



Report of the Assistant Chief Executive (Corporate Governance)

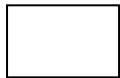
Report to the Licensing Sub Committee

Date: 9th February 2009

Subject: The Mission Nightclub, 8-13 Heatons Court, Leeds, LS1 6ET
- Review of Premises Licence.

Electoral Wards Affected:

City & Hunslet



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

This report informs Members of an application for a review of the Premises Licence made in respect of the Mission Nightclub, 8-13 Heatons Court, Leeds, LS1 6ET under Section 51 of the Licensing Act 2003. The Licensing Authority is now under a duty to review the Premises Licence held in respect of the Mission Nightclub.

1.0 Purpose of this report

This report provides Members with the background and history to the making of the review. The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act"). Finally, this report informs Members of the options available to them when reviewing a premises licence.

2.0 Background Information

2.1 An application for conversion only of the former Justices Licence and Public Entertainment Licence, in accordance with the Licensing Act 2003, was submitted in August 2005. No objections were received in respect of this application and a Premises Licence was granted on the 4 September 2005.

2.2 In summary the Premise Licence issued had the following activities and hours of operation:

Provision of Facilities for Dancing, Performance of Live Music, Performance of Recorded Music and Anything of a Similar Description

Monday to Friday 08:00hrs to 06:00hrs
Saturday Noon to 10:00hrs
Sunday Noon to 06:00hrs

Sale by retail of Alcohol

Monday to Saturday 11:00hrs to 02:00hrs
Sunday Noon to 00:30hrs

- 2.3 The Premises Licence Holder was Mission (Leeds) Limited and the Designated Premises Supervisor was Mr Gareth Nedosztko.
- 2.4 In September 2006 an application to vary the Premises Licence was approved following no representation from the responsible authorities and a signed part B from the Environmental Health Services.
- 2.5 The variation was to add an additional activity namely Provision of Facilities for making Music and an increase in the hours of operation.
- 2.6 In summary the new hours of operation are as follows:

Provision of Facilities for Dancing, Performance of Live Music, Performance of Recorded Music, Anything of a Similar Description and Provisions of Facilities for Making Music.

Monday to Friday 11:00hrs to 06:00hrs
Saturday 11:00hrs to 09:30hrs
Sunday 17:00hrs to 06:00hrs

Sale by retail of Alcohol

Monday to Saturday 11:00hrs to 02:00hrs
Sunday Noon to 00:30hrs

- 2.7 In November 2006 an application to vary the Premises Licence was made, no representations were received from the Responsible Authorities or Interested Parties and the licence was issued on the 25 December 2006.
- 2.8 In summary the variation is as follows:

Provision of Facilities for Dancing, Performance of Live Music, Performance of Recorded Music, Anything of a Similar Description and Provisions of Facilities for Making Music.

Monday to Thursday 11:00hrs to 06:00hrs
Friday 11:00hrs to 09:30hrs
Saturday 11:00hrs to 09:30hrs
Sunday 17:00hrs to 06:00hrs

Sale by retail of Alcohol

Monday to Thursday 11:00hrs to 02:00hrs
Friday 11:00hrs to 08:00hrs
Saturday 11:00hrs to 08:00hrs

Sunday 17:00hrs to 06:00hrs
Hours premises open to the public:

Monday to Thursday 11:00hrs to 06:30hrs
Friday & Saturday 11:00hrs to 10:30hrs
Sunday 17:00hrs to 06:30hrs

The variation also requested the following amendments to the conditions attached to the Licence:

Remove the condition which prevents children from never being admitted to the premises

To amend the condition which prevents under 18's from being admitted to the premises at all times.

To be replaced by:

To permit under 18's to be admitted to the premises between 11:00hrs and 20:00hrs on a Saturday but only when an under 18's dance event is taking place.

And also to provide the following new condition:

When an under 18's dance event is taking place on a Saturday between 11:00hrs and 20:00hrs there shall be no sale by retail or consumption of Alcohol on the premises whilst the event is taking place.

- 2.9 In June 2007 an application to vary the Premises Licence was made and following the receipt of no representations from the Responsible Authorities or Interested Parties the licence was issued on the 11 July 2007.
- 2.10 In summary the variation is as follows:
- To remove the following condition:
- 'Patrons shall not be allowed to use the beer garden or any other external area after 23:00hrs.'
- 2.11 In August 2008 an application to vary the Premise Licence was submitted, the proposed variation being to carry out alterations in accordance plans submitted. No representations were received and therefore the variation was granted as requested.
- 2.12 The Designated Premise Supervisor changed on the 5th December 2007 to Christopher Barrow.
- 2.13 A review of the Premise Licence was sought by British Transport Police on the 28th January 2008
- 2.14 Following representation from the solicitor acting for the Mission Night Club that British Transport Police were not a Responsible Authority or Interested Party a Directions Hearing was called on the 18 March 2008.

- 2.15 At the hearing the Licensing Sub Committee heard from both the Missions solicitor and the British Transport Police solicitor and concluded that the review application was validly made.
- 2.16 The review hearing was then scheduled to take place on the 24th June 2008 and at that hearing British Transport Police formally withdrew their request for the review.
- 2.17 A copy of the current Licence is attached at **Appendix 1**.
- 2.18 A map detailing the location of the premises is attached at **Appendix 2**.
- 2.19 This review is being sought by West Yorkshire Police on the grounds as listed at **Appendix 3**.
- 2.20 On the 10th December 2008 the Licensing Sub Committee met to consider a Preliminary Hearing in relation to the forthcoming review, the hearing being necessitated in order for all parties to consider a number of issues associated with the Review Hearing and to set a date for the actual hearing
- 2.21 The issues to be considered being:-
- a) The witness to be called at the hearing
 - b) The timetable for the submission of all documents from both parties.
 - c) To consider whether to undertake a site visit.
 - d) To set a hearing date and determine the length of the Review Hearing
- 2.22 Members indicated their wish to undertake a site visit just prior to the Review Hearing, and to be accompanied by representatives of both The Mission and West Yorkshire Police.
- 2.23 Following discussions, all parties agreed to the following timetable:-
- a) Wednesday 10th December 2008 – West Yorkshire Police submit additional statements
 - b) Friday 19th December 2008 – Mission to submit majority of response documentation.
 - c) Monday 5th January 2009 – Mission to supply remainder of response documentation.
 - d) Friday 16th January 2009 – West Yorkshire Police to submit any response they wish to make.
 - e) Friday 6th February 2009 – Members to undertake the site visit to the premises, in the presence of representatives of Mission and West Yorkshire Police and accompanied by relevant officers.
 - f) Monday 9th February 2009 at 10:00am - Review Hearing
- 2.24 West Yorkshire Police have submitted statements in support of their review request which have been dispatched with this agenda as a separate document to this report.

3.0 Main Issues

3.1 Relevant Representations

Under the Act representations can be received from responsible authorities or interested parties. Representations must be relevant and, in the case of an interested party must not be frivolous, vexatious or repetitious.

3.2 No additional representations have been submitted.

3.3 Messrs Walker Morris who are representing The Mission have submitted a detailed bundle of evidence on behalf of their clients which has been dispatched with this agenda as a separate document to this report.

3.4 Members are of course aware that any decision made in respect of this review must promote the licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

3.5 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act and the Council's licensing policy. Members must also have regard to the relevant representations made and the evidence they hear.

3.6 The Guidance deals with reviews at paragraphs 11.1 to 11.28.

4.0 Implications for Council Policy and Governance

4.1 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 12.13 of the policy with particular seriousness.

5.0 Legal and Resource Implications

5.1 There are no resource implications in determining the review.

5.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrates Court.

6.0 Recommendations

6.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers necessary 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)
- To exclude a licensable activity from the scope of the licence
- To remove the designated premises supervisor
- To suspend the licence for a period not exceeding 3 months
- To revoke the licence

6.2 Members may alternatively 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.

- 6.3 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.
- 6.4 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 actually be necessary in order to promote the licensing objectives.

BACKGROUND PAPERS

- Guidance issued under section 182 of the Licensing Act 2003.
- Leeds City Council Licensing Policy