



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: 22nd May 2012

Subject: Application for the Review of premises licence for D' Fusion Leisure Ltd 26 - 30 New Briggate, Leeds, LS1 6NU

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 report informs Members of an application for the review of a Premises Licence made by West Yorkshire Police in respect of D' Fusion Leisure Ltd, 26 - 30 New Briggate, Leeds, LS1 6NU, 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 D' Fusion Leisure Ltd.

1.0 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"); this report informs members of the options available to them when reviewing a premises licence.

2.0 Background Information

2.1 An application for the grant of a premises licence was submitted on the 3rd October 2005. Due to representations being submitted the application was listed for hearing before the Licensing Sub Committee at their meeting being held on the 21st November 2005.

The licensable activities sought being:-

Sale and Supply of alcohol (on the premises)

Every Day 11:00 to 03:00

Late Night Refreshment

Every Day 23:00 to 04:00

Live Music, Recorded Music,

Every Day 11:00 to 04:00

Hours Open to the Public

Every Day 11:00 to 04:00

On the 18th November 2005 the applicants, Di Fusion Leisure Ltd, advised that because the first phase of the works were still ongoing that their application was to be for the grant of a Provisional Premises Licence and that the grant of a Premises Licence would be subject to a final inspection by the Fire authority

At the meeting held on the 21st November 2005 the Licensing Sub Committee decided to grant the application in part as follows:-

Provisional licence granted as requested – all licensable activities (except sale of alcohol which is to cease at 03:00am) to cease at 3:30am and the premises to close at 04:00am.

The Licensing Sub Committee also imposed the following condition:-

“A manager is to be present on each floor, except basement, when licensable activities take place and sufficient door staff to be employed after 11:00pm.”

On the 4th October 2006 a variation application was served in order to vary the opening hours on Friday and Saturday for the sale of alcohol until 05:00am and other activities until 06:00am - Sunday to Thursday to remain as existing.

No representations were received in relation to this variation application and the application was deemed granted

On the 1st February 2007 a variation application was served in order to add the following licensable activities:-

- a) Performance of dance
- b) Provision of facilities for dancing

Monday to Thursday 22:00 to 04:00

Friday & Saturday 22:00 to 06:00

Sunday 22:00 to 03:00

In addition the application was to alter the existing plans and remove existing conditions from the premises licence.

Due to receiving representations from Responsible Authorities this application was referred to the Licensing Sub Committee at their meeting being held on the 14th May 2007.

At this meeting the Licensing Sub Committee resolved to grant the application in full subject to the conditions as offered by the applicants.

On the 26th July 2007 a further variation application was submitted. This variation application was to:-

- a) Remove all conditions in Annex 2 & 3 in the operating schedule, replacing those with conditions proposed in the application.
- b) Inclusion of the facilities for making music and films on the premises – to allow karaoke and the standardisation of the hours for all licensable activities as follows:-

Sale of alcohol

Sunday to Thursday 11:00 to 03:00 (as existing)

Friday & Saturday, Bank Holidays and the day before Bank Holidays 11:00 to 05:00

All listed regulated entertainment

Sunday to Thursday 11:00 to 04:00

Friday & Saturday, Bank Holidays and the day before Bank Holidays 11:00 to 04:00

Late Night refreshment

Every Day 23:00 to 05:00

The application received representations from Environmental Health Services. Agreements were reached and the variation was then deemed granted.

On the 30th August 2007 another variation application was received. This application being to vary the layout of the premises to include VIP dining rooms on the 2nd Floor and vary the condition requiring door staff to include an additional condition.

Again representations were received from Environmental Health Services to which agreements were reached and the variation was then deemed granted.

On the 5th December 2011 an application to transfer the Premises Licence from D' Fusion Leisure Ltd to Longsky Leisure Ltd was received – the updated premises licence being duly issued.

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

Sale by retail of alcohol

Friday & Saturday	11:00 to 05:00
Sunday to Thursday	11:00 to 03:00

Late Night Refreshment

Every Day	23:00 to 05:00
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Exhibition of Film
Performance of live Music
Performance of Recorded Music
Performance of Dance
Provision of facilities for dancing

Friday & Saturday	11:00 to 06:00
Sunday to Thursday	11:00 to 04:00

Entertainment Similar to live music, recorded music or dance
Provision of facilities for making music
Provision of facilities for anything similar to making music or dancing

Friday & Saturday	11:00 to 04:00
Sunday to Thursday	11:00 to 03:00

2.3 Opening Hours of the Premises:-

Friday & Saturday	11:00 to 06:00
Sunday to Thursday	11:00 to 04:00

2.4 The Premise Licence Holders are Longsky Leisure Ltd

2.5 The Designated Premises Supervisor is Mr. Wood Chui Cheung

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

2.7 A map detailing the location of the premises is attached as **Appendix B** for the benefit of members.

3.0 Main Issues

3.1 The review is being sought by West Yorkshire Police on the grounds of the Prevention of Crime and Disorder, Prevention of Public Nuisance, Public Safety

and the Protection of Children from Harm. A copy of the review application is attached at **Appendix C** of this report.

- 3.2 West Yorkshire Police have provided a DVD as part of their review application which will be available for members of the Licensing Sub Committee to view at the hearing.
- 3.3 On the 2nd May 2012 additional witness statements were received from West Yorkshire Police. Copies of these statements are attached as **Appendix D** of this report.
- 3.4 On the 3rd May a further witness statement was received from West Yorkshire Police. A copy of this statement is attached as **Appendix E** of this report.
- 3.5 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 the 3rd April 2012
- 3.6 Notices providing details of the review were duly placed on prominent display at the Premises on the 3rd April 2012, which were then checked on a regular basis. The notices were removed at the end of the consultation period on the 1st May 2012.
- 3.7 Section 51 of the act places the Licensing Authority under a duty to review the Premises Licence relating to D' Fusion. 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 F**

4.0 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.
 - 4.1.1 No representations have been received.

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:
 - 5.1.1 The prevention of crime and disorder
 - 5.1.2 Public safety
 - 5.1.3 The prevention of public nuisance
 - 5.1.4 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. 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.

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:

8.1.1 To modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition)

8.1.2 Exclude any licensable activities to which the application relates

8.1.3 To remove the designated premises supervisor.

8.1.4 To suspend the licence for a period not exceeding 3 months

8.1.5 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. It must actually be necessary in order to promote the licensing objectives.

Background Papers

8.4.1 Guidance issued under s182 Licensing Act 2003

8.4.2 Leeds City Council Statement of Licensing Policy