations into the mismanagement of the premises were unfounded, the Chairman agreed that without police reports or some evidence of the unsuitability of the owner/manager of Junction 9 its was inappropriate to allege they were unsuitable to run the venue.

The Chairman then invited local business owner S McCurdy to speak on the application. S McCurdy said that residents of Flamstead were not aware of the 2012 application for a sexual entertainment licence application and that is why they had not registered their objections. S McCurdy said that he did not feel that objectors to the Junction 9 licence application were a small minority but instead that there were a large number of residents who were afraid to register their objection given the type of clientele that Junction 9 attracted some of whom were thought to be unsavoury characters.

S McCurdy said that whilst he appreciated Mr Fender's comments in regards to the success of his business he did still receive many negative comments from customers who were shocked to see a sexual entertainment venue in such close proximity to his business. S McCurdy said also that to the best of his knowledge the owners of the industrial units located next to Junction 9 were in fact struggling to sell off units and whilst this may be down to economic reasons it was possible that again the close proximity of Junction 9 could be a factor in this.

S McCurdy said that there had also been a blatant shift in the marketing associated with Junction 9 over the last 4 years and that the signage and the graphic online advertising made it very obvious as to what activities were being carried out at the venue.

The Chairman again asked if Mr Fender wished to respond to these comments. Mr Fender again reiterated that there were no reports of anti-social behaviour or crime and so he didn't think S McCurdy's comments in regards to the nature of the clientele at Junction 9 were relevant. Mr Fender also pointed out in relation to Councillor Killen's earlier comments regarding house prices he had looked on the property website 'Zoopla' that morning and it stated that house prices had risen significantly in Flamstead over the past few years so clearly the presence of Junction 9 was not affecting property prices in the area. Mr Fender also pointed out that the condition and external appearance of the building was compliant with the conditions of the licence and that due to the boarding on the outside it was impossible to see any of what went on inside. The Chairman gave Councillor Killen an opportunity to respond to Mr Fender's comments but she had nothing to add.

The Officers, the applicant and his representatives and the members of the public withdrew whilst the Sub-Committee considered the matter.

Resolved:

The Licensing and Health & Safety Enforcement Sub-Committee, by a unanimous decision, concluded that the application for Grant of a Sex Establishment Licence be granted subject to adherence to all standard conditions.

The Chairman drew attention to the signage of Junction 9 and that he strongly advised the applicant to liaise with R Hill to ensure that the signage was approved in accordance with standard condition 21.

The meeting ended at 3.50pm.