

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

**Report to the Licensing Sub Committee**

**Date: Tuesday 15th November 2016**

**Subject: Application for the Grant of a Premises Licence for Black Orchid, Second Floor and Third Floor, 64 Call Lane, Leeds, LS1 6DT**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): City & Hunslet		
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 for the grant of a premises licence made by Tokyo Industries (York Lincoln Hull) Limited for Black Orchid, Second Floor and Third Floor, 64 Call Lane, Leeds, LS1 6DT.

The application is made for a premises wishing to operate a Sexual Entertainment Venue.

In conjunction with the premises licence application, an application has also been made for Sex Establishment Licence under the Local Government (Miscellaneous Provisions) Act 1982 as amended. This will be brought before the Licensing Sub-Committee for consideration at a later date.

Members should note that these premises reside within the 'Red Zone' of the Leeds City Centre Cumulative Impact Area. Further information on the policies in place for this area are attached to this report.

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

The application has attracted representations from West Yorkshire Police, the Licensing Authority and a Ward Councillor.

## **1 Purpose of this Report**

- 1.1 To advise Members of an application made under Section 17 of the Licensing Act 2003 ("the Act") for a new premises licence.
- 1.2 Members are required to consider this application due to the receipt of representations.

## **2 History of the Premises**

- 2.1 Although this application is for a grant of a premises licence it should be noted that these premises have previously had the benefit of a premises licence. The premises at this time were known as the Elbow Room and the licence authorised alcohol sales, late night refreshment and the provision of regulated entertainment.
- 2.2 The licence lapsed in August 2014 due to licence holder becoming insolvent.

## **3 The Application**

- 3.1 The applicant's name is Tokyo Industries (York Lincoln Hull) Limited.
- 3.2 The proposed designated premises supervisor is Paul Sinclair.
- 3.3 In summary the application is for:

*Retail by Sale of Alcohol (for consumption both on and off the premises)*

*Exhibition of a Film*

*Live Music*

*Recorded Music*

*Performance of Dance*

*Anything of a Similar Description to Live Music, Recorded Music or Dance*

*Sunday to Thursday 18:00 until 05:00 hours*

*Friday and Saturday 18:00 until 06:00 hours*

- 3.4 *Late Night Refreshment*

*Monday to Sunday 23:00 until 05:00 hours*

- 3.5 *Non-standard timings*

*At the start of British Summertime, the terminal hour for all licensable activities will be extended by one hour.*

*From the end of permitted hours on New Year's Eve, to the start of permitted hours on New Year's Day.*

## **4 The Operating Schedule**

- 4.1 The applicant proposes to take the steps identified in section M of the application form to promote the licensing objectives. A copy of the operating schedule can be found at Appendix A of this report.

## **5 Location**

- 5.1 A map which identifies the location of these premises is attached at Appendix B.

## **6 Representations**

- 6.1 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.

### Representations from Responsible Authorities

- 6.2 Representations have been received from both West Yorkshire Police and the Licensing Authority in their capacities as responsible authorities objecting to the application in its entirety.
- 6.3 The representation submitted by West Yorkshire Police expresses concerns over the location of the premises within the 'Red Zone' of the City Centre Cumulative Impact Area along with the potential impact if this application and the Sex Establishment Licence are granted. A copy of the representation can be found at Appendix C.
- 6.4 The representation made by the Licensing Authority shares similar concerns as above and feels that adding another licensed premises to an area that is already suffering from the highest levels of violent crime and disorder incidences in the City Centre will exasperate problems further. Member's attention is drawn to a copy of this representation at Appendix D of this report.

### Other representations

- 6.5 The application has also attracted representation from a Local Ward Councillor whose concerns are aimed towards the application for a Sex Establishment Licence. Such concerns can only be taken in to consideration during deliberations of the Sex Establishment Licence, however there are worries expressed in the representation regarding the location of the premises in a crime hot spot and how adding further alcohol sales will add to such issues.
- 6.6 In order to protect personal data, a redacted copy of this representation is attached at Appendix E. Un-redacted copies will be available at the hearing for Members consideration.

## **7 Cumulative Impact Policy**

- 7.1 The premises are located within the 'Red Zone' of the Leeds City Centre Cumulative Impact Area.
- 7.2 Cumulative impact means the potential impact on the promotion of the licensing objectives due to the significant number of licensed premises concentrated in one area.

- 7.3 An applicant wishing to obtain a new licence for premises falling within any of the cumulative impact areas must identify, through the risk assessment process and/or the operating schedule, the steps they intend to take so that the council and responsible authorities can be satisfied that granting a new licence would not add to the impact already being experienced.
- 7.4 Details of the cumulative impact policy specific to this and an outline of the evidence behind the reason for setting this policy is attached at Appendix F.
- 7.5 Members are directed to paragraphs 7.51 to 7.54 of the Statement of Licensing Policy which provides examples of how an application may be considered exceptional and the matters that the council would not normally take into consideration.

## **8 Licensing hours**

- 8.1 Members are directed to paragraphs 6.8 to 6.15 of 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.
- 8.2 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.
- 8.3 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.
- 8.4 A list of premises in the local area and their licensed hours and activities is provided at Appendix G.

## **9 Equality and diversity implications**

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

## **10 Options available to Members**

- 10.1 The licensing subcommittee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- Grant the application as requested.
  - Grant the application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
  - Exclude any licensable activities to which the application relates.
  - Refuse to specify the said person as the designated premises supervisor.
  - Reject the whole or part of the application.

10.2 Members of the licensing subcommittee are asked to note that they may not reject the whole or part of the application merely because they consider it desirable to do so. It must be appropriate in order to promote the licensing objectives.

## **11 Background papers**

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