



## Report of the Head of Licensing and Registration

### Report to the Licensing Sub Committee

**Date:** 17th September 2012

**Subject:** Review of the Premises Licence for Phono, 174 Lower Briggate, 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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.4 (7)		
Appendix number: D		
This appendix is regarded exempt under the provisions of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005).		

## Executive Summary

This report informs Members of an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, sought by West Yorkshire Police, in respect of Phono, 174 Lower Briggate, Leeds, LS1 6DT. The licensing authority is now under a duty to review the premises licence held by these premises.

### 1.0 Purpose of this Report

1.1 This report provides Members with the background and history to the making of the review application by West Yorkshire Police. The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act"), and informs members of the options available to them when reviewing a premises licence. Details of the review application, are attached at **Appendix A**.

### 2.0 Background Information

2.1 On 20<sup>th</sup> November 2006, an application was submitted for a premises licence for the premises formerly known as Oslo, following the liquidation of the previous company

operating as Oslo. The applicants were Iniquity Dens Limited. Representations were received to the application from responsible authorities, but agreements were reached and a premises licence was granted as applied for.

On the 6<sup>th</sup> September 2007, a variation application was submitted for the premises, now known as Religion. The application was to request an increase in the licensing hours. Representations were received from other persons. A Sub Committee hearing was scheduled. The Sub Committees decision, was to grant the variation with an added condition that the applicant had offered.

In March 2009, an application was received to transfer the premises licence into the name of Christopher Ayre, this was successful.

On the 10<sup>th</sup> Feb 2010, a letter was received from Mr Nathan-Geary, together with a consent to transfer form from Christopher Ayre to Vektor Investment Management Limited. The letter informed the Licensing Department that a transfer application would follow within four weeks, as he was close to letting the premises to another tenant. No application was received within the said time and in May 2010, a letter was sent to Christopher Ayre and Raven Pine Ltd (Mr Paul Nathan-Geary), informing them that Mr Ayre was still responsible for the premises and the annual fee was due. A letter was received back from Christopher Ayre, explaining that he no longer had dealings with the premises and had completed all the necessary paper work to transfer

On 29<sup>th</sup> July 2010, a complete transfer application was received to transfer the licence from Christopher Ayre, to Matthew Powell, with immediate effect, also a dps change application was received to change the dps from Christopher Ayre to Lisa Gaskin. The premises were now known as Boudoir. Mr Powell had now acquired the premises licence on an interim basis. An objection was received from West Yorkshire Police to both applications. A Sub Committee hearing was scheduled to decide the applications.

On 13<sup>th</sup> August 2010, an application was received to change the dps from Lisa Gaskin to Lee Maurice Yates. This application superseded the previous one, therefore the hearing for the dps change was withdrawn. There was no objection to this application, therefore Lee Maurice Yates became the dps. The hearing for the transfer of the premises licence still remained, the decision of the Sub Committee was to refuse the application, therefore the transfer which had interim effect ceased on the 6<sup>th</sup> September 2010 and the premises licence holder reverted back to Christopher Ayre.

On 30<sup>th</sup> September 2010, a letter was received from Lee Maurice Yates, requesting to be removed from being the DPS at Boudoir from midnight.

On 6<sup>th</sup> October 2010, another application was received to transfer the premises licence into the name of Matthew Powell, and change the dps into the name of Matthew Powell, again an objection to both applications was received from West Yorkshire Police. A Sub Committee hearing was scheduled for the 8<sup>th</sup> November 2010.

On 5<sup>th</sup> November 2010, an application to transfer the premises licence to Ravenpine Ltd and change the dps to Lee Maurice Yates, was received in the Licensing Office. This application now superseded the previous one, therefore the hearing was cancelled. No representations were received to this application and the licence

transfer and dps change were granted. The premises licence holder was now Ravenpine Ltd and the dps was Lee Maurice Yates.

On the 24<sup>th</sup> Oct 2011, a letter of request was received, to change the name of the premises from Boudoir to Phono.

On the 26<sup>th</sup> July 2012, the application for review of the premises licence was submitted by West Yorkshire Police.

On 16<sup>th</sup> August 2012, an application to change the dps from Lee Maurice Yates to Maritn Andrew Baxter, was submitted to have immediate effect, no representations were received to this application and the licence was issued.

### **3.0 Premises Licence**

3.1 The premises licence holder is Ravenpine Ltd.

3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the following:

Sale by retail of alcohol on and off the premises  
11:00 until 06:00 hrs Sunday to Thursday  
11:00 until 08:00 hrs Friday and Saturday

Regulated entertainment  
11:00 until 06:00 hrs Sunday to Thursday  
11:00 until 08:00 Friday and Saturday

Late night refreshment  
23:00 until 05:00 every day

Non standard timings:  
On 31<sup>st</sup> December each year to 06:00 hours on 2<sup>nd</sup> January the following year, unless 2<sup>nd</sup> is a Friday or Saturday then it will be 08:00 hours.

### **4.0 Designated Premises Supervisor**

4.1 The Designated Premises Supervisor for the premises is Mr Martin Andrew Baxter.

### **5.0 Location**

5.1 A map which identifies the location of the premises are attached at **Appendix C**.

### **6.0 Main Issues**

6.1 The review is being sought by West Yorkshire Police on the grounds of The Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety. The grounds for this premises licence review, relate to the performance of the premises over approximately the last twelve months, and police issues not yet satisfactorily resolved.

6.2 It should be noted that certain information submitted by West Yorkshire Police, within the application is potentially exempt information under Access to Information Rule 10.4 (7), as it includes information which relates to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. This information is contained within **Appendix D**.

## **7.0 Relevant Representations/Letters of Support**

7.1 Under the Act representations/support can be received from responsible authorities and or other persons. Representations must be relevant and, in the case of other people, must not be frivolous or vexatious.

7.3 There are no additional representations.

## **8.0 Matters Relevant to the Application**

8.1 Members of the Licensing Sub Committee must make decisions which are appropriate to the promotion of the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

8.2 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 E**. Members must also have regard to the Council's licensing policy, the relevant representations made and evidence they hear.

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

9.1 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 13.15 of the policy with particular seriousness.

## **10.0 Legal and Resource Implications**

10.1 There are no resource implications in determining the review.

10.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

## **11.0 Recommendations**

11.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers appropriate 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; and/or
- to revoke the licence.

- 11.2 Members may 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.
- 11.3 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.
- 11.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.
- 11.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 11.6 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 be appropriate for the promotion of the licensing objectives.

## **12.0 Background Papers**

- 12.1 Guidance issued under s182 Licensing Act 2003
- 12.2 Leeds City Council Statement of Licensing Policy
- 12.3 Background papers – Support from a member of the public <delete if appropriate>

## **Appendices**

- Appendix A Review application
- Appendix B Premises Licence
- Appendix C Map of premises
- Appendix D Exempt information
- Appendix E Extract from the S182 Guidance