

MISCELLANEOUS LICENSING SUB-COMMITTEE

31 MAY 2022

REPORT OF ASSISTANT DIRERCTOR, PARTNERSHIPS

A.1 APPLICATION FOR THE GRANT OF PERMISSION TO SHOW UNCLASSIFIED FILM [Report prepared by Emma King]

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To determine a request for a licence/authority to show to the public a full length film that has not been classified by the British Board of Film Classification.

EXECUTIVE SUMMARY

The request to show the film ‘On Our Doorstep’ has been made by Michael Offord of Electric Palace Harwich on behalf of Thomas Laurance who is an independent film maker. The film would be shown at the Electric Palace Harwich on 19 June 2022.

RECOMMENDATION(S)

The Sub-Committee is requested, having heard from representatives of Imagine Festival of Ideas and Politics, to:

- a) permit the screening of an unclassified film subject to Council officers viewing the film and imposing an appropriate age restriction, if any, having regard to the British Board of Film Classification guidelines;
- OR
- b) refuse permission to screen an unclassified film.

Whilst there is a general provision for appeals in relation to the conditions placed on Cinema Licences, there is no right of appeal in respect of this decision.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Electric Palace Harwich has been closed for a number of years but after working in partnership with Historic England and The National Lottery Heritage Fund the long running repair and restoration project has been completed and the cinema is now open again.

By assisting the cinema in providing this classification service at a cost neutral fee, the Council through its Miscellaneous Licensing Sub-Committee is helping to promote and support the town, the District, the local tourist, leisure industries, and the work of local independent filmmakers. In addition, the Electric Palace Harwich is a special venue locally and provides for a diverse range of film and entertainment that is not always catered for by mainstream venues and which attracts and brings visitors into Harwich as a result. The theatre is therefore always an important destination and venue for Tendring’s tourist and leisure industry.

FINANCE, OTHER RESOURCES AND RISK

Officers have taken into consideration the various costs to cover the work that is involved in dealing with this application including the production and printing of the covering Sub-Committee report and have invoiced Mr Offord £286 which is considered a fair, reasonable and proportionate amount that will enable the Licensing Service to recover its costs for the work that it has done on a cost neutral basis and is in accordance with the provisions made under Section 3 of the Localism Act 2011.

LEGAL

The application to Granting Permission to show Unclassified Films at Electric Palace Harwich was seeking to rely on Home Office Circular 98/1982 and Section 1(2) of the Cinemas Act 1985 (in addition to Section 20 of the Licensing Act 2003).

Unfortunately, the Licensing Team has not been able to locate the circular as the National Office has archived this. However, the 1985 Act was repealed by the Licensing Act 2003 in respect of England and Wales and therefore, is only in force for Scotland.

The public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

Paragraph 2(1)(b) of Schedule 1 of the Licensing Act 2003 defines the exhibition of a film as the provision of entertainment regulated in accordance with the Act.

Section 20(3) of the Licensing Act 2003 requires that:

Where—

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

Therefore, the admission of children to the public screening of material unclassified by the British Board of Film Classification is subject to authorisation by the licensing authority in accordance with the powers of the Licensing Act 2003.

When considering whether to authorise the exhibition, the Sub-Committee should have regard to the Licensing Act 2003 objectives, which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

The most relevant licensing objective in respect of the exhibition of films is the protection of children from harm.

In carrying out its Licensing functions, the licensing authority when authorising film(s) shall at all times take into account the Guidance issued under section 182 of the Licensing Act

2003. **See Appendix A** The parts of the Guidance of particular relevance to this application are:

- 2.30 The protection of children from harm
- 10.17 Censorship
- 10.59 and 10.60 Exhibition of films.
- 14.55 Children and Cinemas

It is recommended that the Sub-Committee use 'The British Board of Film Classification Guidelines' as a reference point for its considerations concerning the access of children to the film(s). In particular, the 'General Classifications Considerations' section of this Guidance may be helpful to the Sub-Committee.

The Licensing Authority may impose conditions and specific restrictions upon an authorisation where deemed necessary to comply with the licensing objectives.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

Any risk to the Council or its reputation is limited by the use of the BBFC Film Classification Guidelines in determining whether or not to classify these films as requested.

As indicated above, in giving due consideration to the four objectives of the Licensing Act 2003, in particular to the objective of protecting children from harm, and also giving consideration to the classification of this film then the potential issues of crime and disorder will be addressed.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

The Licensing Act 2003 deals with the exhibition of films as regulated entertainment. There is a mandatory condition imposed on all licences that permit the exhibition of films, which requires that the recommendations of the British Board of Film classification (BBFC) are followed in respect of the admission of children. However, the licensing authority may give permission for a film that is not classified by the BBFC to be shown, provided the authority's own requirements are followed by the licence holder.

Arrangements have been made for Members to view the film prior to the Sub-Committee Meeting on 31 May 2022.

A summary of the film is attached at **Appendix B**. A member of the Licensing Team has viewed the film and confirms that the synopsis is accurate. It is of the opinion of the Licensing Team Member that the film should be classified as 12A. This suggestion has been made in accordance with the BBFC guidelines.

The BBFC is an independent body that classifies films, trailers and advertisements on behalf of local authorities who license cinemas. It's guidelines set out the classification categories, including the factors that determine which classification a film may be given. These

guidelines are attached to the report for information.

Policy Guidelines Paragraphs 6.8, 6.9 and 6.10 of Tendring District Council's statement of licensing policy relates to Film Exhibitions and the promotion of the protection of children from harm. **See Appendix C**

The film has previously been shown at the Leeds Film Festival in November 2021. The Licensing Officer contacted Leeds City Council Licensing Department for information on any classification that they allocated the film.

Leeds City Council confirmed that their Licensing Sub-Committee awarded the appropriate classifications to a total of 134 films to be screened as part of the Leeds International Film Festival. Of those films the Licensing Authority were provided with advance screeners for three only, requesting classifications less than 18.

The remaining films, including 'On Our Doorstep', were classified 18 rating in accordance with their policy in which if the advance screening of a film is not available, the Licensing Sub-Committee is to classify them as an 18 rating.

CURRENT POSITION

Mr Offord and Mr Laurance have not requested the film to be classified by the British Board of Film Classification (BBFC) as the cost would make the project impossible. To classify the film for theatrical showing with the BBFC would cost over £1,000.

As the film which Mr Offord and Mr Laurance wish to screen does not have the benefit of a certificate, the consent of the Council is required before the film can be shown.

The public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

Should the Sub-Committee be minded to grant consent for this film, then it may wish to suggest a suitable classification. To assist Members, the British Board of Film Classification [BBFC] Guidelines are attached at **Appendix D**.

A synopsis describes On Our Doorstep as a film which delves deep into an aspect of the ongoing refugee crisis that rarely reached the press. With Non Governmental Organisations being blocked by red tape and with the absence of any positive action by French or British authorities, this film is a behind-the-scenes look at the extraordinary grassroots movement that rose to aid the Calais 'Jungle', and the community that sprang up there, before it was forcefully demolished.

CONCLUSION

It is recommended that the Sub-Committee should first view the film in order to establish whether there is any valid reason not to permit it to be shown and to assist them should they wish to impose any terms and conditions if permission is granted to show the film. The film has been circulated to Members together with the appropriate password to enable you to view this before the meeting.

To assist Members, officers have viewed the film and have made a recommendation to certify the film as an age rating of 12A, The reason for which is due to some mild and

infrequent bad language and moderate psychological scenes which those age 12 and under may find disturbing. This is in accordance with the relevant BBFC Film Classification Guideline that the Sub-Committee may be mindful to follow or agree.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A - S182 Extract
Appendix B - Summary of Film
Appendix C - Licensing Policy Extract
Appendix D - BBFC Guidelines

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