

Report of the Chief Officer Elections and Regulatory

Report to Licensing Sub Committee

Date: 24th October 2023

Subject: Application to vary a premises licence held by Red's True Barbecue Unit 1, Cloth Hall Street, Cloth Hall, Leeds, LS1 2HD

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|---|---|--|
| Are specific electoral Wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, name(s) of Ward(s): Hunslet & Riverside | | |
| 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 is an application to vary a premises licence, made by Tokyo Industries (Yorkshire) Limited, for Red's True Barbecue Unit 1, Cloth Hall Street, Cloth Hall, Leeds, LS1 2HD.

This variation application is to vary the Sale by retail of alcohol, Provision of regulated entertainment, Late night refreshment, amend and remove conditions as noted in 3.3.

Responsible authorities and Ward Members have been notified of this application.

The application has attracted representations from responsible authorities.

The premises are located within the red zone of the cumulative impact area.

1 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 History of premises

- 2.1 On the 24th April 2012 Red's Smoque Limited applied for a Premises Licence. This application attracted representations from West Yorkshire Police (WYP), Environmental Protection Team (EP Team) and Health and Safety(H&S). The application was heard before the sub committee on the 11th June 2012 and was subsequently granted with additional conditions.
- 2.2 There have been various Transfer and Dps change applications submitted over the years. The most recent being the one received on 28th June 2023, naming Tokyo Industries (Yorkshire) Limited as the licence holder.
- 2.3 On the 9th August 2023 this Premises Licence variation application was received.
- 2.4 This application was originally scheduled to be heard before the Licensing subcommittee on 26th September 2023. The applicant's agent, Woods Whur, made an application to adjourn the hearing citing reasons of unavailability and: "As this is a particularly difficult application, and crucial for the survival of the business I make the application as it is in the interests of justice for the matter to be adjourned so that we can properly deal with the representations."
- 2.5 A copy of the existing licence is attached at **Appendix A**.

3 The application

- 3.1 The applicant is Tokyo Industries (Yorkshire) Limited,
- 3.2 Briefly the variation application is to:
- 3.3 Extend the permitted hours for exhibition of a film and the sale of alcohol from the current hours of Monday to Friday 11:00 to 00:30 and Saturday & Sunday 09:00 to 00:30 to the proposed hours of Everyday 09:00 to 02:00.

To extend the permitted hours for live music from the current hours of Monday to Friday 11 :00 to 23:30 and Saturday & Sunday 09:00 to 23:30 to the proposed hours of Everyday 09:00 to 02:00.

To extend the permitted hours for recorded music from the current hours of Monday to Friday 11:00 to 01:00 and Saturday & Sunday 09:00 to 01:00 to the proposed hours of Everyday 09:00 to 02:00.

To extend late night refreshment from the current hours of Everyday 23:00 to 00:30 to the proposed hours of Everyday 09:00 to 02:00.

The extend the opening hours of the premises from Monday to Friday 11:00 to 01:00 and Saturday & Sunday 09:00-01:00 to the proposed hours of Everyday 09:00 to 02:30.

To amend Condition 46 of the Premises Licence which currently reads "100 covers to be maintained at all times" to read "a minimum number of 100 chairs at tables will be retained at the premises."

To remove Conditions,48. There will be no admission after 23:00 Sunday to Wednesday,49. There will be no admission after midnight Thursday to Saturday and 50. No alcohol to be served other than with a substantial meal.

- 3.3 A copy of the redacted application form is attached at **Appendix B**.
- 3.4 The applicant considers that the existing measures are sufficient to promote the licensing objectives and no further measures are necessary.

4 Location

- 4.1 A map which identifies the location of this premises is attached at **Appendix C**.

5 Representations

- 5.1 Under the Act representations can be received from anyone but must be relevant and, in the case of members of the public, must not be frivolous or vexatious.

Representations from Responsible Authorities

- 5.2 Representations have been received from West Yorkshire Police in their capacity as a responsible authority. The representation remains as a matter for Members consideration. A copy of the representation may be found at **Appendix D**.
- 5.3 Representations have been received from the Licensing Authority in their capacity as a responsible authority. The representation remains as a matter for Members consideration. A copy of the representation may be found at **Appendix E**.
- 5.4 Representations have been received from Environmental Health Services in their capacity as a responsible authority. The representation remains as a matter for Members consideration. A copy of the representation may be found at **Appendix F**.

Other representations

- 5.5 There are no other representations.

6 Cumulative Impact

- 6.1 The premises are located within the cumulative impact area for Leeds City Centre.
- 6.2 Cumulative impact means the potential impact on the promotion of the licensing objectives due to significant number of licensed premises concentrated in one area.
- 6.3 An applicant wishing to vary a licence for premises which fall within any of the cumulative impact areas must identify, through their operating schedule, the steps they intend to take so that the council and responsible authorities can be satisfied that granting this variation would not add to the impact already being experienced.

6.4 Details of the cumulative impact policy specific to Leeds City Centre and an outline of the evidence behind the reason for setting this policy is attached at **Appendix G**.

6.5 Members are directed to paragraph 7.37 of the Statement of Licensing Policy which provides examples of how an application may demonstrate there will be no impact and paragraph 7.38 which provides examples of the matters that the council would not normally take into consideration.

7 Licensing hours

7.1 Members are directed to paragraphs 6.6 to 6.13 for the Statement of Licensing Policy which states the criteria that will be applied to any decision for new applications or variations which include extending hours.

7.2 In brief the Policy states at 6.12 that restrictions may be made to the proposed hours of use where, after receiving relevant representations, the council considers it appropriate for the promotion of the licensing objectives to do so. The council will take into account the existing pattern of licensed premises in an area when considering what is appropriate to promote the objectives. Applications which are significantly out of character for a locality will need to demonstrate that granting the hours sought will not impact on the licensing objectives.

7.3 A list of premises in the local area and their licensed hours and activities is provided at **Appendix H**.

8 Equality and diversity implications

8.1 At the time of writing this report there were no implications for equality and diversity. Any decision taken by the licensing subcommittee will be in accordance with the four licensing objectives as prescribed by the Licensing Act 2003.

9 Options available to Members

9.1 The licensing subcommittee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the variation as requested.
- Grant the variation 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.

9.2 Members of the licensing subcommittee 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 appropriate in order to promote the licensing objectives and relevant to the application.

10 Background papers

- Guidance issued under s182 Licensing Act 2003
- Statement of Licensing Policy