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## Report of the Head of Licensing and Registration

### Report to the Licensing Sub Committee

**Date: Monday 31<sup>st</sup> March 2014**

**Subject: Review of the Premises Licence for Horsforth Manor, Calverley Lane, Horsforth, Leeds, LS13 1NP**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Horsforth	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		

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## Executive Summary

This report informs Members of an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, sought by West Yorkshire Police in respect of Horsforth Manor, Calverley Lane, Horsforth, Leeds, LS13 1NP. The licensing authority is now under a duty to review the premises licence held by these premises.

### 1.0 Purpose of this Report

1.1 This report provides Members with the background and history to the making of the review application by West Yorkshire Police (**Appendix A**). The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act"), and informs members of the options available to them when reviewing a premises licence.

### 2.0 Background Information

2.1 On receipt of the first application, made on the 6<sup>th</sup> August 2005 to convert and vary the existing Justices' On Licence in to a premises licence, the premises were trading as 'Oliver's Paris Bar & Restaurant'.

2.2 The application attracted representation from the Environmental Protection Team and the Health & Safety Team suggesting measures in order promote the relevant licensing aims, which were later agreed and subsequently withdrawn.

- 2.3 However, an outstanding representation from a local resident required the application to be considered at hearing on the 29<sup>th</sup> September 2005.
- 2.4 Members carefully considered the application along with the outstanding representation and determined the application granted as requested, subject to agreed measures forming part of the operating schedule.
- 2.5 On the 19<sup>th</sup> May 2011, an application to transfer the premises licence was made by Tantor Ltd which also changed the name of the premises. The venue was now known as 'Il Migliore'.
- 2.6 A further transfer was received on the 20<sup>th</sup> September 2012, along with instructions to change the premises name of the premises again. The premises were now known as 'Horsforth Manor'.
- 2.7 Mr Jason Flynn, the current licence holder subject to these review proceedings, acquired the licence on 12<sup>th</sup> December 2012. West Yorkshire Police did not make any representation to the transfer application which was therefore granted as requested.
- 2.8 On 22<sup>nd</sup> August 2013 the licence holder made a Minor Variation application to remove a condition on the licence which reads 'Patrons shall not be allowed to use the beer garden, marquee or any external area after 23:00 hours'. The application was sent to West Yorkshire Police, the Environmental Protection Team and the Health & Safety Team for their consideration.
- 2.9 The variation attracted a representation from EPT due to the number of complaints that have been received from residential properties in the vicinity of the premises. They felt that granting permission for patrons to use the external area without any further measures in place to prevent noise break out would undermine the prevention of public nuisance objective. The application was consequently refused entirely.
- 2.10 The latest change to the premises licence was an application to specify Mr Christopher Swales as the Designated Premises Supervisor, received on the 20<sup>th</sup> December 2013. West Yorkshire Police made no representation to the application which was granted accordingly.

### **3.0 Premises Licence**

- 3.1 The premises licence holder is Mr Jason Flynn.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the following:

Sale by Retail of Alcohol

11:00 until 02:00 hours Monday to Sunday

Late Night Refreshment

23:00 until 02:00 hours Monday to Sunday

Performance of Live Music  
Performance of Recorded Music  
Performance of Dance  
Entertainment Similar to Live Music, Recorded Music or Dance  
11:00 until 02:00 hours Monday to Saturday  
12:00 until 02:00 hours Sunday

Times the premises are open to the public  
11:00 until 02:30 Monday to Sunday

Non-standard Timings

To allow continuous trading from the start of permitted hours on New Year's Eve, to the end of permitted hours on New Year's Day.

#### **4.0 Designated Premises Supervisor**

4.1 The Designated Premises Supervisor for the premises is Mr Christopher Swales.

#### **5.0 Location**

5.1 A map which identifies the location of the premises is attached at **Appendix C**.

#### **6.0 Main Issues**

6.1 These premises have been brought to the attention of WYP for the increasing frequency and types of incidents that have occurred since the current licence holder took control in December 2012.

6.2 From June 2013, incidents of assaults, drug issues and occurrences involving minors were being reported to WYP. Consequently an action planning meeting was arranged with action points for future events agreed.

6.3 The first incident since the above meeting was received two days later, with further instances of grievous bodily harm and assault being reported over the following weeks. A regular theme at these premises is the absence of CCTV, failure to contact WYP and deal with under age issues.

6.4 Incidents at these premises are increasing in frequency and severity, with serious concerns about the ability of the management to uphold the licensing objectives and the safety of customers.

6.5 In addition to the application, West Yorkshire Police have provided supplementary evidence to support the review application. This is attached at **Appendix D** for Members consideration. Included are witness statements, a chronology of events leading up to the review, several screen shots of advertised events on social media sites and minutes from meetings with the premises licence holder and agencies.

#### **7.0 Relevant Representations/Letters of Support**

7.1 Under the Act representations/support can be received from responsible authorities and or other persons. Representations must be relevant and, in the case of other people, must not be frivolous or vexatious.

7.2 In this instance, no further representation has been received to the application.

## **8.0 Matters Relevant to the Application**

8.1 Members of the Licensing Sub Committee must make decisions which are appropriate to the promotion of the licensing objectives which are:

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

8.2 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act. A copy of the relevant section is attached at **Appendix E**. Members must also have regard to the Council's licensing policy, the relevant representations made and evidence they hear.

## **9.0 Implications for Council Policy and Government**

9.1 It is the stated licensing policy of the Council that when considering a review the authority will take into account all relevant circumstances, but will view the matters listed in paragraph 13.15 of the policy with particular seriousness.

## **10.0 Legal and Resource Implications**

10.1 There are no resource implications in determining the review.

10.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

## **11.0 Recommendations**

11.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);
- exclude any licensable activities to which the application relates;
- to remove the Designated Premises Supervisor;
- to suspend the licence for a period not exceeding 3 months; and/or
- to revoke the licence.

11.2 Members may decide that no action is necessary and that the circumstance of the review does not require the Committee to take any steps to promote the licensing objectives.

11.3 Members should note the guidance also suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However the Guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.

- 11.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.
- 11.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 11.6 Members of the Licensing Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must be appropriate for the promotion of the licensing objectives.

## **12.0 Background Papers**

- 12.1 Guidance issued under s182 Licensing Act 2003  
12.2 Leeds City Council Statement of Licensing Policy

## **Appendices**

- Appendix A Review Application  
Appendix B Premises Licence  
Appendix C Premises Location Map  
Appendix D Supplementary Information  
Appendix E Section 182 Guidance