

# Notice of Decision

## of the Licensing Sub Committee



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| <b>Date of Hearing:</b>    | 24th October 2017  |
| <b>Determination Date:</b> | 24th October 2017  |
| <b>Notice of Decision:</b> | 30th November 2017   |
| <b>Members:</b>            | Councillor Ryk Downes (Chair)<br>Councillor Bob Gettings<br>Councillor Jonathon Pryor  |
| <b>Legal Officer:</b>      | Joy Lounds   |
| <b>Committee Clerk:</b>    | Andy Booth   |
| <b>Licensing Officer:</b>  | Steve Holder   |
| <b>Applicant:</b>          | In The Pink Limited  |
| <b>Premises:</b>           | Space To Eat, 7 Hirsts Yard, Duncan Street, Leeds,<br>LS1 6NJ  |
| <b>Application:</b>        | Grant of a Premises Licence  |
| <b>Attendees:</b>          | Paddy Whur (Woods Whur)<br>James Clarke (In The Pink Limited)<br>PC Cath Arkle (West Yorkshire Police)<br>Sgt. Dave Shaw (West Yorkshire Police)<br>Susan Holden (Licensing Authority) |

This application was brought before the Licensing Sub Committee due to the receipt of relevant representations.

The Licensing Sub Committee considered:

1. Report from the Head of Licensing and Registration
2. Licensing Act 2003
3. Guidance issued by the Home Office pursuant to Section 182 of the act
4. Relevant licensing objectives
5. Licensing Act 2003 Statement of Licensing Policy 2014 – 2018
6. Local Licensing Guidance (if relevant)
7. Representations received from responsible authorities
8. Representations received from other persons.

Having taken all these matters into account the Licensing Sub Committee have agreed to grant the application as request, subject to a time limited period of 6 months, the inclusion of all conditions from the previous licence and three independent visits to be undertaken within the first five months.

The reason for this decision is as follows:

The Licensing Sub Committee considered an application for the grant of a premises licence by In the Pink Limited for Space to Eat, 7 Hirst's Yard, Duncan Street, Leeds, LS1 6NJ.

The application was made following a time limited licence that expired on 31 July 2017. That licence had been granted for a period of 6 months. The current application was for Late Night Refreshment Monday to Sunday 23.00 until 5.00 hours with the premises being open to members of the public Monday to Sunday 21:00 until 05:00 hours.

The premises are located within the "Red Zone" of the Leeds City Centre Cumulative Impact Area and had attracted representations opposing the application in its entirety from West Yorkshire Police and the Licensing Authority.

Mr Paddy Whur attended the hearing to represent the applicant company. He was accompanied by Mr James Clark, General Manager of Space Nightclub. PC Cath Arkle of West Yorkshire Police attended to speak to her representation. She was accompanied by Sgt D Shaw. Ms Susan Holden attended for the Licensing Authority.

Prior to the start of his formal application Mr Whur noted that there had been some confusion regarding the application being scheduled for hearing on 15 August 2017 when no party on behalf of the applicant attended. During this period the applicant had assumed, wrongly, that the application had been granted and had operated on a number of occasions despite the licence having expired at the end of July 2017. Mr Whur wished to apologise to the Committee for the mix up.

Mr Whur noted that the original licence, attached at Appendix A of the report, had a number of conditions (numbered 12-16 inclusive) in relation to the prevention of public nuisance which had not been included on the proposed operating schedule. Mr Whur offered that conditions 12- 16 be added to the licence if the application was approved.

Mr Whur referred to the earlier application before a differently constituted Licensing Sub Committee which felt that the application on a time limited basis was worthy of grant on the basis that it could stop the migration to McDonalds and the premises could provide a number of control mechanisms including CCTV and increased door supervision.

In the time limited period Mr Whur submitted that there was no evidence of crime at the venue, but he conceded that on the occasions the Police had visited there had been a misunderstanding of what had to happen. There were issues with the signing in book and given that the Police had visited at a quieter time the door man had been operating in the wider unit. Mr Whur said that there was now a separate signing in book and a separate incident book. The CCTV had been improved. He referred also to a recent meeting between the Police and Space at which his client had created a barrier system which was intended to limit the sale of drugs.

In relation to the current crime statistics provided by the Police at Appendix H Mr Whur noted that Hirst's Yard no longer appears in the top 10 street names of increasing concern as it when the previous application was granted. He stated that the improvement was not all down to the actions of his client but that the premises were moving in the right direction.

In response to questions from the Panel about the breaches referred to in the police representation he noted that they had not led to a negative impact on crime and disorder, that there was no single recorded crime against the premises and that Hirst's Yard had been removed from the top 10 streets of increasing concern.

He referred to the better CCTV, the barrier and the better lighting and the operator working closely with the Police. In relation to the doorman not being present at the time the Police visited Mr Whur stated that the doorman was genuinely better used elsewhere as an effective deterrent.

Sgt Shaw noted that whilst there are no specific crimes recorded against the premises the important point to note was that overall offending had increased by 17% and in the Red Area, assaults, robbery and sexual offences had all increased.

PC Arkle noted that the for applications in a Cumulative Impact Area there was a presumption of refusal and that applications should only be granted in exceptional cases. PC Arkle said that the premises had 6 months to show themselves to be exceptional and therefore it was very disappointing that on the two occasions referred to in the letter of objection there were concerns regarding the door staff not being present and issues with the licence not being displayed and other breaches. Whilst PC Arkle welcomed the extra lighting, better CCTV and door supervision the premises had not been shown to be exceptional and therefore the application should be refused.

Ms Holden for the Licensing Authority advised that all applications within scope of the CIP are considered by members and the Licensing Authority would not automatically grant such applications. The test is not whether the operator is good, but whether there is any negative impact on the licensing objectives.

In response to questions of the Panel in relation to the timing of the visits, PC Arkle noted that it is difficult to carry out visits at later hours (such as 4:00 or 5:00 hours) as the Police do not have sufficient officers at those peak times.

Following the representations of the Police and the Licensing Authority Mr Whur stated if the Panel was minded to grant another time limited licence his client would not object. He also stated that independent anonymous and unannounced visits could be carried out between the hours of 3:00 to 5:00 hours and the licence to be conditioned to this effect and the report provided to the Police and Local Authority.

The Panel adjourned to consider the application. In reaching its decision the Panel noted that the operation of the CIP created a rebuttal presumption of refusal. The Panel considered the report, the Guidance the comments from the Applicant and the representations. The Panel considered that the licensing objectives of crime and disorder were engaged.

The Panel considered that the application represented an exception to the Council's CIP Policy and resolved to grant the application on the following basis and for the Licence to be conditioned as follows:

1. The licence to be time limited for 6 months;
2. That all conditions of the previous licence appear on this licence and in particular that conditions 12 – 16 as appeared on the earlier licence to be included in the new licence;
3. That condition 3 of the earlier licence is amended to read that "The minimum number of door supervisors for the premises is one from 21: 00 to 5.00. From 21.00 until 2.00am the door supervisor can be mobile within Hirst's Yard. From 2.00 to 5.00 the door supervisor is to remain static at the premises; and
4. That three independent and anonymous visits are to take place between 3:00 and 5:00 hours within the first five months of the Licence and the reports of those visits are to be provided to the Police and the Licensing Authority.

## **Right of Appeal**

There is a right of appeal to the Magistrates Court should you be dissatisfied with the decision made by the sub committee. You must make this appeal within 21 days of receiving this notice.

Appeals should be addressed to the Magistrates Court at:

**Clerk to the Justices  
Leeds Magistrates Court  
Westgate  
Leeds  
LS1 3JP**

and be accompanied by a copy of this notice of decision and the court fee of £400.00 if you are the premises licence holder/applicant and £200.00 for all other parties. Cheques should be made payable to HMCS.

**Please note that the Magistrates have the power to award costs against any party as a result of appeal proceedings.**