

Dear Michelle,

As you know, I have been asked to represent Objector 1, Objector 3 and Objector 4 at the hearing of the 'sexual entertainment venue' licence (SEV) renewal for Vanity.

I thought it may assist Members and the parties if I summarised the concerns of Objectors 1 and 4 (which are supported by Objector 3) and the context for these concerns, prior to the hearing.

### Introduction

Objector 1's objection contains a summary of the problems they and others experience with pedicabs servicing the premises and music noise emanating from the premises, and a brief recap of the circumstances which pertained during the SEV renewal process in 2018 (ref: 17/14637/LISEVR). Objector 1 submitted an objection to that application, raising the issue of pedicabs and associated noise nuisance. Music noise had begun to be an issue again, and although it was not specifically raised in that objection it is in the present objection. Their experience is that music noise has been more frequent and louder over the last year.

The issue of music noise is very longstanding, and goes back decades. Objector 1 tells us that the problem only abated under the previous operator when they sound-proofed the basement, which was where loud music was played.

For the sake of completeness, Objector 4 experiences the disturbance associated with the pedicabs, but not from music noise as they do not live in the same building.

### Previous SEV renewal

During the SEV renewal process in 2018, the City Council helpfully arranged a mediation meeting attended by the applicant and their legal team, and Objector 1 and myself. The meeting was productive, and resulted in Objector 1 withdrawing their objection following a letter received from Mr Elford on behalf of TLT LLP. Objector 1 attached a copy of this letter to her objection. As can be seen from that letter, Mr Elford helpfully set out a list of actions taken by the venue as a result of the meeting to address the pedicabs issue.

Objector 1 was reassured by the outcome of the mediation and withdrew their objection to the SEV renewal. In their correspondence withdrawing the objection, they did flag up the continuing music noise issue. In any event, matters improved and pedicabs servicing the premises became much less of an issue for a time.

Regrettably, in summer 2018 the pedicabs issue returned and the situation was much as before.

Objector 1 recognised (and recognises) that the pedicabs issue is not an easy one to resolve and the licence holder may have understandable difficulty in doing so. Nevertheless, given that Vanity is the only premises in the immediate locality open in the early hours it would seem that it is a significant contributor to the presence of pedicabs in the area. Given that the licence holder did appear to resolve the issue, albeit, as it turned out, temporarily, the objectors do wonder why the problem reoccurred.

### Current SEV renewal

Following receipt of the objections to the present renewal, Mr Elford kindly wrote to Objector 1 (via the City Council, received by Objector 1 on 1 February 2019) and invited Objector 1 to arrange a time for an acoustic consultant to visit their flat to *'take acoustic measurements to help inform any adjustments to the noise limiter'*. Objector 1 responded on 7 February as follows:

*'Thank you for your email and forwarding the letter. In theory I am happy to have a meeting with their acoustician providing that [ ] is there as well as I know [ ] suffers from the noise but did not object. It would also be useful to have someone neutral there as well, would someone from Environmental Health be prepared to come too?'*

WCC responded on 13 February: *'I have spoken with the agent, who is acting on behalf of the premises in their application to renew the Sexual Entertainment Venue licence, and am waiting to hear back from him to find out the available dates and times of the acoustician's diary.'*

*The agent has said to me that the point of the meeting with the acoustician is to take a reading from within your property, and not an opportunity to raise additional issues that were not highlighted within original objections.*

*Once I know the availability of the acoustician, I will be in touch with you so that a meeting can be arranged between both parties. I have also made internal connections to identify who at Westminster City Council will be best placed to attend the meeting.'*

An email was then received from WCC on 22 February forwarding response from Mr Elford:

*'Since your email highlighting that the residential objector wanted to invite an undisclosed number of other persons, none of whom have objected to my client's application I have discussed that with my client and our proposed acoustic consultant. We all agree that it would be counterproductive.'*

*What we would like to do, if the residential objector is able and willing to let us do it, is conduct a noise test in his or her flat to ascertain whether music noise from my client's premises is audible to the extent that it would be a nuisance within. That is what we were offering in our letter and we apologise if that has been misunderstood somehow.'*

*Our acoustician has recommended that the residential objector conduct a week or so of noise observations as it may be that we have already resolved his or her problems with the work we have done within my client's premises.'*

*Having said that, we have absolutely no problem with setting up a meeting with the residential objector and the undisclosed number of other persons to hear their concerns on a without prejudice basis. We see that meeting and the noise testing as two separate and distinct pieces of work and whilst we'd be keen that any hearing is adjourned so we can (hopefully) conduct the noise testing, we agree with you that any hearing needn't be adjourned for a separate meeting with persons who did not object to the application when they could well have done.'*

Objector 1 responded on 6 March:

*'Thank you for your email. Please thank the agent acting on behalf of Vanity for their offer to monitor my flat for a week but I know from previous monitoring attempts it is not very productive. It would be*

*helpful if the club could detail the work that they have done “it may be that we have already resolved his or her problems with the work we have done within my client's premises”.*

*The noise levels have been better recently and perhaps the best way forward would be to agree that the residents will monitor the noise levels and report any breaches to WCC. We would be prepared to attend a meeting with the club or their representatives to hear our concerns outside of the SEV renewal process if the music noise should return.*

*I would also be interested to know what efforts are being undertaken to deal with the problem of the pedicabs which both [ ] and I have raised as part of our objections.’*

Objector 1 has not heard anything further since then. Having said that, both Objector 1 and Objector 4 report an improvement in the pedicab situation recently. Nevertheless, their concern is that this has occurred in the past, before the situation has returned to as it was before. They are anxious that this cycle is broken.

Finally, it should be noted that there are references in the objections to hours of operation in December 2018 which go beyond the hours permitted by the premises licence and the SEV licence. The City Council’s TENs Register records a number of TENs being given in respect of the premises in December 2018. It is unclear if the premises was providing ‘relevant entertainment’ during the TENs.

Local Government (Miscellaneous Provisions) Act 1982 and the City Council’s ‘Sexual Entertainment Venues Statement of Licensing Policy 2012’

Objector 1’s view – shared by Objector 4 – is that the existence and recurrence of these issues requires the Licensing Sub-Committee to examine whether or not the operation of the premises engages the provisions of Schedule 3 para 12(3) Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) i.e. that the grant would be inappropriate, having regard:

- i) To the character of the relevant locality;
- ii) To the use to which any premises in the vicinity are put;
- iii) To the layout, character or condition of the premises...in respect of which the application is made.

Grounds (i), (ii) and (iii) align with concomitant policies in the City Council’s ‘Sexual Entertainment Venues Statement of Licensing Policy 2012’ (“the SEV Policy”) i.e. LO1 (character of relevant locality’; LO2 (use of premises in the vicinity); LO3 (layout, character or condition of the venue).

It is therefore relevant both in terms of the Act and the SEV Policy that Carlisle Street is a small cul-de-sac with little or no vehicular traffic which may otherwise mask noise from pedicabs servicing the premises (LO1); that although there are other licensed premises in the vicinity, none are habitually open beyond midnight (LO2); and that the building is very old and does not have the acoustic integrity of newer builds (LO3).

Conclusion

It is important to emphasise that Objector 1 and Objector 4 do not have any objection *per se* to the premises operating as an SEV, provided that the music noise and the pedicabs issue (in Objector 1's case) and the pedicabs issue (in Objector 4's case) cease so far as is reasonably possible. Objector 1 is perfectly happy to further the resolution of the music noise issue in the manner suggested in her email of 6 March. Unfortunately, there has not been a permanent resolution to these issues since the last SEV renewal.

The objectors are therefore taking this opportunity to bring these matters to the attention of the Licensing Sub-Committee in the context of the SEV renewal.

I have copied this letter to Mr Elford, but I should be grateful if you would distribute to Members and the other relevant parties.

Kind regards,

Richard