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**LICENSING SUB-COMMITTEE**

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**MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
MONDAY, 10TH DECEMBER, 2012 AT 10.00 AM**

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**MEMBERSHIP**

**Councillors**

B Gettings - Morley North;  
T Hanley - Bramley and Stanningley;  
G Hyde - Killingbeck and Seacroft;

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**Agenda compiled by:  
Tel No:  
Governance Services  
Civic Hall  
LEEDS LS1 1UR**

**Helen Gray  
247 4355**

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p style="text-align: center;"><b><u>PRELIMINARY PROCEDURES</u></b></p> <p><b>ELECTION OF THE CHAIR</b></p>	
2			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	

Item No	Ward	Item Not Open		Page No
3			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1) To highlight reports or appendices which:</p> <p>a) officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>b) To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>c) If so, to formally pass the following resolution:-</p> <p><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p> <p>2) To note that under the Licensing Procedure rules, the press and the public will be excluded from that part of the hearing where Members will deliberate on each application as it is in the public interest to allow the Members to have a full and frank debate on the matter before them.</p>	
4			<p><b>LATE ITEMS</b></p> <p>To identify any applications as late items of business which have been admitted to the agenda for consideration</p> <p>(the special circumstances shall be identified in the minutes)</p>	

Item No	Ward	Item Not Open		Page No
5			<p><b>DECLARATIONS OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19 -20 of the Members' Code of Conduct.</p> <p><b><u>HEARINGS</u></b></p>	
6	<b>Garforth and Swillington</b>	10.4(1)	<p><b>APPLICATION FOR THE GRANT OF A PERSONAL LICENCE FOR MR SAM DONNELLY</b></p> <p>To consider a report of the Head of Licensing and Registration for the grant of a personal licence for Sam Donnelly, Swillington Hotel, 40 Wakefield Road, Swillington, Leeds LS26 8DJ.</p> <p>(Report attached)</p> <p>PLEASE NOTE : Appendix A, C, D and E to the report is regarded as containing exempt information under the provisions of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005)</p>	3 - 38

## CONFIDENTIAL AND EXEMPT ITEMS

The reason for confidentiality or exemption is stated on the agenda and on each of the reports in terms of Access to Information Procedure Rules 9.2 or 10.4(1) to (7). The number or numbers stated in the agenda and reports correspond to the reasons for exemption / confidentiality below:

### **9.0 Confidential information – requirement to exclude public access**

9.1 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed. Likewise, public access to reports, background papers, and minutes will also be excluded.

### **9.2 Confidential information means**

- (a) information given to the Council by a Government Department on terms which forbid its public disclosure or
- (b) information the disclosure of which to the public is prohibited by or under another Act or by Court Order. Generally personal information which identifies an individual, must not be disclosed under the data protection and human rights rules.

### **10.0 Exempt information – discretion to exclude public access**

10.1 The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed provided:

- (a) the meeting resolves so to exclude the public, and that resolution identifies the proceedings or part of the proceedings to which it applies, and
- (b) that resolution states by reference to the descriptions in Schedule 12A to the Local Government Act 1972 (paragraph 10.4 below) the description of the exempt information giving rise to the exclusion of the public.
- (c) that resolution states, by reference to reasons given in a relevant report or otherwise, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

10.2 In these circumstances, public access to reports, background papers and minutes will also be excluded.

10.3 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Exempt information means information falling within the following categories (subject to any condition):

- 1 Information relating to any individual
- 2 Information which is likely to reveal the identity of an individual.
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or officer-holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes –
  - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

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## Report of the Head of Licensing and Registration

### Report to the Licensing Sub Committee

**Date: Monday 10<sup>th</sup> December 2012**

**Subject: Application for the grant of a Personal Licence for Mr Sam Donnelly**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Garforth & Swillington	
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(1)		
Appendix number: A ,C,D and E		
These Appendices are regarded as exempt under provision of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005)		

### Summary of main issues

This is an application for the grant of a personal licence for Sam Donnelly Swillington Hotel, 40 Wakefield Road, Swillington, Leeds, LS26 8DJ. The application has attracted a representation from West Yorkshire Police in respect of Mr Donnelly criminal convictions and a recent failed test purchase.

This application was deferred at the hearing on Monday the 3<sup>rd</sup> September until the 24<sup>th</sup> September. However due to an adjournment at the magistrates court the hearing date was further deferred to the 12<sup>th</sup> November. At the hearing on the 12<sup>th</sup> November the applicant requested a further deferral which members resolved to grant .

Members felt that they could not reach a decision until after the result of Mr Donnelly's magistrates hearing in respect of the failed test purchase. This was originally listed for the 12th September but was further adjourned to the 17<sup>th</sup> October. The request to adjourn the hearing was not opposed by West Yorkshire Police . Members therefore resolved to grant the deferral. The reasons for this are detailed in 4.1.

### Recommendations

The committee is asked to:

Consider the application and the representation made by West Yorkshire Police.

## 1.0 Purpose of this Report

1.1 To advise Members of an application made under section 117 (1)(a) of the Licensing Act 2003 ("the Act") for a personal licence in respect of Mr Sam Donnelly.

1.2 Members are required to consider this application due to the receipt of representation from West Yorkshire Police.

## 2.0 Main Issues

2.1 A copy of the application is attached at **Appendix A** of this report. It should be noted that certain information submitted within the application is potentially exempt information under the Access to information Rule 10.4 (1) as it includes information relating to an individual, this information is also replicated in **Appendix C**.

## 3.0 Relevant Representations

3.1 Under the Act, representations can be received from West Yorkshire Police. Please find attached a copy of the representation at **Appendix B**.

## 4.0 Matters relevant to the application

4.1 The hearing for this application was scheduled for Monday 3<sup>rd</sup> September 2012.

The application was deferred under the provisions of Regulation 12 paragraph 1 (a) of the Licensing Act 2003 (Hearings) Regulations 2005. In particular members felt that a decision could not be made until after the result of Mr Donnelly's magistrates hearing.

4.2 The result of this magistrates hearing is detailed in the separate PNC report attached at **Appendix D**.

4.3 A copy of the documents submitted in support of the application is attached at **Appendix E**

4.4 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

4.5 The licensing sub-committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives

- Grant as requested; or
- Reject the application.



## **5.0 Corporate Considerations**

**5.1** The application was subject to a 14 days consultation period with West Yorkshire Police in accordance with the Licensing Act 2003.

## **5.2 Equality and Diversity / Cohesion and Integration**

**5.3** The council has adopted a Statement of Licensing Policy which sets out the principles the council will use to exercise its functions under the Licensing Act 2003 and in which care has been taken in matters of equality, diversity and human rights. This policy is reviewed every three years. The council has completed equality, diversity, cohesion and integration screening and impact assessments with regards to the consultation process undertaken during the review of the policy.

## **5.4 Council Policies and City Priorities**

**5.5** When determining an application the licensing sub-committee must have regard for the Licensing Act 2003 Statement of Licensing Policy which sets out the principles the council will use to exercise its functions under the Licensing Act 2003. Applicants are expected to read the policy before making their application and the council will refer to the policy when making its decisions.

**5.6** The licensing regime contributes to the following aims:

### **By 2030, Leeds will be fair, open and welcoming**

- Local people have the power to make decisions that affect them
- There is a culture of responsibility, respect for each other and the environment
- Our services meet the diverse needs of our changing population
- Everyone is proud to live and work

### **By 2030, Leeds' economy will be prosperous and sustainable**

- Opportunities to work with secure, flexible employment and good wages

### **By 2030, all Leeds' communities will be successful**

- Communities are safe and people feel safe

**5.7** The licensing regime contributes to the following city priorities:

### **Best city... for communities:**

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

## **5.8** Resources and Value for Money

The licensing process, including the licensing sub-committee, generates a cost to the council. The majority of these costs are covered by the application fee. The fees are set by Statute, and there is little option to increase the fee to cover all the cost. However, the Police Reform and Social Responsibility Bill, which received Royal assent on November 2011, allowed local authorities to set their own fees in the future based on full cost recovery.

## **5.9** Legal Implications, Access to Information and Call In

Applicants and people making representations are able to challenge the licensing sub-committee's decision by appealing to the Magistrates Court. Legal advice is provided during the sub-committee hearing and during deliberations to mitigate the risk to the council.

## **6.0** Risk Management

Full training and legal advice is provided to members sitting on Licensing Sub Committee in order to mitigate the risk of legal challenge.

## **7.0** **Conclusions**

**7.1** An application has been received under the Licensing Act 2003 which is brought before a licensing sub-committee for determination.

**7.2** The licensing sub-committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives

**8.0** **Grant as requested; or**

**9.0** **Reject the application.**

**9.1** Recommendations

The committee is asked to:

- Consider the application and the representation from West Yorkshire Police
- Take any of the steps detailed at 4.4, if any, they consider necessary for the promotion of the licensing objectives.

**9.2** Background Papers

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



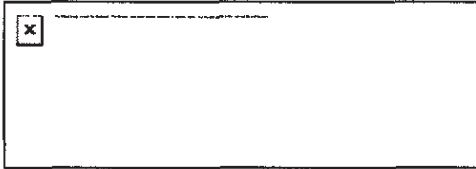
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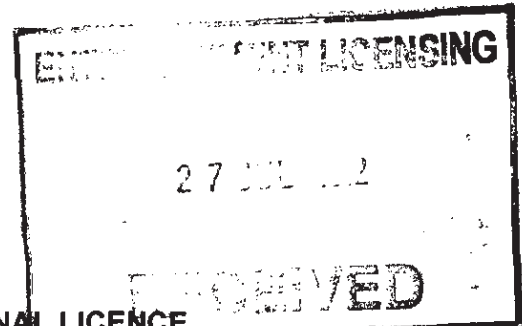
**Licensing Department**  
 Millgarth Police Station  
 Millgarth Street  
 Leeds  
 LS2 7HX

**Leeds District Licensing Office**

Tel: 0113-2414023  
 Fax: 0113-2413123  
 Email: lynn.dobson@westyorkshire.pnn.police.uk

27 July 2012

**Entertainment Licensing Section.**  
**Leeds City Council**  
**Civic Hall**  
**Leeds**  
**LS1 1UR**



**NOTICE OF OBJECTION – PERSONAL LICENCE**  
**SECTION 120(5) – LICENSING ACT 2003**

**APPLICANT: SAM DONNELLY**

In accordance with section 120(4) Licensing Act 2003, we received notification from Leeds City Council of an application for a personal licence by the person named above. The notification from the licensing authority was received in this office on 20 July 2012.

I **PC 5783 Dobson, North East Leeds Licensing Officer for West Yorkshire Police**, hereby give you notice that I intend to object to this application for a personal licence.

West Yorkshire Police are satisfied that granting the licence would undermine the crime prevention objective, for the following reasons:-

- The applicant has one relevant unspent conviction for driving whilst over the prescribed limit. This offence will not be considered spent until November 2013.
- On 12 July 2012 the Neighbourhood Policing Team for the Swillington area conducted a test purchase operation. The Swillington public house was visited and the test purchase children were sold alcohol. The seller at this time was Sam Donnelly. Mr Donnelly was reported for this offence and a court hearing is pending. It is unlikely that this matter will be dealt with, through the court system, prior to the personal licence hearing.
- When checks have been conducted with Disclosure Scotland, on West Yorkshire Police Systems and the Police National Computer, the applicant has come to our attention on a number of occasions. However, his recent conviction is the basis for this objection.

The information provided above, leaves West Yorkshire Police in no doubt that this person is unsuitable to be authorised to supply alcohol by way of being granted a personal licence.

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## **NOT PROTECTIVELY MARKED**

**Because of the 'unspent' relevant offence which prompted Leeds City Council to contact us in the first place, West Yorkshire Police are of the opinion that granting this personal licence would undermine the crime prevention objective, and consequently West Yorkshire Police would invite the presiding sub-committee at a hearing to refuse this application**

**L. Dobson  
Leeds District Licensing Officer.**

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