



## Report of the Head of Licensing and Registration

### Report to the Licensing Sub Committee

**Date:** Monday 14th May 2012

**Subject:** Review of a Premises Licence for:  
Bojangles, 28 - 30 Lowtown, Pudsey, Leeds, LS28 7AA

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

### Executive Summary

This report informs Members of an application for the review of a Premises Licence made by Mr Keith Sutherland a local resident and interest party in respect of Bojangles, 28 - 30 Lowtown, Pudsey, Leeds, LS28 7AA 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 Bojangles.

### Purpose of this Report

- 1.1 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 was received on 25<sup>th</sup> July 2005 to convert and vary the existing Justices and Public Entertainment Licence during the transitional period under the Licensing Act 2003. The application was to extend licensable activities by a further hour. The application received representations from Environmental Protection Team and Health & Safety. Agreements were reached with both authorities and the licence was deemed granted.

In January 2006 a further application was received to vary the Premise Licence. The application was to extend the hours for sale of alcohol and regulated entertainment and the provision of late night refreshment on a Friday night and to include non standard timings on the Bank Holiday weekend of August.

Representations were received from West Yorkshire Police in relation to the non standard timings which were then withdrawn from the application.

Representations received from Environmental Health Services were withdrawn when agreements were reached.

The Planning Department objected to the application as it conflicted with the terms of the planning permission granted for the premise. A hearing was scheduled before the licensing committee on 6<sup>th</sup> March 2006 and the application was refused.

In July 2007 application was received to vary the Premises Licence in respect of Internal Alterations to ground and first floor drinking areas, create a new external smoking area and the removal of food facilities.

This application was withdrawn due to issues in the service of the application.

Again in July 2007 a further variation application was received. The application briefly was to include the provision of films into the operating schedule, to amend an embedded condition relating to refreshment and meals, and to increase the occupancy of the premise, on the ground floor to 225 persons and the first floor to 125 persons. Representations received from Environmental Health Services suggesting additional measures, these were subsequently agreed and the representation withdrawn.

Representations were received from West Yorkshire Police to which agreements were reached and the representation was withdrawn.

No further representations were received and the Premises Licence was subsequently issued in September 2007.

A minor variation application was received in November 2011. The application was to amend the licensable activities and opening hours. No representations were received and the application was deemed granted after the 10 day notice period. This being 1<sup>st</sup> December 2011.

2.2 The premises currently have the benefit of a Premises Licence issued under the Licensing Act 2003 for the following licensable activities to take place during the stated hours:

Sale by retail of alcohol  
Exhibition of a film  
Performance of live music  
Performance of recorded music  
Entertainment similar to live music, recorded music or dance  
Provision of facilities for making music  
Provision of facilities for dancing

Monday to Wednesday	11:00 - 23:00
Thursday	11:30 - 23:30
Friday & Saturday	12:00 - 01:00
Sunday	11:30 - 00:00

Provision of late night refreshment	
Thursday	23:00 - 23:30
Friday & Saturday	23:00 - 01:00
Sunday	23:00 - 00:00

2.3 The premises licence allows the premises to be open to the public during the following times:

Monday to Wednesday	11:00 - 23:30
Thursday	11:00 - 00:00
Friday & Saturday	12:00 - 01:30
Sunday	11:30 - 00:30

2.4 The Premises Licence Holder is Mr Anthony Moore

2.5 The Designated Premises Supervisor for the premises is Mr Anthony Moore

2.6 A copy of the current Premises Licence is attached at **Appendix A** for the benefit of members.

2.7 A map detailing the location of the premises is attached at **Appendix B**.

### 3.0 Main Issues

The review is being sought by **Mr Keith Sutherland** on the grounds of the prevention of Crime and Disorder, Public Safety and the prevention of Public Nuisance. A copy of the review application is attached at **Appendix C** of this report.

Mr Sutherland has provided a DVD as part of the review application, this will be available for Members of the Licensing Sub Committee to view at the Hearing.

3.1 As part of the review procedure details of the review and an outline of the grounds on which the review was requested must be displayed at the premises for a period of 28 days commencing the day after the application was received, this being 24<sup>th</sup> March 2012.

- 3.2 Notices providing details of the review were duly placed on prominent display at the premises on Saturday 24th March 2012, which are then checked on a regular basis. The notices were removed at the end of the 28 day consultation period on Friday 20<sup>th</sup> April 2012.
- 3.3 Section 51 of the Act places the Licensing Authority under a duty to review the premises Licence in respect of Bojangles. The Licensing Authority must then follow a procedure set out in the Licensing Act 2003. A summary of this procedure is attached to this report by way of a flow chart at **Appendix D**

#### **4.0 Relevant Representations**

- 4.1 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.
- 4.2 A representation in support of the Premise Licence Holder has been received from the Ward Councillors for the Pudsey Ward. Members are invited to consider **Appendix E** of this report.
- 4.3 Comments have been received from West Yorkshire Police, Members attention is drawn to **Appendix F**.

#### **5.0 Matters Relevant to the Application**

- 5.1 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
- 5.2 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 G** and the council's licensing policy (paragraphs 5.99 to 5.117). Members must also have regard to the relevant representations made and evidence they hear.

#### **6.0 Implications for Council Policy and Government**

- 6.1 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.

#### **7.0 Legal and Resource Implications**

- 7.1 There are no resource implications in determining the review.
- 7.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrates Court.

## **8.0 Recommendations**

- 8.1 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)
  - 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
  - To revoke the licence
- 8.2 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.
- 8.3 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.
- 8.4 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. But must actually be necessary in order to promote the licensing objectives.

### **Background Papers**

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