

Licensing Sub-Committee

Tuesday, 14th March, 2017

PRESENT: Councillor G Hussain in the Chair

Councillors N Buckley, G Hussain and
G Wilkinson

1 Election of the Chair

RESOLVED – That Councillor G Hussain be elected as Chair for the hearing.

2 Exempt Information - Possible Exclusion of the Press and Public

The Sub-Committee was advised that the main report for Agenda Item 6 – Application for the grant of a Sex Establishment Licence for Black Orchid, 25 Crown Street, Assembly Street, Leeds contained an appendix with information which was considered to be exempt/confidential under Access to Procedure Rules 10.4 (1, 2 & 3) and that should this information be discussed, that press and public should be excluded from the hearing during that discussion.

3 Late Items

There were no late items; supplementary information was submitted for Agenda Item 6 – Application for the grant of a Sex Establishment Licence for Black Orchid, 25 Crown Street, Assembly Street, Leeds.

4 Declarations of Disclosable Pecuniary Interests

There were no declarations.

5 Application for the grant of a Sex Establishment Licence for Black Orchid, 25 Crown Street, Assembly Street, Leeds, LS2 7DA

The report of the Head of Elections, Licensing and Registration presented an application for the grant of a Sex Establishment Licence at Black Orchid, 25 Crown Street, Assembly Street, Leeds, LS2 7DA.

Prior to the hearing, Members of the Licensing Sub-Committee had undertaken a site visit to the premises.

The application from Tokyo Industries Ltd was for a Sex Establishment Licence that covered the first and second floors of the building, which would have direct access from Assembly Street. The ground floor of the premises would have a different use and its own entrance. The proposed hours of operation would be 22:00 to 04:00 on Sunday to Thursday and 22:00 to 05:00 Friday and Saturday.

Responsible authorities and Ward Councillors had been notified of the application and public notices of the application had been made in accordance with legislation. There had been 77 objections to the application along with a petition. There had not been any objections from West Yorkshire Police.

Phillip Kolvin QC presented the case on behalf of the applicant. He informed the Sub-Committee that the company was one of the largest operators of late night

venues in the north of England and specialised in restoring old buildings for leisure use. Their most similar operation was in York where they operated a Sexual Entertainment Venue (SEV) in the heart of the historic area of the City on a first floor location which was also close to residential properties.

Further issues highlighted in support of the application included the following:

- The applicant had a good track record of operating a SEV without any issue of crime, disorder or nuisance.
- The premises were located in an ideal location that fell within the night time economy and would not have an obtrusive ground floor frontage. The ground floor of the premises would have a day time use, most likely as a restaurant. The entrance to the SEV would be on Assembly Street and there would only be unobtrusive signage during the hours of opening. The signage would not display any sexual images or language.
- The applicant had developed a good relationship with authorities in Leeds through the operation of other venues. He had initially planned to open a SEV in another venue but following the guidance of West Yorkshire Police and the Licensing Authority had chosen these premises which already benefitted from having a late night licence and fell outside the red zone of the cumulative impact area.
- Smoking areas would be screened off from the street view and it was felt that any impact on the locality would be negligible, certainly less than that of a nightclub.
- It was clear that some investment was required in the immediate area. These proposals would see the restoration and re-use of a vacant building. The applicant was prepared to invest £1 million and it would provide employment for up to 30 people. It was ultimately hoped that the area would be reactivated as a small food and drink quarter and there was confidence that the premises could be operated without any conflict.
- The applicant had successfully operated a SEV elsewhere and had not experienced any local issues. Access to these premises would not cause disturbance to local residents.
- There had not been any objections from the authorities.
- Reference was made to the Council's policy with respect to SEVs. The location met the preference for a city centre location and should the licence be granted it would be the fourth licence of the four available in Leeds. The premises also fell within a late night entertainment area.
- With regard to comments received in objection to the application it was felt that many of these were inspired by a dislike of SEVs.. It was also stressed that the premises did not fall within the red zone of the cumulative impact area; the entrance to the premises was not adjacent to Crown Buildings; there would not be queues outside or people streaming in and out of the premises; there would not be smoking areas in the street and neither was there any evidence to suggest that such a venue would attract drugs or sex trade.
- In his closing remarks, it was reported that the applicant would be happy to accept conditions that would be applied to the licence should it be granted. It was also reiterated that granting the licence would bring a neglected building

back into a productive use and would avoid a re-use as a nightclub which would be more harmful to the immediate surroundings.

- In response to questions from the sub-committee, the following was discussed:
 - There would be no access to areas licensed for sexual entertainment from the ground floor use of the premises.
 - There would not be any areas where persons under the age of 18 could access.
 - Capacity for the venue would be determined in line with the fire risk assessment.
 - Compliance with the DDA. It was reported that reasonable adjustments would be made where possible.
 - Music in the SEV would be played at background music levels.
 - There would be acoustic screening of the smoking areas.
 - The applicant was willing to comply with any requirements made in respect of planning permission.
 - The premises were likely to attract a more mature client with lower alcohol consumption than other establishments.

The Sub-Committee heard objections from Mr R Arnot, Mr C Burton, Ms L Saunby, Ms S Horton, Mr B Smith and Mr P Nathan-Geary. Objections and concerns raised included the following:

- The applicant had not been guided by West Yorkshire Police as to the premises being a more suitable venue for a SEV.
- The premises fell within a sensitive area and the area could be regenerated successfully without a SEV.
- Although the policy made provision for up to 4 licensed SEV venues, the sub-committee was asked to consider whether there was already sufficient provision.
- There were too many sensitive properties near to the premises including the Corn Exchange which was not only a historic building, but a retail centre which also hosted events. Other nearby properties included a 24 hour gym, family restaurants and residential properties.
- The area was a gateway to the city and close to bus stops..
- Other SEVs in Leeds were destination venues. This would attract passing trade and trade from nearby bars.
- There had not been reference made to reports from Environmental Health and West Yorkshire Police regarding noise and disturbance when the premises was operated as a nightclub.
- There were other restaurants and leisure facilities in the area.
- Concern regarding noise and disturbance from people arriving and leaving in large groups.
- The area had a different residential make up to that of the York Place area with families and retired people residing close by.
- Granting of this licence could jeopardise further development in the area.
- When the premises was previously operated as a nightclub, noise and disturbance was heard until 5:00 a.m.

- Concern from female residents who would not feel safe to go outside on a night time.
- Concern regarding noise and traffic increases from taxis.
- Concern from night time users wanting to access the gym, particularly females who would feel vulnerable.
- The proposals did not fit in an area which was part of the most historic part of the city. The characteristics differed to other areas where SEVs were sited.
- The quality of life for those living nearby would be affected by these proposals.
- Reference was made to future planning proposals for the area which included more residential housing. Proposals focussed on more family friendly activity with soft leisure provision.

The applicant's representative was invited to respond to objections and summarise the application. The following was highlighted:

- The majority of custom was from the business sector.
- The premises would be a destination venue with a low turn away rate.
- Customers would be encouraged to use taxis in the Call Lane area, away from residential properties.
- The premises would not open until 10.00 p.m. and there would not be a cross over with activities at the Corn Exchange.
- There was no supporting evidence to suggest that these proposals would prevent any further redevelopment of the area. There was also no evidence to show any links to sex related offences.
- Should the licence be granted there would be a higher level of security with a registered security person present on Crown Street during the hours of opening.
- The proposals would not prevent daytime activity and the ground floor would have a daytime use.
- Licences that had previously been refused elsewhere in Leeds had been for premises in more sensitive areas.
- The application satisfied the policy in that it was a city centre location within a night time economy area. There would not be any ground floor areas covered by the licence, smoking areas would be located away from the street and there would be a discreet side street entrance. Alternative permitted uses for the premises would potentially cause more disturbance.

The Licensing Sub-Committee carefully considered the report of the Head of Elections, Licensing and Registration, the Statement of Licensing Policy for Sex Establishments and the application for the grant of a Sex Establishment Licence. It also considered the representations made in objection to the application both at the hearing and in writing and those representations made by the applicant and his representative.

RESOLVED – That the application be granted as applied for. The licence to be conditioned in respect of planning controls and the stationing of a SIA doorman on Crown Street/Assembly Street during trading hours.

