

LICENSING COMMITTEE INFORMATION SHEET

5 July 2022

TYPE OF APPLICATION: Grant of Sexual Entertainment Venue Licence (SEV)
APPLICANT: New Progress Limited

INFORMATION NOTE

Premises: The Mask above Magma, 52 Bridge Steet, Aberdeen

Hours of Operation: Sunday to Thursday 12:00 to 02:00 and Friday and Saturday 13:00 to 03:00

Is the proposal for full nudity? Yes

Nature of the entertainment: DJ, live music, dancing, pole dancing, lap dancing and exotic dancing.

DESCRIPTION

Grant of SEV Licence

CONSULTEES

- Police Scotland
- Building Standards
- Environmental Health

OBJECTIONS/REPRESENTATIONS

Environmental Health

COMMITTEE GUIDELINES/POLICY

Section 45B(7) of the 1982 Act requires that, in carrying out its functions, a local authority must have regard to guidance issued by Ministers.

Scottish Government guidance provides:

Local authorities who have resolved to licence SEVs must determine the appropriate number of SEVs for both their area and for each relevant locality within their area (see paragraph 9(5A) of Schedule 2 of the 1982 Act). Paragraph 9(5)(c) of Schedule 2 allows local authorities to refuse applications on grounds that, at the time the application is determined, the number of SEV in the local authority's area or relevant locality is equal to or exceeds the number that the authority considers appropriate for their area or that locality.

In the Sexual Entertainment Venue Licensing Policy Statement the Committee have designated two localities, namely the City Centre and Outwith City Centre.

The Committee have set a limit of six premises for the City Centre locality and a limit of zero premises for the Outwith City Centre locality.

Under the 1982 Act the Committee has the discretion to refuse applications relating to SEVs if it is considered that the granting or renewal of the licence would be unsuitable, having regard to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. It is expected that when an application for a SEV licence is made, that the applicant will be able to demonstrate that the immediate vicinity, layout, character and/or condition of the premises is appropriate to the relevant entertainment proposed at the premises.

The Sensitive Premises Presumption

The presumption of refusal will be regarded as being enhanced if the proposed SEV is within 750 metres of the following Sensitive Premises:

- 1) schools, play areas, nurseries, parks, swimming pools and other sports facilities
- 2) cinemas, theatres and concert halls
- 3) libraries and museums
- 4) premises likely to be frequented by people under 18 or families
- 5) public buildings including Council offices
- 6) retail shopping areas
- 7) residential areas (including care and nursing homes and other elderly accommodation)
- 8) places of worship, celebration or commemoration
- 9) community centres
- 10) services (including businesses and charities) focussed on supporting women, children and young people, such as women's refuges
- 11) services (including businesses and charities) focussed on supporting homeless people, people with substance abuse issues, mental health issues, or other vulnerable people
- 12) historic buildings or tourist attractions
- 13) roads, footpaths and other access routes to any of the above
- 14) medical centres (including hospitals and GP surgeries)

In determining whether or not the Sensitive Premises Presumption applies, the Council will also have regard to:

(a) Whether any SEVs are already operating, or have operated, in the Relevant Locality (whether under a SEV Licence, under the 'Occasional Exemption', or with a Waiver);

(b) Whether there have been reports to the Police or Home Office of incidents within the Relevant Locality (whether or not leading to prosecution or conviction) of human trafficking or exploitation, or breaches of immigration laws by the Applicant or anyone else concerned with the proposed SEV;

(c) Whether there have been reports to the Police of incidents within 50 metres of the proposed SEV (whether or not leading to prosecution or conviction) of crime (including sexual assaults or minor harassment) or anti-social behaviour:

(d) The existing character and function of the area in which the SEV is to be located; and

(e) The views of residents and other relevant interested persons as far as is possible.

The Sensitive Premises Presumption is a rebuttable presumption. Each application will be determined on its own merits.

GROUNDS FOR REFUSAL

(a) that the applicant or, where the applicant is a person other than a natural person, any director of it or any partner in it or any person responsible for its management, is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;

(b) that, if the licence were to be granted or renewed, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;

(c) that the number of SEVs in the relevant locality at the time the application is made is equal to or exceeds the number which the local authority consider is appropriate for that locality;

(d) that the grant or renewal of the licence would be inappropriate, having regard—

(i) to the character of the relevant locality; or

(ii) to the use to which any premises in the vicinity are put; or

(iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.