

Report of the Head of Elections, Licensing and Registration

Report to the Licensing Sub Committee

Date: 25th August 2015

Subject: Review of the Premises Licence for Wykebeck Arms, Selby Road, Leeds, LS9 0EW

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Temple Newsam	
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:		
NOT FOR PUBLICATION		
Exempt under Regulation 14 of the Licensing Act 2003 Hearings Regulations 2005		
(SI 2005 No. 44)		
Appendix: D,E and F		

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 Wykebeck Arms, Selby Road, Leeds, LS9 0EW. 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 and detailed in **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.
- 1.2 Members should note that Gosschalks Solicitors have submitted a representation on behalf of their client Enterprise Inns PLC. Who are the freehold owner of these premises.

2.0 Background Information

On the 21st June 2005 Mr Walker submitted an application to convert and vary an existing Justices 'On' Licence. The conversation part of the application was granted as applied for. The variation part of the application attracted a representation from West Yorkshire Police and was heard before the licensing sub-committee on the 15th August 2005. The decision reached was to grant the variation in part with amendment to the requested hours and impose the conditions agreed with LCC Health and Safety team, Environmental Health and West Yorkshire Police. The committee members also imposed two conditions relating to no external loud speakers and the CCTV system.

On the 24th July 2006 Mr Walker submitted an application to vary this premise licence. This application was to vary the sale by retail of alcohol hours, regulated entertainment and to remove all embedded restrictions inherent in the Licensing Act 2003, the Cinematograph regulations and the Children and Young Person Act 1933. The application attracted a public representation and a representation from West Yorkshire Police. The application was heard before the licensing sub-committee on the 11th September 2006. The licensable hours for sale by retail of alcohol were amended; all other licensable activities were granted as applied for. The agreed measures with West Yorkshire Police were also imposed to form part of the premises licence.

On The 25th November 2014 following meetings with West Yorkshire Police, Mr Walker submitted a minor variation application. The application was to reduce the operating hours to Sunday to Thursday 11:00 – 23:00, Friday and Saturday 10:00-00:00. The application was also for conditions to be removed and amended in line with the V7 pro-forma submitted along with email correspondence from Pc Dobson. During the 10 day consultation period the Health and Safety team commented on this application to propose 12 conditions. These were agreed and imposed on the premises licence which was duly granted in the 10th December 2014. This is the licence to which the premises currently operate.

3.0 Premises Licence

3.1 The premises licence holder is Mr Dean Walker.

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, Regulated Entertainment

Sunday to Thursday 11:00 – 23:00

Friday & Saturday 10:00 – 00:00

There are no non-standard timings, these were removed as part of the minor variation application

4.0 Designated Premises Supervisor

4.1 The Designated Premises Supervisor for the premises is Mr Dean Richard Walker.

5.0 Location

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

6.0 Main Issues

- 6.1 The application to review the licence relates to issues surrounding The Prevention of Crime and Disorder, Public Safety, The Prevention of Public Nuisance and The Protection of Children from Harm.

In summary West Yorkshire Police have concerns that the present management and operation of the premises undermines the above licensing objectives.

The premises have openly admitted to serving alcohol beyond the permitted hours and to underage customers. Ten action planning meetings and numerous visits to the premises have failed to resolve such issues

The premises have been afforded every opportunity to address the concerns and work within their premises licence. They have failed to heed warnings and have put profit before the promotion of the licensing objectives.

A witness statement provided by the North East Leeds Division Licensing Officer for West Yorkshire Police can be found at **Appendix D** of this report. The statement expresses belief that revocation can be the only outcome for this particular review.

A second witness statement provided by the North East Leeds Division Police Officer for West Yorkshire Police can be found at **Appendix E** of this report. The statement expresses belief that revocation is the only sanction.

In addition to the application, West Yorkshire Police have provided supplementary evidence to support the review application. Included is a chronology of events leading up to the review, minutes following meetings with the management at the premises and stills of CCTV footage for Members consideration. This is attached at **Appendix F**.

- 6.2 It should be noted that certain information submitted within the West Yorkshire Police review application is potentially exempt information under the Access to Information Rule (10.4(1,2)). As, it includes information relating to an individual and information which is likely to reveal the identity of an individual. This information is also replicated in Appendix D, E and F.

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 of representation has been received from Gosschalks Solicitors who act on the behalf of Enterprise Inns. Their client is the freehold owner of the premises. A copy is attached at **Appendix G**.

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 H**. 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	Map of premises
Appendix D	Witness Statement
Appendix E	Witness Statement
Appendix F	Supplementary Information
Appendix G	Letter of Representation
Appendix H	Extract from S182 Guidance.