



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Tuesday 22nd April 2014

Subject: Review of the Premises Licence for The Angel, High Street, Wetherby, LS22 6LT

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Wetherby	
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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix D is considered exempt under the provision of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005)		

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 The Angel, High Street, Wetherby, LS22 6LT. 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 made 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 An application was received on the 19th July 2005 to covert and vary the existing Justices' On Licence and Public Entertainment Licence in to a premises licence.
- 2.2 The application attracted representations from Leeds City Council's Environmental Health and Health & Safety Team. Each agencies objection were later withdrawn subject to the agreements of suggested measures forming part of the operating schedule, and the licence subsequently.
- 2.3 At this time the premises licence holder was Mill House Inns Limited. On the 23rd April 2007 the licence became the property of Spirit Group Limited by way of a transfer application. The transfer application progressed through the consultation period without representation from West Yorkshire Police and was duly granted with immediate effect.
- 2.4 Over the course of the following two years, several changes to the Designated Premises Supervisor were made and granted. However the next key change was on 18th August 2009 with the appointment of the current premises licence holders; Franco Del Bueno and Catherine Spence.
- 2.5 Ten days later on the 28th August 2009, an application to specify Gary Lockhart as the Designated Premises Supervisor was received.
- 2.6 Both applications to transfer the licence and change the DPS to the current management of the premises did not attract representation and were granted as requested.
- 2.7 Also on the 28th August 2009 an application to vary the premises licence was made. The application only proposed to alter the internal layout of the premises, however it attracted a representation from West Yorkshire Police suggesting measures to address their concerns in relation to CCTV retention, proof of age requirement and the prohibition of licensable activities taking place in the outside area.
- 2.8 The above measures were agreed by the licence holder resulting in the representation being withdrawn and the licence being granted with the measures incorporated.
- 2.9 A further application to vary the premises licence was made on the 4th March 2010. On this occasion the proposal was to alter the internal layout of the premises to facilitate a function room, along with an extension to the hours of all licensable activities.
- 2.10 This application was subjected to representation from West Yorkshire Police and the Environmental Protection Team, both offering suggested measures which remained outstanding and a matter for Members consideration at hearing on the 19th April 2010.
- 2.11 Members carefully considered all submissions and remained concerned about the likely impact of granting the application on the licensing objectives regarding public nuisance and the prevention of crime and disorder. The Sub Committee however felt it was possible to take proportionate steps to address the concerns raised, and resolved to grant the application in part.

- 2.12 A terminal hour of 00:30 hours on Friday and Saturday evenings for Late Night Refreshment and the Sale of Alcohol was granted, along with the inclusion of all the measures suggested by the two responsible authorities in to the operating schedule.
- 2.13 On 21st May 2013, a minor variation application was received by the Licensing authority. This application proposed to alter the wording of a condition in relation to door staff requirements which read 'The minimum number of door supervisors for the premises is 2 on a Thursday, Friday and Saturday evening from 19:00 hours until one hour after close of business.'
- 2.14 The wording offered by the licence holders were that 'The minimum number of door supervisors for the premises is 2 on a Friday and Saturday evening from 21:00 hours until one hour after the close of business.'
- 2.15 Concerns to the revision were expressed by West Yorkshire Police who submitted a representation to the application. With a duty to refuse the application on receipt of a representation, save except for an agreement being reached, a meeting was held between West Yorkshire Police and the premises licence holder.
- 2.16 The meeting did result in an agreement which involved further modification to the wording. The measure agreed by both parties was that 'The minimum number of door supervisors for the premises is 2 on a Thursday from 21:00 hours until one hour after the close of business, and on a Friday and Saturday evenings from 20:30 hours until one hour after the close of business.'

3.0 Premises Licence

- 3.1 The premises licence holders are Franco Del Bueno and Catherine Spence.
- 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:
- 3.2.1 Sale by Retail of Alcohol
 10:00 until 00:00 hours Monday to Thursday
 10:00 until 00:30 hours Friday and Saturday
 12:00 until 00:00 hours Sunday
- 3.2.2 Late Night Refreshment
 23:00 until 00:00 hours Sunday to Thursday
 23:00 until 00:30 hours Friday and Saturday
- 3.2.3 Live Music
 Recorded Music
 Performance of Dance
 Entertainment Similar to Live Music, Recorded Music or Dance
 10:00 until 00:00 hours Monday to Saturday
 12:00 until 00:00 hours Sunday

4.0 Designated Premises Supervisor

- 4.1 The Designated Premises Supervisor for the premises is Gary Lockhart.

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 The grounds for this review centre principally on the reports of assaults and disturbances that have been received from these premises since the current licence holders took over in 2009.

6.2 Over these years, drugs information has been received in relation to the venue along with two positive test purchases of under-age alcohol sales. Further concerns have also been raised over the relevant planning consent and noise issues experienced at the premises.

6.3 Violent crime is a major concern taking place on the premises or as customers leave. The absence of CCTV has also been highlighted to licence holders on many occasions, which has prevented offenders from being brought to justice.

6.4 After a lengthy period of engagement, West Yorkshire Police feel that the review is necessary as the licence holders continue to operate outside of their premises licence.

6.5 In addition to the application, West Yorkshire Police have provided supplementary evidence to support the review application which is attached at **Appendix D** for Members consideration. Included is a chronology of events leading up to the review, witness statements of various officers, press releases and images captured from CCTV footage along with other evidence supporting the review.

6.6 It should be noted that the contents of this appendix are potentially exempt information under Access to Information Procedure Rule 10.4(7) as these include information relating to any particular person and it may contain information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

6.7 Also included with the police submissions are several DVDs showing CCTV footage of incidents at the premises. These will be made available for Members viewing on the day of the hearing.

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 A letter in support of the review application has been received from a premises in the area which expresses concerns over the impact that the premises is having on the local area. Member's attention is drawn to copy of this representation at **Appendix E** of this report.

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 F**. 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 Map
Appendix D Supplementary Information
Appendix E Letter in Support of the Review Application
Appendix F Extract from the S182 Guidance