



LICENSING COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
TUESDAY, 2ND DECEMBER, 2008 AT 10.00 AM

MEMBERSHIP

Councillors

D Wilson (Chair)	-	Rothwell
S Armitage	-	Cross Gates and Whinmoor
M Dobson	-	Garforth and Swillington
J Dowson	-	Chapel Allerton
J Dunn	-	Ardsley and Robin Hood
T Grayshon	-	Morley South
G Hyde	-	Killingbeck and Seacroft
V Morgan	-	Killingbeck and Seacroft
B Selby	-	Killingbeck and Seacroft
A Castle	-	Harewood
R D Feldman	-	Alwoodley
D Hollingsworth	-	Burmantofts and Richmond Hill
L Rhodes-Clayton	-	Hyde Park and Woodhouse
C Townsley	-	Horsforth
G Wilkinson	-	Wetherby

Agenda compiled by:
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A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Chief Democratic Services Officer at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATIONS OF INTEREST</p> <p>To declare any personal/prejudicial interests for the purpose of Section 81(3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of Conduct</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the previous meetings held on</p> <ul style="list-style-type: none"> a) 5th August 2008 b) 3rd November 2008 <p>(Copies attached)</p>	1
7	Wetherby		<p>LEEDS FESTIVAL 2008, GROUNDS OF BRAMHAM PARK, BRAMHAM, LEEDS LS23 6ND</p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) providing information on the matters arising from the Leeds Festival 2008 following the multi-agency de-brief meeting</p> <p>(Report attached) (Please note: the appendices are available on request)</p>	9

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8	Farnley and Wortley		<p>D J SMITH TRADING AS FARNLEY STORES OF 47-49 CROSS LANE, FARNLEY LEEDS LS12 - APPEAL AGAINST LICENSING COMMITTEE DECISION ON APPLICATION FOR A REVIEW OF THE PREMISES LICENCE</p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) advising Members of the result of an Appeal against the decision of the Licensing Sub Committee following a Review of the Premises Licence held at Farnley Stores, Leeds LS12</p> <p>(Report attached)</p>	47
9	Garforth and Swillington		<p>N S GILL PROPOSED OFF-LICENCE AT 20 SPRINGMEAD DRIVE, GARFORTH, LEEDS LS25 1JW - APPEAL AGAINST LICENSING COMMITTEE DECISION ON APPLICATION FOR A REVIEW OF THE PREMISES LICENCE</p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) advising Members of the result of an Appeal against the decision of the Licensing Sub Committee following an application for a Premises Licence for a proposed Off-Licence store at 20 Springmead Drive, Garforth.</p> <p>(Report attached)</p>	49
10	All Wards		<p>ENTERTAINMENT LICENSING SECTION LIAISON & ENFORCEMENT TEAM - UPDATE AND ACTIVITY REPORT</p> <p>To consider the report of the Assistant Chief Executive (Corporate Governance) setting out the enforcement activity undertaken by the Council's Entertainment Licensing Section during January to October 2008</p> <p>(Report attached) (Please note: the appendices are available on request)</p>	51

Public Document Pack Agenda Item 6

Licensing Committee

Tuesday, 5th August, 2008

PRESENT: Councillor D Wilson in the Chair

Councillors S Armitage, M Dobson,
G Hyde, V Morgan, A Castle, R D Feldman,
D Hollingsworth, L Rhodes-Clayton and
G Wilkinson

13 Exempt Information - Possible Exclusion of the Press and Public

RESOLVED – That the public be excluded from the meeting during consideration of the following parts of the agenda designated exempt on the grounds that it is likely, in the view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated as follows:

(a) Appendix 1 of the report referred to in minute 24 under the terms of Access to Information Procedure Rule 10.4(3); and on the grounds that this information is not publicly available from the premises indicated within the report and furthermore not all of the premises have yet been briefed on the contents of the report. It is considered that it is not in the public interest to disclose this information at this point in time as the release of such information may jeopardise the likelihood of close working relationships between relevant officers and the premises in the future. Consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time.

14 Late Items

The Chair accepted one Late Item of business onto the agenda for consideration relating to discussions on the provision of the EHS Out of Hours noise service at a Licensing Sub Committee meeting held on 24 July 2008. The report contained information gleaned since that meeting which was not available at the time of agenda despatch, and due to the concerns expressed by the Members of the Sub Committee, it was felt in the best interests of the whole Committee to present the report to Members without delay (item 22 refers)

15 Declarations of Interest

The following Members declared personal/prejudicial interests for the purposes of Section 81 (3) of the Local Government Act 2000 and paragraphs 8 to 13 of the Members Code of Conduct

Councillor A Castle – Agenda Item 10 the Leeds Festival – declared a personal interest as a resident of Thorner, which was directly affected by the Festival (minute 21 refers)

16 Apologies for Absence

Apologies for absence were received from Councillors Dowson, Dunn, Grayshon, Selby, Townsley

17 Minutes

RESOLVED – That the minutes of the meeting held 3rd June 2008 be confirmed as a correct record

18 Minutes - Joint Licensing Committee and Licensing & Regulatory Panel

RESOLVED – That, subject to an amendment to the attendance record to delete reference to Councillors Castle, Dobson, Hyde and Selby as they had tendered their apologies; the minutes of the Joint Meeting of the Licensing Committee and the Licensing and Regulatory Panel held 3 June 2008 be approved as a correct record

19 Gambling Act 2005 - Annual Fee Review

The Assistant Chief Executive (Corporate Governance) submitted a report seeking Members approval for the setting of fees under the Gambling Act 2005. The report set out the review of licence fees undertaken; the fees framework and reasoning behind the proposal to maintain the current fee level. It was noted that no responses from the trade had been received during the consultation period and a copy of the letter sent to the trade was included within the report

RESOLVED – That the contents of the report be noted and the proposal to set the licence fees under the Gambling Act 2005 at the maximum amount be agreed

20 Licensing of Lap Dancing (and similar) Establishments

The Assistant Chief Executive (Corporate Governance) submitted a report seeking Members response to a letter received from Mr G Sutcliffe MP concerning the control of lap dancing and similar venues under existing legislation. The report included a proposed response on behalf of the Licensing Authority for Members to consider.

Appended to the report were copies of the current conditions attached to Premise Licences for venues in Leeds which provided this type of entertainment for reference. Also included was a copy of the letter from Mr Sutcliffe.

Members were aware that a White Paper had been presented to the Council meeting on 2 July 2008 regarding the issue where all Members of Council supported efforts to amend the legislation governing these venues, following which the Chief Executive had written to all local Leeds MPs urging the to support the Private Members Bill on the issue when it came to Parliament. A copy of that letter was also included within the report.

Members reiterated their support for lap dancing clubs to be categorised as “Sex Encounter Establishments” as previously expressed by the Committee in June 2008 which would afford the local authority greater powers to control the establishments. Officers reported that the expected proliferation of such

venues in Leeds had peaked at 10 in number since the introduction of the Licensing Act 2003. Furthermore it was noted that very few incidents of crime and disorder were associated with such venues due to the tight management controls in place and the type of clientele they attracted.

RESOLVED – That the contents of the report be noted and the Chair be authorised to sign the letter of response to Mr Sutcliffe MP on behalf of the Committee

21 Leeds Festival Grounds of Bramham Park, Bramham Leeds L23 6ND

The Assistant Chief Executive (Corporate Governance) submitted a report on arrangements for the Leeds Festival 2008, due to be held within the grounds of Bramham Park over the August Bank Holiday weekend and seeking consideration of the associated Event Management Plan.

Appended to the report were copies of the minutes of the multi agency de-brief meeting held 4 October 2007 following last year's Festival, and a copy of the current Premises Licence for the grounds of Bramham Park. Aerial photographs of the whole site were tabled at the meeting for reference. The Committee was also in receipt of actual figures relating to statistics contained within the Multi Agency minutes on recorded incidents of crime; fires; evictions, traffic and highway matter, use of shuttle bus and tent recycling.

Officers reported continued close liaison with Festival Republic, the event promoter; and relevant authorities through the multi agency meetings and with the local residents through meetings with Parish Councils.

Members further discussed

Campsite entertainment – it was noted the Premise Licence had been varied to allow low level DJ musical entertainment only within the campsites until 06:00 hours on the Saturday, Sunday and Monday mornings. No objections had been received to this request and the variation had been granted. The Committee felt this was a sensible approach as they recalled this type of entertainment had been the source of a breach of the hours of operation in 2007.

Site visits – Members referred to the previous discussions in December 2007 where it was suggested that Members undertake a site visit as they had been concerned to show support for those LCC officers on-site at Festival close down. It was noted that 2 site visits could be arranged

- Morning of Friday 22nd August 2008 – to depart Civic Hall at 8.30 am and arrive at Bramham 9.30 am. The promoter had agreed to provide a guided tour of the site. Members would be on site to see the Gates opening and could view the traffic management plan in action on the return journey

- Sunday 24th/Monday 25th August early morning – to be on site during the close down hours of the Festival

Members were requested to confirm their attendance to the Clerk by Friday 8th August in order to secure necessary access passes within the site

Highways impact – Concerns were again expressed about traffic impact, particularly lower down the highway network at the A64 junction. Officers and the event promoters were aware that some patrons had attended every year and were now aware of local routes, use of which could not be prohibited. The Traffic Management Plan had been improved since last year, although some

of the traffic issues during 2007 were not caused directly by festival traffic. It was felt improvements made to the A1/M1 link by the Highways Agency would alleviate problems caused by traffic using the A58

Parish councils – Members requested clarification on the resident planning meetings as no local ward Councillors on the Committee had been invited to attend, as suggested by the minutes of the multi agency meeting held October 2007. Officers explained invitations would be sent by the Parish Council which organised the meetings, not LCC or the event promoter

A58 facilities – Officers clarified that temporary toilets would not be placed along the A58 route this year for queuing visitors as the routes had been altered and much less traffic was anticipated on the A58.

Routes – Officers confirmed the Leeds Festival website displayed maps of the agreed routes to the site. It was also anticipated that as there had been a greater uptake of early bird tickets this year more Festival goers would be travelling to the site on Wednesday thus reducing the volume of traffic expected on Thursday

Members considered the options available to them having regard to the Licensing Act 2003

RESOLVED –

- a) That the Assistant Chief Executive (Corporate Governance) be authorised to approve the event Management Plan prior to the start of the event
- b) That Members interested in attending the suggested site visits contact the clerk prior to the 8th August 2008

22 Late Item - Sub Committee concerns regarding the resourcing of the Health and Environmental Action Noise Service

The Committee considered a late report submitted by the Assistant Chief Executive (Corporate Governance) arising from the concerns expressed by Members of the Licensing Sub Committee on 24th June 2008 regarding the ability of the Health and Environmental Action Service (HEAS) to respond to residents complaints of noise from licensed premises outside normal office hours.

The report outlined the HEAS had been funded by the Neighbourhood Renewal Fund (NRF) since 2001 which had afforded the council a 7 night service with double crews at weekends. As the NRF was being phased out nationally, this had impacted on the HEAS leading to a cut in the number of crews available and subsequently the number of out of hours calls it could attend to. It was noted that NRF monies would cease altogether in 2010 and a full review of the service was ongoing.

Members discussed the concerns of the Sub Committee in detail and agreed the HEAS had provided insufficient monitoring in that particular case and considered the options available to them

RESOLVED – That the Chair of the Licensing Committee be authorised to:

- a) Write to the Chief Environmental Health Officer outlining the important contribution of the Environmental Health Service and particularly the Out of Hours Service to the licensing process and to request that the Chief Officer take that into account when making funding decisions

- b) Refer the matter to Environment and Neighbourhoods Scrutiny Board for a more in-depth examination of the contribution of Environmental Health Services to the licensing process and the available funding for that
- c) Meet with the Chief Environmental Officer to highlight the concerns of the Committee

23 Exclusion of the Public

RESOLVED – That, further to minute 13 above, the public be excluded from the remainder of the meeting

24 Environmental Scan of City Centre Licensed Premises - CLEARANGO Consultancy (10.4 (3))

Further to minute 27 of the meeting held 2 October 2007, the Committee considered a report on the outcome of the Clearango initiative undertaken in Leeds City Centre from November 2007 to March 2008. The Appendix to the report was exempt under Access to Information Rule 10.4 (3) as it contained a copy of the full report back compiled in conjunction between the Safer Leeds Partnership and the Clearango organisation which detailed the observations, statistical analysis and conclusions of the project.

The aim of the initiative had been to reduce violent crime in and around specific premises in Leeds City Centre which had been identified as catering for the 18-24 age group and/or as vertical drinking establishments and/or due to the volume of trade. Premises had been identified using statistics supplied by West Yorkshire Police.

Following the first phase of monitoring, Clearango drew up a voluntary code of practice specific for each premise and liaised with the individual premises to discuss the findings. A second phase of monitoring was undertaken in March 2008 and the impact of the code and/or liaison was outlined in the statistical analysis.

Members noted the conclusion that liaison with the trade had proved a successful measure in reducing the incidents of crime and disorder and/or anti social behaviour and provided an alternative to enforcement action. It was reported that since the conclusion of the initiative, the Home Office had removed Leeds from the list of cities with the highest levels of alcohol induced crime and disorder

Members also noted a key issue arising from the initiative was the disparity of training available to members of staff within licensed premises and the requirement to improve the standards. It was further noted the Department of Health had authorised the British Innkeepers Association to accredit premises through the "Best Bar None" scheme which included training provision, quality assessment and yearly accreditation. The Committee considered whether it would be appropriate at Premise Licence Review hearings to attach a condition to require participation in the Best Bar None Scheme where relevant.

It was reported that the Leeds Pubwatch scheme had been reconfigured and now fell within the remit of Safer Leeds, the first meeting of the Leeds City Centre Pubwatch scheme would discuss training for staff and the Committee considered whether Leeds should establish a bespoke training scheme. Members also considered whether a review the current list of responsible authorities defined under the Licensing Act 2003 was required to include Safer Leeds. This would afford Safer Leeds the power to request a Review of a Premise Licence in its own right.

It was reported that approximately 70,000 persons were employed within various aspects of the night time economy and the Committee discussed whether a strategy should be formulated to support a strong night time economy

RESOLVED – To note the contents of the report and to thank Mr K Lawrance for his presentation and

- a) to authorise the Assistant Chief Executive (Corporate Governance) to write to the Secretary of State, Department for Culture Media and Sport, seeking a re-consultation on the definition of Responsible Authorities under the Licensing Act 2003 with a view to including Safer Leeds
- b) to support the development of a city centre nightlife strategy to provide a framework for the management of the night time economy and to ensure responsible and sustainable growth

25 Date and time of next meeting

RESOLVED – To note the date and time of the next meeting as 7th October 2008 at 10.00 am

Public Document Pack

Licensing Committee

Monday, 3rd November, 2008

PRESENT: Councillor D Wilson in the Chair

Councillors J Dunn, G Hyde,
D Hollingsworth and G Wilkinson

IN ATTENDANCE

Mr Z Butt – LCC Area Community Safety Co-ordinator
Inspector I Croft – West Yorkshire Police (North West Leeds Division)
Mr B McKinnon – local resident
Ms M Southon – local resident
Ms J Bailey – local resident

26 Declarations of Interest

There were no declarations of interest

27 Proposed Designated Public Places Order - Little London and Little Woodhouse

The Director of Environment and Neighbourhoods presented a report setting out proposals for a Designated Public Places Order to be made to cover the areas of Little London and Little Woodhouse.

The report outlined the problems experienced in the areas associated with the consumption of alcohol and the existing legal powers to deal with the problems. Appended to the report were schedules and maps detailing the type and locations of crimes/nuisance in the areas, a copy of the advert text as placed in local newspaper and maps showing the proposed DPPO boundaries. A letter submitted in support of the DPPO by Sergeant D Bedford of the North West Leeds Neighbourhood Policing Team was also included.

The Chair noted that members of the public had indicated their wish to make a representation against the creation of the DPPO, and with the agreement of Members, varied Committee procedure to afford both parties 10 minutes to address the Committee

Mr Z Butt outlined the consultation process undertaken and the amendment made to the Little Woodhouse boundary during consultation at the request of West Yorkshire Police (WYP). Inspector Croft addressed the Committee explaining the alcohol related incidents in the area, the powers currently available to the police to deal with such incidents and the problems associated with street drinkers.

The Committee then considered the representations made by Mr McKinnon, Ms Bailey and Ms Southon seeking this matter be deferred until arrangements were made to include the Woodhouse Moor area within this DPPO
Members discussed the following matters:

- Impact of a DPPO on the locality and likelihood of dispersal of street drinkers into other areas, which may include Woodhouse Moor
- Proposed short term re-location within the locality of St Georges Crypt which provides services for homeless and vulnerable people
- General support for a city wide DPPO
- Success of DPPO's implemented elsewhere in the city

The Committee heard that the local North West Inner Area Committee had been considering proposals for a DPPO within the locality for some time, and had recently approved the proposal to progress the Little London and Little Woodhouse DPPO separately as it had been difficult to secure a consensus on proposals for a DPPO on Woodhouse Moor. However this had now changed and Members noted the North West Area Management Team was now drawing up proposals for a DPPO on Woodhouse Moor and surrounding greenspace. It was reported the consultation would commence shortly, with a view to a report seeking approval for the proposed Woodhouse Moor DPPO being presented to the Licensing Committee in January 2009.

The Committee having noted the reported public support for a DPPO covering Woodhouse Moor stated their expectation that a report would be put before them in due course

RESOLVED –

- a) That approval be given for a Designated Public Places Order to be made in respect of the areas of Little London and Little Woodhouse (as detailed in the map attached at Appendix 4 of the submitted report) and to note that it is approved subject to proposals for a separate DPPO for Woodhouse Moor being presented to the Committee in January 2009
- b) That the Director of Environment and Neighbourhoods be authorised to advertise the making of the Order, to procure the required signage and carry out any further steps necessary to bring the Order into force



Originator: S Holder

Tel: 2474720

Report of the Assistant Chief Executive (Corporate Governance)

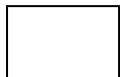
Report to the Licensing Committee

Date: 2 December 2008

**Subject: LEEDS FESTIVAL 2008
 GROUNDS OF BRAMHAM PARK BRAMHAM LEEDS LS23 6ND**

Electoral Wards Affected:

Wetherby



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

EXECUTIVE SUMMARY

This report provides a de-brief for the Members of the Licensing Committee following the Leeds Festival 2008.

1.0 PURPOSE OF REPORT

1.1 This report informs Members of the matters arising from the Leeds Festival 2008, following the multi-agency debrief meeting held on the 4th October last.

2.0 BACKGROUND INFORMATION

2.1 The Premises Licence for the Leeds Festival was considered and approved by the Members of the Licensing Committee on the 28th April 2006.

2.2 The Licence is held for Bramham Park and allows the Leeds Festival to take place every August Bank Holiday weekend.

2.3 The Premises Licence Holder is Mr M Benn and the Designated Premises Supervisor is Mr T Butkeraitis.

2.4 The days and hours and activities of the licence are :

Provision of Facilities for Dancing, Performance of Dance, Exhibition of a Film, Performance of Live Music, Performance of Recorded Music, Anything of a similar Description, Performance of a Play, Facilities for Entertainment of Similar Description, Provision of Facilities for Making Music,

Thursday 19:00 - 03:00
Friday, Saturday & Sunday 12:00 - 03:00

Late Night Refreshment

Wednesday to Sunday 23:00 - 05:00

Sale by Retail of Alcohol

Monday 17:00 - 00:00
Tuesday to Sunday 00:01 - 00:00

- 2.5 The total capacity for the event site is: 69,999 being made up of 65,000 ticket holders and 4,999 guests and staff.
- 2.6 Members resolved to grant the application as requested and accepted the applicants offer to include the following additional three conditions:
- 1) There shall be an Event Management Plan which incorporates the operating schedule submitted to the Licensing Authority at least 6 months prior to the Festival each year
 - 2) The Event Management Plan and any revisions to the Event Management Plan must be approved by the Licensing Authority prior to the festival.
 - 3) The Premises Licence Holder shall comply with the terms and requirements of the Event Management Plan each year.
- 2.7 In addition, the Committee reserved the right to determine how the final Event Management Plan for the festival should be agreed, with the facility for the final plan to be agreed by the Committee or officers under delegated authority.
- 2.8 The applicant provided the Event Management Plan for the 2008 Festival to all responsible agencies in February 2008.
- 2.9 An application to vary the Premises Licence was made on the 6 March 2008 to extend the hours for the following activities:
- B Films
 - E Live Music
 - F Recorded Music
 - H Anything of a Similar Description to that Falling within (E) or (F)
 - I Provision of Facilities for Making Music
 - J Provision of Facilities for Dancing
 - K Provision of Facilities for Entertainment of a similar Description to that falling within (I) or (J)

The variation will allow the above mentioned activities within the following areas until 06:00 hours on the Saturday, Sunday and Monday mornings:

Brown/Green Campsite
Orange Campsite
Yellow Bubble Campsite
Blue Valley Campsite
Red Campsite

Piccadilly Party Campsite
Silent Disco

- 2.10 No representations were received from the responsible authorities or interested parties and the premises licence was issued on the 3 April 2008.
- 2.11 Members received a report on the progress of the multi agency meetings on Tuesday 5 August 2008 and agreed to give delegated authority to the Assistant Chief Executive (Corporate Governance) to approve the final Event Management Plan for the event.
- 2.8 On the 20 August 2008 the Event Management Plan was approved by the Director of Legal and Democratic Services. With the exception of the Electrical Certificates and sight of the CCTV in operation. These were delegated to the Principal Licensing Officer who received the certificates prior to the start of the event on Friday 24 August 2007.

3.0 FESTIVAL LIAISON

- 3.1 Licensing Officers were in attendance throughout the duration of the festival until the main stage had finished each evening, and consequently were present to witness egress from the main event arena. Licensing Officers also attended on site at the conclusion of all licensable activities at 06:00hrs on the Monday morning.
- 3.2 Also, throughout the duration of the festival multi-agency meetings were co ordinated between all agencies and the licence holder. Throughout the course of the event no adverse reports or concerns were expressed by any of the agencies.

4.0 MULTI AGENCY DEBRIEF

- 4.1 The multi agency debrief was held on the 4 October 2008.
- 4.2 Minutes of the debrief meetings are attached at **Appendix 1** for members information.
- 4.3 Members will note that the main issues surrounding the 2008 event was traffic management on the Thursday the main day for arrivals.
- 4.4 The Licensing section received a number of complaints in relation to traffic management on the Thursday including a petition of 205 signatories requesting that the Ring Road should not be used for Festival Traffic.

5.0 RECOMMENDATION

- 5.1 Members are requested to note this report.

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Report of the Director of Legal and Democratic Services

Licensing Committee

Date: 2 December 2008

Subject: Dawn Josephine Smith trading as Farnley Stores of 47-49 Cross Lane, Farnley, Leeds LS12 5AA – appeal against Licensing Committee decision on application for a review of the premises licence

Electoral wards affected:

Farnley and Wortley

Specific implications for:

Ethnic minorities

Women

Disabled people

Narrowing the gap

Executive Summary

1. This Report advises Members of the result of an Appeal by Dawn Josephine Smith trading as Farnley Stores against a decision of the Licensing Committee sitting on 14th January 2008. The original hearing took place following an application for a review of the premises licence made by West Yorkshire Trading Standards Service (WYTSS). After considering the evidence from the WYTSS, the West Yorkshire Police and one of the local councilors, Councilor Ann Blackburn, the Sub-Committee decided to revoke the premises licence. Mrs Smith appealed against that decision.

1.0 Purpose of this report

1.1 The purpose of this Report is to advise Members of the result of this appeal.

2.0 Background information

2.1 Members are advised that an appeal was lodged with the Leeds Magistrate's Court and the appeal hearing took place on 7 and 8 October 2008.

3.0 Main issues

3.1 The appeal was upheld in part by the Magistrate's Court. The magistrates stated that the West Yorkshire Trading Standards Service was right and proper in bringing the review. The magistrates heard a history of problems with the premises namely under age persons being sold alcohol and of two failed test purchases. The court also heard about an attempted test purchase on 27 June 2008 when the sale of alcohol had been refused. The court heard that the problems had been when the Designated Premises Supervisor, Mrs Smith, had been in the shop and that she had served the under age persons. The court heard that since the review Mr Smith had taken a more active role in the running of the premises and that since January 2008 the instances of problems had been much reduced and that there had been a successful test purchase in June 2008 when the sale of alcohol to a minor had been refused. The case for the appellant was in effect that there had been substantial problems prior to the review but that there has since been a substantial improvement and that lessons had been learned. The court took the view that it was not necessary, in October 2008, to revoke the premises licence and they ordered that the decision of the Sub-Committee be substituted with an order that Mrs Dawn Josephine Smith be removed as the Designated Premises Supervisor. The appellant applied for her legal costs and the court determined that there should be no order for costs as they considered that the review had been properly brought and that the decision had been a proper decision at the time.

4.0 Implications for Council Policy and Governance

4.1 No significant implications identified.

5.0 Legal and Resource Implications

5.1 No order in respect of the appellant's costs was made by the court. However the Council will have to pay its own Counsel's fees and the in house legal costs.

6.0 Conclusions

6.1 Members are asked to note this information.

7.0 Recommendations

7.1 That Members note the contents of this Report.



Report of the Director of Legal and Democratic Services

Licensing Committee

Date: 2 December 2008

Subject: Narinda Singh Gill proposed off-licence at 20 Springmead Drive, Garforth, Leeds LS25 1JW – appeal against Licensing Committee decision on application for a review of the premises licence

Electoral wards affected:

Garforth and Swillington

Specific implications for:

Ethnic minorities

Women

Disabled people

Narrowing the gap

Executive Summary

1. This Report advises Members of the result of an Appeal by Narinder Singh Gill in respect of a proposed off-licence at 20 Springmead Drive, Garforth, Leeds against a decision of the Licensing Committee sitting on 19th May 2008. The original hearing took place following an application for a premises licence made by Mr Gill. After considering the evidence from the West Yorkshire Police, Councilor Dobson, local residents and Mr Wells (solicitor for Mr Gill) and Mr Gill the Sub-Committee decided not to grant a premises licence. Mr Gill appealed against that decision.

1.0 Purpose of this report

- 1.1 The purpose of this Report is to advise Members of the result of this appeal.

2.0 Background information

2.1 Members are advised that an appeal was lodged with the Leeds Magistrate's Court but there was no appeal hearing as the appeal was withdrawn on 21 October 2008.

3.0 Main issues

3.1 The appeal was withdrawn at a Case Management Hearing held at the Leeds Magistrate's Court on 21st October 2008. The reasons given were the large number of objections from local residents but in particular a statement from the West Yorkshire Police. The Council applied for their costs but the court has a discretion with regard to the award of costs and exercised that discretion by making no order for costs.

4.0 Implications for Council Policy and Governance

4.1 No significant implications identified.

5.0 Legal and Resource Implications

5.1 No order in respect of the appellant's or respondent's costs was made by the court. Therefore the Council will have to pay its own in house legal costs.

6.0 Conclusions

6.1 Members are asked to note this information.

7.0 Recommendations

7.1 That Members note the contents of this Report.



Originator: Seamus Kennedy
Tel: 74095

Report of the Assistant Chief Executive (Corporate Governance)

LICENSING COMMITTEE

Date: Tuesday 2nd December 2008

**Subject: Entertainment Licensing Section
Liaison & Enforcement Team – Update and Activity Report**

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

1.1 To present the Licensing Committee with the report on enforcement activity undertaken by the Council’s Entertainment Licensing Section for the period January to October 2008.

2.0 Background Information

2.1 2008 has been a particularly busy year for the Entertainment Licensing’s Enforcement team, especially with the enactment of new legislation (Regulators’ Compliance Code) which has had a significant impact on the delivery of the department’s enforcement functions, in particular the manner in which licensed & unlicensed premises are targeted / inspected. In addition, the Enforcement team has seen an increase in its obligations through closer partnership working with key agencies such as, West Yorkshire Police, British Transport Police, West Yorkshire Trading Standards Service, West Yorkshire Fire & Rescue, Health & Environmental Action Service, Gambling Commission, Security Industry Authority (SIA) and others. Outcomes from closer partnership working have yielded very encouraging results creating solid foundations for further development whilst utilising agencies’ resources by the most efficient and effective means.

The Licensing department's enforcement team continue to be heavily involved in the co-ordinating of Pubwatch forums throughout the Leeds district. The responsibility of the day-to-day running of Leeds' Pubwatches lies with its members i.e. licensed operators, with frequent input and guidance from agencies, in particular Entertainment Licensing and West Yorkshire Police. The Pubwatch scheme is accepted as a very useful tool in assisting with the promotion of the four licensing objectives by facilitating the sharing between its members, of intelligence, best practice, and topics of interest to name a few. Unfortunately, attendance by licensed operators to Pubwatch meetings is ad-hoc and is a significant drain on both West Yorkshire Police and LCC Entertainment Licensing resources in assisting the various forums with the co-ordinating & running of the meetings. As such, to further develop the Pubwatch scheme in Leeds, consideration is currently being given to funding a full-time Pubwatch co-ordinator post.

3.0 Main Issues

3.1 Enactment of new legislation & procedures during the reporting period

Regulators' Compliance Code: Came into force on 6th April 2008. Its aim is to embed a risk-based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators it applies to, such as licensing enforcement. Its purpose is to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on businesses etc. The Code effectively removes routine / random inspections from licensing programmes. Regulators should focus their greatest inspection effort on regulated entities i.e. pubs, bars, clubs, nightclubs, takeaways etc, where risk assessment shows that both:-

- a compliance breach or breaches (of licence/s) would pose a serious risk to a regulatory outcome; and
- there is a high likelihood of non-compliance by regulated entities.

3.2 Proposed new powers – Licensing Act 2003

Department for Culture, Media, and Sport –

“PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS:

Introduction of the use of a new yellow and red card system to tackle problem premises. Under the proposed red and yellow card system, enforcement agencies would be encouraged to seek reviews of a premises licence when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.

The aim would be to put the premises on probation, during which time authorities could impose a package of tough new conditions designed to combat the identified problem. The kinds of conditions that government has in mind are set out in Annex A, attached. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

Effectively they would be given a yellow card and put on notice that the next breach would mean an automatic second intervention – a red card. If satisfied that there has been no improvement, the licensing authority (by means of a licensing review) could revoke the licence.

First intervention (YELLOW card) –

Responsible authorities will be encouraged to propose a package of tough new conditions to be added to the existing conditions which are designed to combat the identified problem (by way of licence review).

Second intervention (RED card) –

In the absence of improvement, enforcement agencies should seek another licence review. The licensing authority again must grant a hearing.

If satisfied on the issue of the lack of improvement, the licensing authority should look to revoke the licence. The action should be publicised in the area as an example to other retailers.

It is envisaged by government that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.

Further detailed information on the proposals can be found in the attached Dept. for Culture, Media and Sport (DCMS) appendices.

3.3 Government consultation papers

Entertainment Licensing has formally responded to the following consultation papers.

- Regulatory Enforcement and Sanctions Act (RESA) 2008 – Consultation on the Primary Authority Scheme (collective response to be submitted through the Council's Environmental Enforcement Working Group (EEWG)).

In September 2008, the Department for Business Enterprise & Regulatory Reform (BERR) sought comments from a wide range of stakeholders on the consultation to look at better regulation.

As a background, the Local Better Regulation Office (LBRO) has been established and given statutory powers to promote better regulation and consistency within local authority regulatory services.

Amongst other functions the LBRO will be issuing guidance to local authorities in respect of regulatory services and, where necessary, ensure that local authorities comply with this guidance and encourage best practice, and consistency in approach by regulators.

Primary Authority Principle – The provisions for the Primary Authority Scheme (Part 2) will come into force on 6th April 2009. A "Primary Authority" is a local authority registered by the LBRO as having responsibility for a particular business or organisation which may relate to single functions such as health and safety, trading standards and ** licensing.

The Primary Authority is responsible for giving advice to organisations that may be subject to regulatory enforcement and to other local authorities on how they exercise enforcement procedures in relation to that business or organisation.

The spirit of consistency, co-ordination and compliance is maintained through the creation of inspection plans and a duty to consult Primary Authorities before taking enforcement action.

** Licensing functions – The Government does not propose that any local authority enforcement actions in relation to the Licensing Act and Gambling Act should fall under the Primary Authority Scheme and may be exempt by Order. The thinking behind this is that local authorities are required to publish a three-year licensing statement describing the principles they intend to apply in exercising their various functions, which includes the approach they believe is suitable for the local and individual circumstances of the area.

- Department of Health – Safe, Sensible, Social – Consultation on further action. The Dept. of Health consulted interested parties / stakeholders (including the licensed trade) with a view to developing a new alcohol retailing code aimed at promoting responsible alcohol retailing. The consultation is looking at drinks pricing, promotion, product labeling, hospital admissions for alcohol-related harm etc. LCC Entertainment Licensing and LCC Community Safety have submitted a joint response to the Dept. of Health, endorsed by Councillor Donald Wilson, Chair of the Licensing Committee, in August 2008.

4.0 Joint Enforcement Protocol – Licensing Act 2003 (the Act)

A joint enforcement protocol was prepared and adopted by the licensing authority. This document forms a signed memorandum of understanding and joint enforcement protocol between:

Leeds City Council ('the licensing authority') and

1. West Yorkshire Police
2. West Yorkshire Fire and Rescue Service
3. The Health and Safety Executive
4. West Yorkshire Trading Standards Service
5. LCC Development Department
6. LCC Health & Safety Service
7. LCC Health & Environmental Action Service
(formerly Environmental Health Services)
8. Leeds Safeguarding Children Board

The Act and accompanying joint enforcement protocol guidance expects all parties to work in partnership to promote the four licensing objectives and to carry out other duties as defined in the Act and accompanying guidance. The protocol sets out the form of this working relationship for the risk-based enforcement of the Licensing Act 2003 following the principles of better regulation advocated by the Better Regulation Executive and the Regulators' Compliance Code.

Enforcement activity carried out in accordance with this protocol will cover premises which have a licence/certificate and unlicensed premises carrying out licensable activities. Reference is also included to police powers to object to Temporary Event Notices (TEN) on the grounds of crime and disorder.

West Yorkshire Police and West Yorkshire Trading Standards Service are the lead agencies for enforcement activities pertaining to the under-age sales / supply of alcohol for 'on' and 'off' licensed premises respectively.

5.0 Entertainment Licensing Enforcement Activity Report

Licensing Act 2003 & Gambling Act 2005: January to October 2008.

	Complaints received and investigated	*Prosecutions & Simple Cautions	** Sect. 19 "Closure Notice" served by LCC Entertainment Licensing	*** Sect. 90 Notice of withdrawal of a club premises certificate	Multi-agency visits / operations
Licensing Act 2003	220	12	12	2	51
Gambling Act 2005	2	0	Not applicable	Not applicable	6

5.1 * Prosecutions summary –

- D'Fusion, New Briggate, Leeds centre.

Court hearing date: 29th February 2008 at Leeds Magistrates' Court.

Results & Costs:

Guilty plea to 3 summons by D'Fusion Leisure Limited –

- unauthorised provision of facilities for dancing (Fined: £1,500);
- unauthorised admission to the premises of persons aged under 18 years (Fined: £2,000); and
- CCTV not operative (Fined: £500). Costs: £4, 097.90.

In addition, 9 Simple Cautions were administered to D'Fusion Leisure Limited (Premises Licence Holder) and the designated premises supervisor in respect of additional similar charges.

- Headingley Sandwiches, North Lane, Leeds 6

Further to complaints received, Officers from the department conducted a series of covert evidence gathering visits to the premises between the hours of 11pm and 5am whereby they purchased hot food. The business was successfully prosecuted by the dept. on three charges for the unauthorised provision of late night refreshment.

Result & Costs:

Guilty plea by both defendants (business proprietors). 12 months conditional caution and no order for costs.

- Stop Over Café, Ashley Road, Harehills, Leeds 9

Premises used for the unauthorised sale of alcohol and late night refreshment. Joint operation undertaken with the West Yorkshire Police (Entertainment Licensing – lead agency). A quantity of alcohol was seized by agencies at the time of the joint visit. Comprehensive evidence gathered and person in charge interviewed under caution for Licensing Act breaches. The premises owner, further to the department's intervention, served notice on the premises user to vacate the premises. This has since happened.

Result:

Simple caution administered to the premises user. The seized alcohol was disclaimed by the premises user.

5.2 ** Section 19 Closure Notice (Criminal Justice & Police Act 2001) -

- Section 19 Closure Notice, Criminal Justice & Police Act 2001 (Sections 126 & 127 of Schedule 6 to the Licensing Act 2003) (found to be an effective tool in remedying breaches of licence conditions).

'Closure notices' can be issued by the police or local authority to premises, member's clubs and functions operating under Temporary Event Notices (T.E.N.), which are conducting alcohol activities which are 'unauthorised'. Note -The closure notice does not apply to off-licensed premises alone.

A Closure Notice can be issued when the premises have been used to sell alcohol for consumption ON the premises, or in the vicinity of the premises, within the last 24 hours and either:

- (a) There is no licence authorisation at all; or
- (b) there is a licence, but the premises are operating in breach of its licence conditions, as detailed in the operating schedule. For example, CCTV cameras may be required to be used, but none are operating.

The "closure notice" does NOT close down non-compliant premises with immediate effect, instead it merely informs the premises about any breaches and the action required by them to remedy the identified breaches. Following the service of a "closure notice" and where the breaches identified have not been remedied, the

police or local authority may apply to the magistrates' court between 7 days and six months after the service of a closure notice to apply for a "closure order". The magistrates may include in their order a requirement that the premises be closed immediately to the public and remain closed until the police or the local authority issues a certificate that they are satisfied that the need for the closure order has ceased.

Since the department commenced issuing section 19 "closure notices" in July 2008, 13 closure notices have been issued to licensed premises i.e. pubs, restaurant and nightclub, throughout the Leeds district for a variety of licensing breaches. The most common licence condition breaches being one or more of the following: no CCTV or CCTV in situ but not compliant with West Yorkshire Police guidelines, No DPS, blocked fire exit routes, no NiteNet radio, no drug safe, trading beyond permitted hours.

5.3 *** Section 90 Notice of withdrawal of a club premises certificate (Licensing Act 2003) –

- Section 90, Licensing Act 2003, Notice of withdrawal of a club premises certificate.

Where a club holds a club premises certificate and it appears to the Licensing Authority that the club does not satisfy the conditions for being a qualifying club in relation to a qualifying club activity to which the certificate relates, the authority must give a notice to the club withdrawing the certificate relating to that activity. The club which holds or held the certificate may appeal against the decision to withdraw it to the magistrates' court.

Section 90 Notices have been served on the following premises:

- i) West Grange Social Club, Belle Isle, Leeds 10
- ii) The Common Place, Wharf Street, Leeds 2

6.0 Implications For Council Policy And Governance

6.1 No implications identified

7.0 Legal And Resource Implications

7.1 Whilst the Entertainment Licensing Section is presently adequately resourced, the new legislation and initiatives as set out at paragraph 3, above, will have an impact on the Entertainment Licensing Section, Legal Services and Corporate Governance. In particular, the 'Red Card, Yellow Card' system will attract an increase in the number of review applications given that responsible authorities will not have to build a detailed history of offences to justify a review.

8.0 Recommendations

8.1 Members are requested to note the contents of this report.

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