

Licensing Sub-Committee

Tuesday, 24th September, 2024

PRESENT: Councillor L Farley in the Chair

Councillors R Downes and S Hamilton

1 Election of the Chair

RESOLVED – To elect Councillor L Farley as the Chair for the duration of the meeting.

2 Appeals Against Refusal of Inspection of Documents

There were no appeals against refusal of inspection of documents.

3 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

4 Late Items

There were no formal late items.

5 Declaration of Interests

No declarations of interests were made at the meeting.

6 Certification of Films – Le Regard

The report of the Chief Officer (Elections and Regulatory) advised Members of an application for the certification of two films titled, 'The Seashell and the Clergyman' and 'Foreign Body' to be screened on 13th October 2024 at Hyde Park Picture House, 73 Brudenell Road, Headingley LS6 1JD.

Members were informed that the promoter was available by phone should they have any questions.

The Licensing Officer presented the application providing Members with the following points:

- An application had been received from Hyde Park Picture House to certify the films titled, 'The Seashell and the Clergyman' and 'Foreign Body' as they were not currently certified by the BBFC. The screening was scheduled to take place at on 13th October 2024 at Hyde Park Picture House, 73 Brudenell Road, Headingley LS6 1JD.
- Officers had viewed the two films in advance of the meeting and had provided comments which were available at appendix B. There were no concerns with the ratings as requested.

It was noted that as per the officer's comments set out in the submitted report, the promoter's recommendations were considered suitable when considered in accordance with the BBFC Classification Guidelines.

RESOLVED – To grant the following ratings:

The Seashell and the Clergyman – 12A

Foreign Body – PG

7 Certification of a Film – Mary Jane’s not a Virgin Anymore

The report of the Chief Officer (Elections and Regulatory) advised Members of an application for the certification of a film titled, ‘Mary Jane’s not a Virgin Anymore’ to be screened on 29th of September 2024, at Hyde Park Picture House, 73 Brudenell Road, Headingley, Leeds LS6 1JD.

Members were informed that the promoter was available by phone should they have any questions.

The Licensing Officer presented the application providing Members with the following points:

- An application had been received from Hyde Park Picture House to certify the film titled, ‘Mary Jane’s not a Virgin Anymore’ to be screened on 29th September 2024, Hyde Park Picture House, 73 Brudenell Road, Headingley, Leeds LS6.
- Officers had not viewed the film in advance, however, were content with the applicant’s declaration, detailed at appendix A, that the contents of the film did not require a higher rating of R18.

The promoter’s recommendations were considered suitable when considered in accordance with the BBFC Classification Guidelines.

RESOLVED – To grant the following rating:
Mary Jane’s not a Virgin Anymore – 18

8 Application to Vary a Premises Licence held by Sabura, 246 Dewsbury Road, Hunslet, Leeds, LS11 6JQ

The report of the Chief Officer Elections and Regulatory requested Members consideration of an application to vary a premises licence made by Antonio Carlos Duarte Soares, for Sabura, 246 Dewsbury Road, Hunslet, Leeds, LS11 6JQ.

Present at the meeting were:

- Antonio Carlos Duarte Soares – Applicant/Designated Premises Supervisor
- Vera Lucia Duarte Soares – Director of Sabura Ltd
- Tony Clarke – Applicant’s Representative/JMC Licensing Consultant
- Councillor Ed Carlisle – Hunslet and Riverside Elected Ward Member

The Legal Officer set out the procedure for the hearing. A request was made by the Applicant’s Representative for the Chair to allow an additional 5 minutes to make their submission to the Sub-Committee, which was denied.

The Licensing Officer presented the application providing the following details:

- The application was submitted to vary a premises licence made by Antonio Carlos Duarte Soares, for Sabura, 246 Dewsbury Road, Hunslet, Leeds, LS11 6JQ.
- The variation was to amend the plans to include the outdoor eating area at the front of the premises, to add conditions to the premises licence and to extend the hours of licensable activities.

- The amended hours proposed were to extend the hours for the Sale by Retail of Alcohol to Sunday to Thursday 11:00 to 00:00 and Friday and Saturday 11:00 to 01:30 and the hours for Late Night Refreshment to Sunday to Thursday 23:00 to 23:30 and Friday and Saturday 23:00 to 00:00.
- The application had attracted representations from West Yorkshire Police (WYP), the Environmental Protection Team (EPT) and other persons. Those representations had been withdrawn following agreements being reached.
- Representations had been received from two Local Ward Councillors; however, one has been withdrawn following the applicant agreeing to reduce the hours for licensable activities. The other Local Ward Councillor representation remained outstanding for the Sub Committee's consideration.
- The application had originally been considered at a Sub-Committee hearing on the 20th of August 2024, however, without representation on behalf of the applicant present at the hearing, Councillor Carlisle had made an application to adjourn the hearing to allow further discussion to be had between himself and the applicant.
- A background of application for the premises was outlined as; the application for the grant of a premises licence was approved by the Licensing Authority in July 2019, then an application to vary the licence was submitted in February 2021 which sought to extend the hours for licensable activities and attracted representations, with the Sub-Committee resolving to grant the licence, subject to reducing the hours applied for and attaching additional conditions. Applications to transfer the licence to the current holder and to specify the current DPS were received by the Licensing Authority in July 2023 which were granted as applied for.
- A copy of the existing licence was available at appendix A, a copy of the variation application form was available at appendix B, details for the WYP, EPT agreements were available at appendix E and F, respectively.
- The representation and withdrawal agreement from Councillor P Wray was available at appendix G. details of Councillor E Carlisle's representation and further correspondence were available at appendix H, including information regarding conversations held with the applicant and the Legal Representative to discuss proposed draft conditions and measures.

The applicant's Legal Representative addressed the Sub-Committee providing the following information:

- The variation application and proposed operations were considered to support the licensing objectives and despite the original representations submitted by WYP, EPT and the two Ward Councillors, agreements, including stringent additional conditions, had been reached with all parties, except the outstanding objection from Councillor E Carlisle.
- Discussions had been held with Councillor Carlisle on the 10th of September 2024 to address his concerns and suggest appropriate conditions, however, in a more recent email, Councillor Carlisle had further scrutinised the application and premises.
- There were 31 conditions on the existing licence and an additional 20 agreed for the proposed variation application from WYP, EPT and Councillor Wray. 5 conditions had been proposed to address Councillor Carlisle's concerns, but it was felt that the additional 3 suggested by Councillor Carlisle were overly

onerous on the premises, limited their business operations and would incur additional costs.

- The original licence that had been permitted in 2019, and the variation from 2021, were under a different owner and DPS, with the transfer of the licence taking place in September 2023.
- The Sub-Committee decision in 2021 to grant the variation with reduced hours and additional conditions had been to address issues occurring when the previous operator was in place and had been passed on to the new DPS. It was noted that the new DPS was a good operator and was happy to comply with the previously agreed conditions, as well as the proposed conditions of the variation that had been applied for.
- Despite best intentions and thorough discussions, it was surprising that Councillor Carlisle maintained his objection. The additional 3 conditions proposed by Councillor Carlisle were thought to overlap with already agreed conditions with responsible authorities, including many that addressed public nuisance which was the main concern outlined by Councillor Carlisle.
- Conditions relating to the prevention of public nuisance were already in place, with one specific to address noise complaints from a nearby, noise sensitive residential flat which had occurred under the previous owner.
- The noise limiter requested by Councillor Carlisle would incur a cost of approximately £1,000 and the applicant was already conducting regular noise checks, in line with existing conditions.
- Upon conducting noise monitoring, the applicant had noted there was no noise, particularly from playing music, to be heard externally from the premises, except from when the door was open. To address this, internal doors were to be installed, which were also to be used as a space for security staff.
- The applicant had been operating the premises for a year and had employed security staff and had removed and banned customers who were causing issues. WYP had been called on one occasion to assist with a disruptive customer and it was noted that the applicant had a good relationship with local Police Officers. There were local issues with street drinking, but this was not related to the business operations of the premises.
- Councillor Carlisle had claimed that there had been complaints received within the last 12 months when the applicant had taken over the premises, however, none of these reports had been submitted and no complaints had been received directly to the premises or to responsible authorities.
- The premises had served over 100 customers per day, on occasion, which obviously led to some noise, however, there were appropriate measures in place to limit disturbance to local residents.
- As part of the proposals for the outdoor seating area, the tables were only to be used by customers until 20:00 and would be used as a smoking area after this time. The applicant was content to install removable seats to be taken inside after 20:00, however, this was noted to incur additional costs.
- A contact for a local taxi company was available for customers when they left the premises.
- The premises did not propose to allow live music performances and recorded music was to be played as background music only. A noise assessment logbook was regularly used and checked by the applicant.

- On Friday's, Saturday's and Sunday's, the applicant had agreed with WYP that the premises were allowed to be open until 2:30, with door staff on site and this had been reduced to 2:00 in agreement with Councillor Wray.
- As part of the variation, a condition was proposed for alcohol prohibited from the outside area by 23:00, which was proposed to be reduced to 22:00.

In response to questions from Members the following points were noted:

- How the no alcohol allowed after 22:00 in the outside area condition was to be enforced was queried. In response it was outlined that the frontage of the premises was 7 meters of glass and could be visually monitored and would be enforced by the door staff.
- The proposed approach to noise conditions was detailed at page 67 of the report, with acceptance that a noise limiter may be appropriate but there were already conditions within the existing proposed schedule to limit noise. It was confirmed there was not a noise limiter installed at the premises.

The Objector addressed the Sub-Committee providing the following information:

- Although an agreement could have potentially been reached and the application determined by delegated decision, it was felt to be good practise to hold the hearing in order to strike the right balance between supporting the hospitality industry and impact on the local community.
- There had been historic issues at the premises, mainly associated with the previous owner, however, reports of noise nuisance had still occurred since the new owner had been in place and all measures to limit public nuisance and disturbance were sought.
- Although this was a new applicant seeking later licensed hours, the premises was noted to attract similar clientele and produced noise that impacted on residents.
- The installation of a noise limiter was thought to be an appropriate measure to address any issues against persistent noise. Noise issues from the outdoor seating area had not been reported, however, it was alluded that the premises may be putting on an act while the variation was under consideration and disturbance may reoccur once approved.
- Discussions had been held with the Legal Representative prior to the hearing which had been successful in reaching new proposed agreements to further tighten the conditions. The suggestions included no drinks outside after 22:00, development of a three strikes policy for problem customers and a food led business approach, with an enforcement model for the number of standing and seated covers.
- Noise and disturbance issues had been reported last autumn when the new owner was in place and even when doors and windows were closed, music was heard outside the premises.
- Although it had not been personally witnessed, there had been reports of disturbance from people loitering around the premises including the use of a speaker to play loud music.
- It was noted that formal reports or complaints from residents would be more forthcoming if there was more public faith in real outcomes to address issues and Councillor Carlisle was representing the local community. Stringent

measures were sought to limit disturbance whilst being mindful of extra expenses incurred to the applicant.

- The Legal Representative had visited the premises recently on a quiet Monday evening, whereas issues were much more likely on a late weekend evening.
- It was perceived that the applicant may want to operate a similar business model to a nearby premises under the name Paco Restaurant which was noted to poorly manage noise and disturbance to local residents late at night.
- A reason for maintaining the objection and requesting the hearing was for the applicant to understand the historic issues of the premises and the impact on local residents as best practise and to seek a rigorous but reasonable agreement.

In response to questions from Members the following points were noted:

- No formal representation had been submitted by local residents, but Councillor Carlisle stated he had been in receipt of an email from a property two streets away from the premises outlining disturbance had occurred at late hours. Residents had been encouraged to voice their concerns, however, issues of not feeling listened to, language barriers and digital literacy were outlined as reasons submissions had not been forthcoming.
- The premises was not within a high density residential area but was close enough to a residential community area to have an impact.
- As agreements had been reached with other parties that had originally objected, specific conditions that were sought to be included on the licence were queried. In response it was outlined that a noise limiter should be installed, and the business should be food led with conditions to specify appropriate seated and standing covers. The Legal Officer noted that there was the possibility to include specific restaurant conditions on the licence.
- A resident had reported that noise and disturbance had affected a young person's revision for GCSE exams after the licence had been transferred to the new owner.
- The variation application had been submitted in June 2024, with the original hearing adjourned in August 2024. During this time, and since the transfer of the licence, noise from the premises was limited and it was suspected this may be to develop a false sense of the premises future operations where significant disturbance may then occur with the licenced hours extended.
- The ethos of the business was hoped to be food led and with very limited vertical drinking in order for operations to be fair on the local community as it wasn't just music that created noise, but rowdiness of customers.
- Members noted a number of conditions and steps had been agreed in order for noise to be limited and that as EPT were the experts and had withdrawn their representation and no new noise complaints had been submitted, the issues raised held limited evidence.
- Members outlined that given the historic issues of disturbance, it can take time to settle issues with customers of the previous business model. Although there had been no new complaints since the notice for the variation had been displayed outside the premises, Councillor Carlisle wanted the application to be thoroughly scrutinised to get the best outcome for residents.

In summary, the applicant's Legal Representative outlined the following points to the Sub-Committee:

- Any historic issues associated with the previous owner were not relevant to this application and it was to be determined against its own merits and significant measures had been agreed with responsible authorities prior to the hearing.
- The applicant had displayed willingness to work with authorities and the local community and having visited the premises it was clear he was a good operator with honest intentions.
- The licence and associated conditions did allow for the premises to be operate as food led, however, the requested conditions to specify seated covers would be onerous and hard to enforce.
- There was no need for additional noise conditions as there were already stringent measures in place and the proposed installation of internal doors were a practical solution to limit any noise or disturbance stemming from the premises.
- There was no evidence in support of Councillor Carlisle's claim of noise complaints submitted since the licence had been transferred to the applicant.

RESOLVED – To grant the premises licence as applied for, subject to the amendment of condition 27 to read - *the activities of persons using the external areas shall be monitored after 10pm and they shall be reminded to have regard to the needs of local residents and to refrain from shouting and anti-social behaviour etc when necessary.*

9 Application to Vary a Premises Licence held by Eri Red Sea, 97 Roundhay Road, Leeds, LS8 5AQ

The report of the Chief Officer Elections and Regulatory presented an application to vary a premises licence held by Eri Red Sea Ltd. in relation to Eri Red Sea, 97 Roundhay Road, Leeds, LS8 5AQ.

Present at the meeting were:

- Sue Duckworth – Entertainment Licensing Leeds City Council (LCC)
- Vanessa Holroyd – Environmental Protection Team LCC
- Emelia Slezak – Public Health LCC
- Councillor Salma Arif
- PC Neil Haywood WYP

There was no attendance by or on behalf of the Applicant. The Applicant's sole director was contacted by licensing officers, and this communication was reported to the Committee. The Director still did not attend the hearing and did not request that the hearing be adjourned. After suggesting he could get to the hearing in 30 minutes, he subsequently informed officers that he would not be attending.

The Committee therefore had to decide whether to proceed with the hearing in the Applicant's absence or to reschedule the hearing. The parties present all wished for the hearing to take place on the day. Having regard to the provisions of Regulation 12(1) of the Licensing Act 2003 (Hearings) Regulations 2005 ("the Regulations"), the Committee did not consider it to be necessary for its consideration of the application for the hearing to be adjourned. The Application was before them and it was clear

what was being sought and why. With regard to Regulation 20 of the Regulations, the Committee did not consider it to be in the public interest to adjourn the hearing. There would be a cost to the Authority and the other attendees, no guarantee that the Applicant would arrange attendance if adjourned and the Director had ultimately indicated that he would not attend. The Committee therefore decided unanimously to proceed in the Applicant's absence.

The Legal Officer outlined the procedure for the meeting, noting that in the applicant's absence, Members were to take the documentation provided in support of the application into consideration and that the objectors were to be allowed the 15 minutes per party to make their case to the Sub-Committee.

The Licensing Officer presented the application providing Members with the following points:

- The application proposed to extend the hours for the Sale by Retail of Alcohol and the hours the premises were open to the public.
- The application had attracted representations from Entertainment Licensing, EPT, Public Health, WYP and all three Local Ward Councillors. The premises was also within the Harehills and Burmantofts Cumulative Impact Area (CIA).
- A copy of the existing licence was available at appendix A and a copy of the variation application form was available at appendix B. The application sought to extend Sale by Retail of Alcohol to Monday to Thursday 07:00 - 03:00 and Friday to Sunday 07:00 - 05:00 and also extend the hours the premises were open to the public to Monday to Thursday 07:00 - 03:00 and Friday to Sunday 07:00 - 05:00.
- Entertainment Licensing, EPT, Public Health, WYP, Councillors S Arif and A Ali and Councillor M Ali objections were detailed at appendix D, E, F, G, H, G and I, respectively.

The Objector addressed the Sub-Committee providing the following information:
Councillor S Arif

- Ward Members for Gipton and Harehills had objected to the original licence application at the hearing in April 2023 and maintained their position.
- Next door to the premises at 95 Roundhay Road was the Archway Resource Centre which was outlined to be a high value community asset, including provision of care services, youth activities and connecting young people to benefits and services.
- Archways conducted many activities and community events at various times of day and many that attend were young, vulnerable people from the local area so extending the licenced hours was to have a detrimental effect in exposing these people to alcohol use, with street drinking already prevalent within the area and was the reason the CIA was in place.
- Approval of the licence was outlined to be in contradiction of the licensing objective to protect children from harm and it was considered inappropriate to extend the hours when the area was already saturated with off licences.
- With the applicant not attending the hearing it was noted he was aware of the concerns and had disregard for the impact the extended hours would have on local residents.

WYP – PC Neil Haywood

- CIA policy held significant weight in this case and was in place to address alcohol related issues such as crime, anti-social behaviour and negative health impacts, all which would be exacerbated by extending the hours of operation at this premises.
- Access to alcohol needed to be limited across the CIA area and any increased availability added to the issues. The CIA was not a blanket ban on approving licenses but required mitigating circumstances to be outlined, with no mitigating circumstances or conditions proposed as part of the application.
- WYP had objected to the original application in April 2023. Although that licence had been approved, the hours applied for were reduced, so to approve the variation would be retracting from what was agreed.
- Although there were no specific incidents to reference, the applicant's claim of exemplary management was doubted. Responsible authorities were limited by resource constraints to attend the premises regularly and track issues, however, any increase in sales or hours of operations would likely lead to an increase in anti-social and criminal incidents.
- The application was requested to be refused, given the lack of any mitigating circumstances provided in the application.

Sue Duckworth – Licensing Authority

- Point 7.45 of the Leeds Statement of Licensing Policy was referenced, and it was noted that the claim of exemplary management was a factor that the licensing authority will not consider as meeting the standard of rebuttal.
- With the hours reduced from the original licence application, it was illogical to then support an increase in extended hours, which were noted to be extensive, allowing 22 hours at the weekend for trading alcohol.
- There were many vulnerable children within the locality, with Gipton and Harehills having the 4th highest rate for young people not taking up higher education, as well as a significant population of people under 16. Archways was a good institution for supporting vulnerable young people and should be supported.
- The applicant had provided no evidence for mitigating circumstances that were required as proof for lesser impact on the CIA.

Emelia Slezak – Public Health

- There was a correlation between addiction and the concentration of off licences in the area, with the CIA in place, as hard policy, to limit any further easy access of alcohol.
- The alcohol data matrix was used to detail city wide risks and Harehills north ranked 1 out of 107 for children under the age of 16, so this application posed significant risk against the licensing objective to protect children from harm.
- The high levels of addiction and street drinking in the area normalised heavy alcohol use to children. There were 16 childcare facilities and schools within the locality, and it was common for children to witness street drinking when commuting. There was a need to shift the social norms in areas where alcohol prevalence was high.
- As there was low take up rates for higher education in the area, it was noted that these young people were more at risk when exposed to addiction and street drinking. There were also reports of children experiencing trauma in the area which was often related to addiction and abuse.

- Archways was 89 feet away from the premises and had submitted a lengthy letter outlining their concerns, which had been kept confidential.
- Chapeltown GP Surgery was under 1 mile from the premises and had submitted a letter of objection to Public Health noting that a reduction in the availability of alcohol was an effective measure for safeguarding vulnerable people and the wellbeing of young people was a priority for Harehills.
- The Marmot City approach was referenced, with reducing health outcome inequalities being the leading action. A Marmot principle was to provide children with a good start to life, which complimented the licensing objective to reduce harm to children.
- Increasing the hours and availability of alcohol at the premises had negative effects on the local community, particularly for younger people, and it was requested that the application be refused.

Vanessa Holroyd – EPT

- Further availability of alcohol at later hours was to exacerbate already prevalent issues of public nuisance, street drinking, litter, public urination and anti-social behaviour.
- There were no mitigating circumstances proposed by the applicant and to allow 22 hours of alcohol sales at weekends was extreme and would have negative social impacts.
- It was difficult for EPT to prove statutory abuse related to the increased hours if the application was approved and relied on the Licensing Authority to monitor operations and related enforcement action.
- The applicant's statement contained in the application form noting business limitations under the current licensed hours should not result in a huge increase and also to extend the hours would lead to increased deliveries at the premises which would also lead to disturbance to nearby residents.

In response to questions from Members the following points were noted:

- It was confirmed the objecting parties had not engaged with the applicant to propose mitigation measures as this was the responsibility of the applicant, made clear by CIA policy.
- The applicant had not contacted the Licensing Authority to discuss the application further than its submission and request for increased hours. No formal communication had been held to discuss how to improve the application and provide evidence for mitigating circumstances.
- There had been no engagement with EPT despite the lack of mitigating factors being outlined and contact details being provided. EPT were happy to meet with applicants to discuss applications.
- There had been no engagement with Elected Ward Members or Public Health, including Children's Services.
- Councillors R Downes and S Hamilton were part of the Sub-Committee that had approved the original licence by split decision. Although the approval was lawful there had been concerns and the hours applied for had been reduced. There were also issues with a nearby store, M&S Off Licence which had been illegally selling nitrous oxide, adding to the difficulties faced within the locality.
- Members thanked the attendees for their submissions and outlined they understood the important work conducted at Archways and the risk the extended hours applied for by the premises posed.

RESOLVED – That the application be refused.