

Report of the head of licensing and registration

Report to the licensing sub committee

Date: 3rd October 2011

Subject: Application to vary a premises licence in respect of White Swan, Cross Hills, Kippax, Leeds, LS25 7JP

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Kippax & Methley	
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

1. This is an application to vary a premises licence in respect of White Swan, Cross Hills, Kippax, Leeds, LS25 7JP
2. Responsible authorities have been served with copies of the application and Ward Members have been notified of the application.

Recommendations

The committee is asked to:

3. to consider the application and any relevant representations.
4. Take any of the steps detailed at 5.2, if any, they consider necessary for the promotion of the licensing objectives.

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") to vary 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 Background information

- 2.1 On the 27th July 2005 an application was received to convert and vary an existing premises licence. This application received representations from Environmental Health Services and West Yorkshire Police. The conditions which were offered by these authorities were agreed and placed on the Premises Licence and granted on the 19th February 2006.

An Application to transfer this licence to Enterprise Inns was received on the 2nd August 2010.

A further application to transfer this licence was received on the 18th April 2011 from Enterprise Inns to MIA Properties Leeds Limited.

A Minor Variation application was submitted on the 27th April 2011 which was for structural alterations to the inside of the premises only and therefore it was decided not to consult any of the relevant authorities. This minor variation application did not receive any public representations and as was therefore granted on the 15th May 2011.

On the 3rd August 2011 a variation application was received but due to errors made by the applicant it was sent back. This was resubmitted on the 12th August but pages were missing, these pages were received on the 16th August to complete this application.

- 2.2 A copy of the existing licence (including all conditions) is attached at Appendix A.

3 Main Issues

- 3.1 The applicant is MIA Properties Leeds Ltd,
- 3.2 The location of the premises can be found on the maps attached as Appendix B.
- 3.3 A copy of the application is attached as Appendix C to this report. For the assistance of members, the Operating Schedule shows:

3.3.1 Proposed licensable activities

Sale by retail of alcohol
Exhibition of a film
Indoor sporting events

Performance of live music
Performance of recorded music
Entertainment similar to live music, recorded music or dance

3.3.2 Proposed hours of licensable activities

The proposed hours of licensable activities are as follows:

Sale by retail of alcohol	
Friday & Saturday	10:00 - 01:00
Sunday to Thursday	10:00 - 00:00
Exhibition of a film	
Every Day	10:00 - 00:00
Indoor sporting events	
Every Day	10:00 - 00:00
Performance of live music	
Every Day	10:00 - 00:00
Performance of recorded music	
Every Day	10:00 - 00:00
Entertainment similar to live music, recorded music or dance	
Every Day	10:00 - 00:00

3.3.3 Proposed times when the premises is open to the public

The premises propose to open to the public between the following hours

Monday to Thursday	10:00 - 00:30
Friday & Saturday	10:00 - 01:00
Sunday	10:00 - 00:30

3.3.4 Steps to promote the licensing objectives

The applicant proposes to take the steps identified in section "P" of the application form to promote the licensing objectives.

3.4 Proposed Designated Premises Supervisor

Howard Marsh is nominated as the Designated Premises Supervisor.

3.5 Relevant Representations

3.5.1 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 or vexatious.

3.5.2 Representations have been received from the following Responsible Authorities:

West Yorkshire Police

Members are invited to consider Appendix D of this report.

Environmental Protection Team

Members are invited to consider Appendix E of this report.

3.5.3 Representations have been received from interested parties. Members are invited to consider Appendix F of this report.

3.5.4 Letters of support have been received from interested parties. Members are invited to consider Appendix G of this report.

3.6 Matters Relevant to the Application

3.6.1 Members of the Licensing Sub Committee must make decisions with a view to promoting the licensing objectives which are:

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

3.6.2 In the making of their decision Members are obliged to have regard to the national guidance and the council's licensing policy. Members will be aware they must also have regard to the relevant representations made and evidence they hear.

4 **Corporate Considerations**

4.1 Consultation and engagement

4.1.1 The application was subject to a 28 days consultation period in accordance with the Licensing Act 2003. Blue site notices were placed by the applicant on the premises and these were checked by Liaison and Enforcement Officers during the consultation period. The application was advertised in a newspaper circulating in the local area. Representations received during this 28 day consultation.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 The council has adopted a Statement of Licensing Policy which sets out the principles the council will use to exercise its functions under the Licensing Act 2003 and in which care has been taken in matters of equality, diversity and human rights. This policy is reviewed every three years. The council has completed equality, diversity, cohesion and integration screening and impact assessments with regards to the consultation process undertaken during the review of the policy.

4.3 Council Policies and City Priorities

4.3.1 When determining an application the licensing sub committee must have regard for the Licensing Act 2003 Statement of Licensing Policy which sets out the principles the council will use to exercise its functions under the Licensing Act 2003. Applicants are expected to read the policy before making their application and the council will refer to the policy when making its decisions.

4.3.2 The licensing regime contributes to the following aims:

By 2030, Leeds will be fair, open and welcoming

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

By 2030, Leeds' economy will be prosperous and sustainable

- Opportunities to work with secure, flexible employment and good wages

By 2030, all Leeds' communities will be successful

- Communities are safe and people feel safe

4.3.3 The licensing regime contributes to the following city priorities:

Best city... for communities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

4.4 Resources and Value for Money

4.4.1 The licensing process, including the licensing sub committee, generates a cost to the council. The majority of these costs are covered by the application fee. The fees are set by Statute, and there is little option to increase the fee to cover all the cost. However, the Police Reform and Social Responsibility Bill, due to receive Royal assent in November 2011, may allow local authorities to set their own fees in the future based on full cost recovery.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Applicants and people making representations are able to challenge the licensing sub-committee's decision by appealing to the Magistrates Court. Legal advice is provided during the sub committee hearing and during deliberations to mitigate the risk to the council.

4.6 Risk Management

4.6.1 Full training and legal advice is provided to members sitting on Licensing Sub Committee in order to mitigate the risk of legal challenge.

5 Conclusions

- 5.1 An application has been received under the Licensing Act 2003 which is brought before a licensing sub committee for determination.
- 5.2 The licensing sub-committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
- Grant the variation application as requested.
 - Grant the variation application whilst imposing additional conditions and/or altering in any way the proposed operating schedule.
 - Exclude any licensable activities to which the application relates.
 - Reject the whole or part of the application.
- 5.3 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 necessary in order to promote the licensing objectives.

6 Recommendations

The committee is asked to:

- Consider the application and any relevant representations
- Take any of the steps detailed at 5.2, if any, they consider necessary for the promotion of the licensing objectives.

7 Background Papers

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