

Licensing Sub-Committee

Tuesday, 31st January, 2017

PRESENT: Councillor G Hyde in the Chair

Councillors C Townsley and G Wilkinson

1 Election of the Chair

RESOLVED – Councillor Hyde was elected as Chair of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents.

3 Exempt Information - Possible Exclusion of the Press and Public

The agenda contained no exempt information.

4 Late Items

One formal late item of business was added to the agenda with the agreement of Members; namely the application for Certification of Films proposed to be shown during the Young People's Film Festival. The request for the item to be considered at this meeting was made to allow time for printing of pre-publication material to advertise the Festival. Members had received a copy of the report and associated schedule of films prior to the hearing and the documents had been made available on line (minute 9 refers)

5 Declarations of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests.

6 Application for the grant of a premises licence for Torino Pizza 52 Westgate, Otley, LS21 3AS

The Head of Elections, Licensing and Registration submitted a report on an application for the grant of a premises licence made by Mr Mohammed Abbas, for Torino Pizza, 52 Westgate, Otley, LS21 3AS. The application was for provision of Late Night Refreshment every day from 23:00 until 01:00 hours. The report highlighted that there was an open enforcement complaint relating to the premises due to the applicant operating beyond 23:00 hours without a premise licence for late night refreshment.

The application had received representations from LCC Environmental Protection Team (LCC EPT); a local ward councillor and four individual letters of objection which opposed the application on the grounds of public nuisance. It was noted that the applicant had agreed to the measures proposed by LCC EPT; and that representation had been withdrawn subject to the agreed measures being included within the operating schedule should this application be granted. The agreements effectively reduced the opening hours so that the premises would close at midnight (Sunday to Thursday) and at 00:30 hours on Friday and Saturday.

Mr Abbas did not attend the hearing. The Sub Committee resolved to proceed in his absence and take his written application into consideration.

None of the members of the public who had made a representation attended the hearing. The Sub Committee resolved to consider their written representations and proceed in their absence.

The Sub Committee heard from Councillor C Campbell, local ward member for the Otley & Yeadon ward who described the premises as being in a sensitive area, surrounded by residential properties. He explained that the current operation of the premises was having an impact on the area, and residents had approached him about noise and smells emanating from Torino's kitchen. He also had concerns about noise generated by customers visiting the premises late at night, and from cars parking outside the premises.

Councillor Campbell referred to the ongoing enforcement action and explained that, additionally, LCC EPT were pursuing a case against the applicant who did not hold the relevant waste licence. Furthermore, the applicant was dumping waste and storing a bin on LCC land without permission. The applicant had been served with a Fixed Penalty Notice for littering in respect of this last issue. Councillor Campbell stated that both LCC Departments had tried to engage with the applicant, but that all mail and registered post had been returned. He therefore queried whether this applicant would adhere to the agreements reached with LCC EPT over noise, litter and opening hours when the applicant was in dispute with LCC over other matters.

Councillor Campbell then responded to questions from the Sub Committee:

- The premises had traded as a food outlet for some time, with different branding
- Local residents were unlikely to be content with the premises opening past 23:00 hours. Councillor Campbell referred to the opening hours of other premises in Otley (included at Appendix E of the report)
- He had witnessed the premises operating past midnight on several occasions when he had driven past

The Sub Committee considered the application as submitted by the applicant and the measures offered by the applicant to address the licensing objectives. Members also carefully considered the comments made at the hearing by Councillor Campbell, alongside the representations submitted by the local residents in respect of existing public nuisance concerns attributed to the premises. The Sub Committee also noted the report of the open enforcement complaint against the applicant due to the premises being found to be operating beyond 23:00 hours without the necessary authority; and the additional information provided at the hearing in respect of action being taken to address control of waste and littering.

Having considered all the information before them, the Sub Committee was not satisfied that the grant of this premises licence would promote the licensing objectives. Members therefore

RESOLVED – Not to grant the application.

7 Application for the Grant of a Premises Licence for Space to Eat, 7 Hirst's Yard, Duncan Street, Leeds, LS1 6DL

The Head of Elections, Licensing and Registration submitted a report on an application for the grant of a time limited premises licence made grant of a premises licence made by In The Pink Limited for 'Space to Eat', 7 Hirst's Yard, Duncan Street, Leeds, LS1 6DL. The application was made with a view to the premises operating as a takeaway with the sole provision of late night refreshment. The premises lay within the 'Red Zone' of the Leeds City Centre Cumulative Impact Policy (CIP) Area.

The application attracted representations from West Yorkshire Police and the Licensing Authority. LCC Environmental Protection Team (LCC EPT) had suggested measures to promote the prevention of public nuisance licensing objective in their representation and these measures had been agreed by the applicant prior to the hearing. That representation had subsequently been withdrawn on the understanding that the measures would be incorporated into the premises' operating schedule should this application be granted.

The following attended the hearing:

Mr P Whur – applicants legal representative	PC C Arkle – West Yorkshire Police
Mr C Edwards – In the Pink	Sgt. D Shaw – West Yorkshire Police
Mr J Clark Manager	Ms N Raper – Licensing Authority

Mr Whur tabled additional documents for Members reference including an A3 copy of the plan which accompanied the application; artists impressions of the premises and photographs of Hirst's Yard. These had already been supplied to West Yorkshire Police (WYP) and the Licensing Authority (LA).

Mr Whur stated that the applicants – who had operated The Space nightclub at 11 Hirst's Yard, Leeds for some time - had held pre-application meetings with WYP and the LA to discuss the application. In an effort to create additional space within the club without increasing capacity, the venue and building had been modernised. The applicant was aware that the premises lay within the CIP red zone, and that the area was difficult and not improving and was trying to lead other operators in the area to improve the area.

Mr Whur described the particular challenges of Hirst's Yard – it being a ginnel, with a triangular point where the yard widened. Here, patrons of several venues operating from the Yard congregated, or moved between venues. This area was also known to attract drug dealers who targetted the younger clientele. The ginnel was difficult to police as there were three access points, it was not covered by LeedsWatch CCTV and it was poorly lit.

The application was made with the aim of changing the use of the Yard and driving out the criminal element. The applicant wished to create a hot food take-away which would serve patrons from a hatch; this would not generate significant revenue, but would bring positive use of the Yard. To facilitate this change, Digital CCTV had been installed, along with outdoor lighting to the whole length of the ginnel. At least one door supervisor would be on duty whilst the premise was operating, with a radio link to other members of the doorstaff team within the Space nightclub as an extra resource to draw on.

Mr Whur explained that the applicant sought a time limited premises application of six months to operate the food outlet as a pilot, to see if this would change the use of the Yard. If the pilot did not work, then the Licence would lapse. If the pilot was beneficial, then a fresh application would be made with evidence of the positives the food outlet pilot had brought to the area. Having discussed the proposal with WYP and the LA, the applicant felt that both had supported the idea of a time restricted application, with the usual caveats, to see if this style of operation could make a difference.

Mr Whur stated that Mr Clark, the Designated Premises Supervisor of Space nightclub, had passed a lot of information to WYP gathered from Space's CCTV in the past in order to target the drug dealers operating from the Yard. This was presented as evidence of the applicants working relationship with WYP.

In conclusion, Mr Whur reiterated that this applicant was one of the biggest operators in the area. The applicant believed this application would make a difference to the area and improve the Yard. The applicant had met with the responsible authorities to discuss the proposal prior to making the application, and he referred to the measures offered by the applicant to address the licensing objectives and those already agreed with LCC Environmental Protection Team. Additionally, Mr Whur, on behalf of the applicant, had spoken to two other operators to encourage them to consider measures to make a difference to the area.

The following matters were highlighted during discussions with the Sub Committee:

- The problems generated by late night takeaways close by on Briggate were recognised, however the applicant felt that those outlets attracted passing trade and were focal points. This food outlet would not attract passing trade, was intended to serve the existing customer base; and would not be a destination point for customers who had attended venues outside of Hirst's Yard.
- Other premises nearby did serve food, but not at these later hours
- Currently the site was used for bin storage, however only half the area was required. The site would be reorganised to provide secure bin storage with the remaining area to house the food outlet preparation area and serving hatch.

PC C Arkle then addressed the hearing on the location of the premises within the Red Zone of the City Centre CIP area which was one of the worst performing areas in the city. Recent WYP crime statistics showed there had been a 17% increase in crime in that area with the peak time for crime and disorder now extended from 4am to 5am. The results were disappointing as a lot of work to address the issues had been undertaken, although it was also acknowledged that Leeds night-time economy was now much busier with footfall increasing and more premise licence applications.

PC Arkle highlighted the problems with Hirst's Yard as being the ginnel was dark and narrow; there were three points of exit; customers of all the venues there used it as a smoking area so it was always busy; and Space nightclub attracted younger customers. Historically, dealers targeted younger customers. The area was difficult to police due to the volume of people there and the lack of LeedsWatch CCTV.

PC Arkle stated that, should the application be granted and attract more people to Hirst's Yard; then this would undermine the licensing objectives. However, if the application was granted and it was found that existing customers stayed in the Yard area to eat and then disperse in a more orderly fashion, then that would present a very different outcome. However it would be a massive leap of faith to approve a full premises licence at this time.

PC Arkle acknowledged that something needed to change in that area, but it was not known whether a late night refreshment outlet was the right measure. However, the new lighting, CCTV and doorstaff would certainly be welcomed. A six month time limited Licence would provide WYP the opportunity to assess the effectiveness of all the proposals.

Additionally, she highlighted a concern about the possibility of the increase of thefts – from customers queueing to pay for their food.

In conclusion, PC Arkle reiterated WYP concerns over the crime and disorder associated with the CIP Red Zone area, but she acknowledged that a six month pilot for the proposed food outlet was worth the risk. If the outlet failed, then the licence would fall but if it was successful in addressing the issues associated with Hirst's Yard then WYP and the operator would have six months of evidence to present and the possibility of a new way forward to improve the area.

Ms N Raper, then addressed the Sub Committee on behalf of the Licensing Authority. She stated the LA held the same concerns over the possible increase in crime and disorder as WYP. The CIP Red Zone had recently been reviewed and a report on the Leeds night-time economy would be presented to the full Licensing Committee in March 2017. Additionally, she confirmed that the LA and WYP had met with representatives of the Licensing Trade and local operators to discuss the issues associated with the area and measures to improve it. If this time restricted application was granted, and the pilot successful, the applicant would have to make a fresh application with supporting evidence for a full Premises Licence

The following matters were considered during further discussions:

- The applicant would have a minimum of one door supervisor on duty outside from 21:00 hours until close to manage queues who could liaise with doorstaff inside Space nightclub as an additional measure. 10/11 doorstaff were employed inside the nightclub.
- The food outlet proposal was a risk to the applicant and it would reflect badly on them if it failed, the applicant therefore would seek to ensure the venture was properly managed and supervised.
- The applicant had a history of working with WYP to pass on evidence extracted from the existing CCTV system.
- Space nightclub was not open 7 days per week. The food outlet would be open when Space nightclub was closed. However, not much footfall was generated through Hirst's Yard when the nightclub was closed.
- The applicant had good relationships with other venue operators in Hirst's Yard. Mr Whur represented other operators in the immediate vicinity and was due to meet with one later that day to discuss improving bin storage in the Yard.

The Sub Committee took into account all of the evidence and representations before them, including the contents of the report of the Head of Elections, Licensing and Registration; the four licensing objectives – but in particular the prevention of crime and disorder. Members also paid close regard to the representations made at the hearing on behalf of the applicant and Responsible Authorities.

The Sub Committee also considered the Local Authority's Statement of Licensing Policy 2014 – 2018 ("the Policy"), having particular regard to the Cumulative Impact Policy ("CIP"). Whilst the CIP creates a rebuttable presumption that applications that are likely to add to the existing cumulative impact will normally be refused, it does not create a blanket ban and affords applicants the opportunity to evidence that their application is an exceptional case.

While having in mind the CIP, the Sub Committee considered the application on its individual merits in accordance with the principles within the statutory guidance under section 182 of the Licensing Act 2003.

The Sub Committee considered whether the application would be likely to add to the cumulative impact on the crime and disorder objective.

This application would not increase the capacity of the sister premises – Space – and it was stated that the increased use, lighting, use of doorstaff, CCTV coverage and self-policing of Hirst's Yard would act as a deterrent to persons congregating there to undertake criminal activity.

The Sub Committee considered the representation made at the hearing by PC Arkle on behalf of WYP, notably that WYP were prepared to support the applicant in their endeavour to improve the Yard area and tackle the problems associated with the area.

Members were aware that even the six month time limited premises licence, with all the measures offered and refurbishment, would present a risk to the applicant should the venture fail. Members also had regard to the applicants undertaking that, should the venture be deemed to be unsuccessful, the premises licence would lapse at the end of the six months. However, if the food outlet proved to be a success, the applicant would bring a fresh new application with evidence to support the success of the venture.

The Sub-Committee were persuaded that the licensing objectives in respect of public nuisance and crime and disorder could be promoted by these premises in an area which already had cause to be subject to a CIP. Therefore, on this basis the Sub-Committee

RESOLVED – To grant the application for a time limited period of 6 months.

- All the measures offered by the applicant and those agreed with LCC EPT will be added to the Operating Schedule for Space to Eat.

8 Application for the Grant of a Premises Licence for 16 Globe Road Holbeck, Leeds, LS11 5QG

This application was withdrawn from the agenda prior to the meeting as the applicants and all interested parties had reached agreements on measures suggested in order to promote the licensing objectives of the city. The Premise Licence will therefore be issued by the Licensing Officer in accordance with the agreed conditions.

9 Late Item - Certification of Films

The report of the Head of Elections, Licensing and Registration set out details of an application for the certification of films proposed to be shown during the Leeds Young Film Festival scheduled for 10th to 20th April 2017.

The application was made as films that had not been previously certified by the British Board of Film Classification (BBFC) required certification before showing. A list of the films to be shown was detailed in appendix A to the report with a brief synopsis and the proposed certification.

Martin Grund, Leeds Young Film Festival, and Alex King, Leeds International Film Festival, attended the hearing and provided the Sub-Committee with an overview of the Festival and responded to Members queries in respect of the context and subject matter of some of the films. The film festival was aimed towards children and families and would be held at locations across the city.

The Licensing Sub Committee considered the certification of the films as attached at appendix A of the submitted report.

RESOLVED – That the films be categorised as recommended in Appendix A of the submitted report.