

**Report of the Head of Licensing and Registration**

**Report to the Licensing Sub Committee**

**Date: Tuesday 26th May 2015**

**Subject: Application to vary a premises licence held by 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):	<b>Wetherby</b>	
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:		
Appendix number:		

**Summary of main issues**

This is an application to vary a premises licence, made by Westgate Leisure Services Limited, for The Angel High Street, Wetherby, LS22 6LT

Responsible authorities and Ward Members have been notified of this application.

The application has attracted representations from members of the public and from responsible authorities.

## **1.0 Purpose of this Report**

- 1.1 To advise Members of an application made under section 34 of the Licensing Act 2003 ("the Act") for a premises licence in respect of the above mentioned premises.
- 1.2 Members are required to consider this application due to the receipt of representations.

## **2.0 History of Premises**

An application was received on the 19<sup>th</sup> July 2005 to convert and vary the existing Justices' On Licence and Public Entertainment Licence in to a premises licence.

The application attracted representations from Leeds City Council's Environmental Health and Health & Safety Team. The agencies objections were later withdrawn subject to the agreements of suggested measures forming part of the operating schedule, and the licence subsequently granted.

At this time the premises licence holder was Mill House Inns Limited. On the 23<sup>rd</sup> 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.

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 18<sup>th</sup> August 2009 with the appointment of the current premises licence holders; Franco Del Bueno and Catherine Spence.

Ten days later on the 28<sup>th</sup> August 2009, an application to specify Gary Lockhart as the Designated Premises Supervisor was received.

Both applications to transfer the licence and change the DPS did not attract representation and were granted as requested.

Also on the 28<sup>th</sup> 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.

The above measures were agreed by the licence holder resulting in the representation being withdrawn and the licence being granted with the measures incorporated.

A further application to vary the premises licence was made on the 4<sup>th</sup> 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.

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 19<sup>th</sup> April 2010.

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.

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.

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.'

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.'

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.

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.'

On the 26<sup>th</sup> February 2014 an application for a review of the premise licence under Section 51 of the Licensing Act 2003 was received from West Yorkshire Police. The grounds of this review centered principally on the reports of assaults and disturbances. West Yorkshire Police had received information regarding drugs along with two positive test purchases of under age alcohol sales. Further concerns have also been raised over planning consent and noise issues experienced at the premises.

Violent crime was a major concern at the premises as customers leave. The absence of CCTV was also highlighted. A detailed chronology of events leading up to the review was submitted along with witness statements and press releases and other evidence supporting the review.

The licensing sub committee carefully considered the report and heard from West Yorkshire Police and the premise licence holder's representative.

The Licensing Sub-Committee considered all the evidence, including the opening hours of the other premises in the area, as provided by the Licensing Officer.

They did not feel there was drugs problem at the premises. They did feel that the upper floor area was suffering a disproportionate amount of incidents at the end of the evening. It had become a focal point for late night drinking in the area. They also took into account the comments of the designated premises supervisor, he had stated the reason the premises had operated beyond their permitted hours, as identified by the CCTV, was because they had problems getting people to leave at the end of the evening.

They agreed with West Yorkshire Police that revocation was not necessary at this stage. They felt it was appropriate to modify the conditions. They considered there were no problems with the downstairs operating as a restaurant.

The Licensing Sub Committee resolved to modify the conditions splitting the licensable hours for different areas of the building.

The premise licence holder took the opportunity to appeal the decision made by the licensing sub-committee. Before the appeal was heard at the magistrate's court modified conditions were agreed and the appeal was withdrawn. Parties also agreed to modifications to the hours licensable activities are carried out. The modified conditions now appear on the current Premises Licence

On the 2<sup>nd</sup> April 2015 an application was received to vary the Designated Premise supervisor at the Premise. No representation was received and the application was duly granted.

An application was also received to Transfer the Premise Licence Holders from Franco Del Buono and Catherine Spence to Westgate Leisure Services Ltd. This application received no representations and the application was duly granted.

A further application was received on 2<sup>nd</sup> April 2015 to vary the premise licence under section 34 of the Licensing Act. As representation has been received, a hearing was scheduled for the committee to make a decision as to the application.

2.1 A copy of the existing licence is attached at **Appendix A**

### **3.0 The Application**

3.1 The applicant is Westgate Leisure Services Limited

3.2 The application form may be found at **Appendix B** to this report.

3.4 The variation of licensable activities has not been sought with this application and therefore remains the same.

#### **4.0 Other matters relevant to the application**

4.1 It is brought to Members attention that this application is for the removal of conditions attached to the Premise licence relating to crime and disorder. Further amendments are also requested regarding conditions relating to public nuisance.

4.2 The Designated Premise Supervisor at the premise is now Mr Smail Beladjal.

#### **4.3 Equality and Diversity / Cohesion and Integration**

4.4 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the Licensing Sub-Committee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

#### **5.0 Steps to promote the Licensing Objectives**

5.1 As the removal and amendment of conditions forms the whole of this application, no further steps to promote the licensing objectives were offered as part of the application.

#### **6.0 Licensing Hours**

6.1 Members are directed to paragraphs 6.8 to 6.15 for the Statement of Licensing Policy which states the criteria that will be applied to any decision for new applications or variations which include extending hours.

6.2 In brief the Policy states at 6.14 that restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives, given the potential for neighbouring premises to seek the same additional hours to prevent rivals gaining a commercial advantage.

6.3 A list of premises in the local area and their licensed hours and activities is provided at **Appendix C**

#### **7.0 Location**

7.1 A map which identifies the location of this premise is attached at **Appendix D**.

## **8.0 Representations**

8.1 Under the Act representations can be received from responsible authorities or other persons. Representations must be relevant and, in the case of another person, must not be frivolous or vexatious.

### 8.2 Representations from Responsible Authorities

8.3 Representation has been received from West Yorkshire Police and Environmental Protection Team in their capacity as a responsible authority under the Licensing Act 2003.

8.4 An agreement has been reached with Environmental Protection Team. In this instance the operating schedule has been amended to include the measures agreed. A copy of which can be found at **Appendix E**

8.5 The representation submitted by West Yorkshire Police remains outstanding as a matter for member's consideration. A copy of the same may be found at **Appendix F**

### Other representations

8.5.1 The application has attracted representations from members of the public.

8.5.2 The Licensing Section is in receipt of seven individual letters of objection for this application from local residents who have concerns regarding public nuisance and crime and disorder.

8.5.3 Copies of the representations can be found at **Appendix G** for Members consideration.

## **9.0 Options Available to Members**

9.1 The licensing sub-committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the variation as requested.
- Grant the variation whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
- Reject the whole or part of the application.

9.2 Members of the licensing sub committee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

## **10.0 Background Papers**

- Guidance issued under s182 Licensing Act 2003
- Leeds City Council Licensing Policy