

## **Licensing Sub-Committee**

**Monday, 27th October, 2014**

**PRESENT:** Councillor J Dunn in the Chair

Councillors N Buckley and G Hussain

### **53 Election of the Chair**

Councillor Dunn was elected Chair of the meeting

### **54 Late Items**

Although there were no formal late items, the Sub-Committee was in receipt of the following supplementary information, which had been circulated and accepted by all parties:

Café@Lamberts Yard application – copy of the health and safety measures agreement and detailed information in respect of the application, submitted by the applicant's legal representative, including the revised application

### **55 Declarations of Disclosable Pecuniary Interests**

There were no declarations of disclosable pecuniary interests

### **56 Yates's Wine Lane 24-28 Boar Lane LS1**

The Panel was informed that this matter had been withdrawn from the agenda

### **57 Morrisons M Local - 12 - 14 Infirmary Street LS1**

The Sub-Committee having regard to the Licensing Act 2003, the Statement of Licensing Policy and the Statutory Guidance, considered an application for the grant of a premises licence to WM Morrisons Supermarkets PLC, for an M Local at 12-14 Infirmary Street LS1, which was located in the amber zone of the Cumulative Impact Policy (CIP). The application had attracted a representation from a local businessman. As the objector did not attend the hearing, the Panel dealt with his concerns on the basis of his written representation

Present at the hearing were:

Ms Johnson – applicant's legal representative

Ms Wood – representing the applicant

At the start of the hearing, Ms Johnson raised an issue in respect of conflicting information she had received on whether the CIP applied to off licences. The Licensing Officer confirmed that in this case, the CIP did apply

Ms Johnson –presented the application which was for the sale of alcohol from 06.00 – 00.00 Monday – Sunday, for consumption off the premises only at the new M Local store at 12-14 Infirmary Street LS1

Members were informed that alcohol sales would represent only 15% of sales and that in response to concerns raised by West Yorkshire Police (WYP), no single cans of beer, lager or cider would be sold; and other than specialist branded, premium priced products, no beer, lager or cider with an alcohol content of 6.5% or above would be sold. WYP had subsequently withdrawn their objection to the application in view of the conditions being offered by the applicant

Ms Johnson stated that Morrisons was an experienced and responsible retailer which had hundreds of the M Local stores around the country which operated with the hours being sought for the new Leeds store. Since representing the company over the last four years, Ms Johnson advised that Morrisons had not received a prosecution or review of their premises licences which was felt to be a testament to the policies and procedures the company operated in respect of its obligations under the licensing objectives

The representation which remained outstanding was from a local trader, with Ms Johnson stating that need and the impact on other premises were not relevant considerations under the Licensing Act. In terms of the issues raised in the written representation, Ms Johnson considered these to be speculation and that no evidence had been provided to bear out the concerns which had been raised

In response to questions from the Sub-Committee, Ms Wood confirmed the number of staff which would be on duty, particularly late at night and advised that all of the staff would be trained including on under-age sales. Members were also informed that Morrisons employed an independent company to carry out spot tests on Challenge 25 as well as using mystery shoppers, so premises were highly regulated

Regarding the problem of litter around the premises, Ms Johnson stated the applicant had a litter policy which required regular checks by staff in the immediate area of the store

The Sub-Committee carefully considered the written and verbal representations from the applicant and the written representation from a local businessman

The Sub-Committee welcomed the measures taken by the applicant in response to concerns which had initially been raised by WYP and subsequently withdrawn due to conditions on the licence being offered

**RESOLVED** - To grant the application as applied for with the additional conditions as agreed with WYP

#### **58 Cafe@Lamberts Yard - Second floor 162-163 Briggate LS1**

The Sub-Committee, having regard to the Licensing Act 2003, the Statement of Licensing Policy and the Statutory Guidance, considered an application for a premises licence for a café, gallery and event space on the second floor at Lamberts Yard, 162-163 Briggate LS1, which was located in the red zone of the CIP. The applicant was Lamberts Yard Limited and the application had attracted representations from WYP, LCC Entertainment Licensing and LCC Environmental Protection Team (EPT). It was noted that a representation from LCC Health and

Safety Service had been withdrawn following agreement with applicant for proposed controlled measures at the premises

Present at the hearing were:

Mr Rees-Gay – applicant's legal representative

Mr Geary – applicant

Mr Firth – proposed Designated Premises Supervisor

PC Arkle – WYP

Sgt Shaw – WYP

Mr Patterson – WYP Licensing Section

Mr Higgins – LCC EPT

Mr Mann – LCC EPT

Ms Holden – LCC Entertainment Licensing

In view of the revisions made to the application, Mr Rees-Gay sought an extension of the time allowed to put the case to Members. The Sub-Committee on this occasion agreed to additional time being allowed for all parties

The application as set out in the submitted report was outlined by the Licensing Officer

Mr Rees-Gay then presented the case on behalf of the applicant

Members were informed that the premises would be used as a concept store for independent designers, particularly fashion designers, with links being established with the Universities

The long term aim was to change this part of the City Centre, bring back retail footfall and link into the regeneration of Kirkgate. However, to do this, the café/event space was required as this would provide facilities for fashion shows, exhibitions and private functions, with a high end client base including KPMG, RBS and CBRE. Such events would be pre-booked, by invitation/guest list only and promoted by the operator, with WYP being notified in advance of each event which would take place. The capacity for the gallery/event space was 120. Assurances were given that the general public would not be able to attend such events, although they would be able to use the café from 09.00 – 18.00

Details of the food menu were provided to evidence the high end nature of the venture. Members were informed of the experience of Mr Firth, the proposed DPS who was also the DPS of Rare, the restaurant located in Lamberts Yard

Amendments to the hours, conditions and additional conditions were outlined in the additional information submitted by Mr Rees Gay. In summary these were:

- terminal hour for all licensable activities and closing to be midnight everyday
- that no Temporary Event Notices (TENS) would be applied for
- provision of door staff on Friday-Sunday from 22.30 to close of business when an event was taking place
- provision of an agreed dispersal policy with WYP
- notices to be displayed at exits requesting patrons to leave the premises quietly and this to be monitored and patrons reminded where necessary
- installation of a noise limiter

Mr Rees-Gay stated that to allay concerns raised, the applicant would accept a condition stating there would be no externally promoted events with all events

being organised by the operator. Reference was also made to the issue raised by WYP regarding the directors of Lamberts Yard Ltd who were also directors of Ravenpine Ltd and the former premises licence holder of a former venue known as Phono in Briggate. Mr Rees-Gay stated that in respect of Phono, external promoters had been used and that Mr Geary and his fellow directors had been let down badly and that Ravenpine was not responsible for the serious incident associated with that venue

In addressing the issue of the premises being located in the CIP, the Sub-Committee was informed that the application was exceptional; it was not alcohol-led; it had limited trading hours and restricted opening and catered for high-end clientele. Mr Rees-Gay also referred to a recent determination in the Leeds Magistrates Court in respect of an application for a licence by Brewdog Bars Ltd, with comments of District Judge Anderson, who considered this case, being highlighted to Members in respect of the approach to licence applications in the CIP area

Members questioned Mr Rees-Gay on the application and sought additional information in respect of the licensable activities being applied for; the differences between Café@Lamberts Yard and Rare, which operated on a different floor of the same building and the practical arrangements for events hosted at Café@Lamberts Yard

Mr Firth and Mr Geary provided further information relating to the premise behind the project; the regeneration of Kirkgate and the support provided to by stakeholders to the fashion-led initiative

Concerns were raised by Members on the dispersal of patrons late at night into an area which was busy and problematic. Members were informed that a taxi rank was located opposite the premises and that at the end of an event, some patrons would choose to go to Rare, so it was unlikely that 120 people would be on the street at what was acknowledged as being a difficult time

The Licensing Sub-Committee heard from Mr Higgins of LCC EPT who stated that the premises fell within the CIP and in an area which was saturated with premises licences and that there was the potential for noise and disturbance. Details of the residential dwellings in close proximity to the site were provided as were a breakdown on complaints received by EPT in the area of the premises. Mr Higgins advised that the applicant had failed to provide sufficient measures to show that the premises would not add to the impact of the CIP and expressed concerns at the impact of up to 120 people exiting the venue together and the noise which could be generated as a result

Representations were then made by WYP. PC Arkle stated that the premises fell within the CIP and under the new policy was in the red zone, due to the volume of crime and disorder in this part of the City Centre

PC Arkle accepted that the application being considered by the Sub-Committee had changed substantially from the one which had initially been submitted and that whilst the proposed opening hours had been scaled back, there were concerns about the legality of offering a condition for not TENS. The provision of door staff was noted but WYP had concerns that these staff would come from Rare. Mr Geary stated that would not be the case

The concerns raised by WYP about dispersal remained and that at the time the patrons from the premises would be leaving, they would be mingling with patrons

of other premises and drinking establishments in the area, with concerns about crime and disorder

The stated need for the second floor gallery/event space to support the retail space on the first floor was a concern with the possibility of the premises becoming something different and be opened up to a less discerning clientele if the proposals did not work out as planned

In respect of the café element from 09.00 – 18.00, WYP were of the view this was not too controversial in the CIP red zone but events after this time were different. The fact that the applicant had considered that opening to 02.00 was a good idea indicated to WYP a lack of appreciation of the situation in respect of the night time economy and crime and disorder problems in that area of Leeds

WYP were not persuaded that the applicant had demonstrated that the grant of licence to the premises would not add to the CIP in respect of crime and disorder and whilst assurances had been given that events would be ticketed and a condition to this being offered, experience had shown there were ways around this, whilst still seeming to comply with the condition

In response to questions from Members, PC Arkle stated that concerns about the application remained despite the number of changes offered and suggested that an earlier closing time could diminish some of these concerns. Sgt Shaw pointed out that due to the nature of the venue, those attending would be additional to the numbers who came into Leeds on an evening

The Licensing Sub-Committee heard from Ms Holden, Licensing Officer who stated that whilst this type of venture would be welcomed in the amber zone of the CIP, the fact that it was in the red zone which was highly saturated, meant that regardless of the style of the operation, a further licensed premises would have an impact. The plans indicated there was a fixed bar so alcohol would be a key part of evening events and that whilst Mr Rees-Gay considered it was a small venture at 120, LCC Licensing Section did not accept that. The absence of seating or covers suggested this would not be a food-led venue; there were concerns about events such as 40<sup>th</sup> birthday parties etc and the difficulty of bringing a review of the premises licence on a TENS

The Licensing Sub-Committee considered how to proceed and sought views on reducing the opening hours to 23.30, if Members were minded to grant the application

The applicant agreed to this, however WYP felt such a restriction would not change the view of WYP as people would still be leaving the venue at midnight

The Licensing Sub-Committee carefully considered the written and verbal representations on behalf of the applicant; West Yorkshire Police, LCC Environmental Protection Team and LCC Entertainment Licensing. The Sub-Committee considered this was a finely balanced decision. The proposal was for a multi-functional gallery and event space on the second floor of Lamberts Yard, to complement the retail offer on the first floor. The proposals were for a café to operate from 09.00 – 18.00 and after 18.00, for the premises to be used for private events or privately hired, with events being ticketed or by guest list only and similar events promoted by the operator or applicant

The premises were located in the CIP red zone and in accordance with the Council's policy, the Council will only grant applications in the red zone in exceptional cases

Having considered all the information the Licensing Sub-Committee agreed to grant the licence subject to:

- all licensable activities to cease by 23.30 and the premises closed by 00.00
- the licence to be conditioned for no TENS to be made
- the licence to be conditioned to state admission to events after 18.00 to be by ticket only and no admittance of the general public
- the licence to be conditioned for promotions and events to be run by the operator or applicant and no external promoters employed
- additional conditions, as offered by the applicant, these being, dispersal policy, in agreement with WYP, notices at exits and a noise limiter to be fitted

**RESOLVED** - That the application be granted as set out above