

Report of the Chief Officer, Elections & Regulatory

Report to the Licensing Sub Committee

Date: Tuesday 14th May 2019

**Subject: Application for the Renewal of a Sex Establishment Licence for
Whiskey Down, First & Second Floors, 25 Crown Street, Leeds, LS2 7DA**

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

Summary of Main Issues

Members are requested to consider the renewal of a sex establishment licence for the provision of sexual entertainment in the form of lap dancing.

This application is made by Tokyo Industries (Lincoln York Hull) Limited for a premises to operate under the name of Whiskey Down, First & Second Floors, 25 Crown Street, Leeds, LS2 7DA.

Recommendations

1. Members are asked to consider the application for the renewal of a sex establishment licence for the premises at 25 Crown Street, Leeds, LS2 7DA.
2. Members are asked to consider and if appropriate, approve the external appearance of the premises and all advertising material used to promote the business as set out at Appendix D.
3. Member's attention is drawn to the objection the application has attracted at Appendix G.

1.0 Purpose of this Report

- 1.1 To advise Members of an application made under Section 2 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (the Act) for the renewal of a sex establishment licence for the premises known as Whiskey Down, First & Second Floors, 25 Crown Street, Leeds, LS2 7DA.

2.0 Background Information

- 2.1 In 2010 the Government introduced a new category of sex establishment called a “sexual entertainment venue”. This reclassified lap dancing clubs as sexual entertainment venues and gave local authorities the power to regulate such venues. The intention was to give local people greater say over the number and location of lap dancing clubs in their area.
- 2.2 In January 2011 the Council made a resolution to adopt the provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act as amended by the Policing and Crime Act 2009, effective from 1st October 2011. The Council adopted its first Statement of Licensing Policy for Sex Establishments in September 2011.
- 2.3 All seven premises that provided sexual entertainment in the form of lap dancing which existed at that time were granted licences that came into effect on the 1st October 2012 and expired 30th September 2013.
- 2.4 Following the issue of these licences a review of the Licensing of Sex Establishments Statement of Licensing Policy took place. A working group was set up and a new policy was approved before Executive Board on the 17th July 2013, coming into effect on the 1st September 2013.
- 2.5 The Policy set out that the appropriate number of sexual entertainment venues in the city centre is a maximum of four providing these premises are not near properties with sensitive uses or in sensitive locations.
- 2.6 Subsequent to this, four of the seven venues had their licence/renewal applications refused due to their locations.
- 2.7 Three venues have continued to operate in Leeds City Centre and had their licences successfully renewed on an annual basis. These premises are located at 2 Sovereign Place, 5 York Place and 10 York Place. In 2017 the premises at 25 Crown Street became the fourth licensed sexual entertainment venue in the city centre.

3.0 History of these Premises

- 3.1 The premises were previously known as The Townhouse and held a premises licence under the Licensing Act 2003 over a number of years for the provision of regulated entertainment and the sale of alcohol.

- 3.2 In January 2008 the premises changed to Chilli Whites and operated under the premises licence between the hours of 10 am and 6 am Friday, Saturday and Mondays, and between the hours of 10 am and 4 am Tuesday, Wednesday, Thursday, and Sundays.
- 3.3 In January 2017 an application was received from new operators of the premises, Tokyo Industries (Lincoln York Hull) Limited, for the premises to trade as a sexual entertainment venue providing lap dancing.
- 3.4 The application for a sexual entertainment venue licence was determined at a licensing subcommittee hearing held on the 14th March 2017.
- 3.5 During the hearing Members heard from objectors and determined to grant the application having had regard to Leeds City Council's Licensing of Sex Establishments Statement of Licensing Policy.
- 3.6 Members approved the application subject to the standard conditions as set out in the Policy, together with premises specific additional conditions given the evidence and submissions made before them.
- 3.7 A copy of the licence may be found at **Appendix A**.

4.0 The Application

- 4.1 Members are required to consider this application for the renewal of a sex establishment licence to authorise the activity of sexual entertainment in the form of lap dancing.
- 4.2 The application is made by the individual Tokyo Industries (Lincoln York Hull) Limited.
- 4.3 The application is for the premises known as 'Whiskey Down', First & Second Floors, 25 Crown Street, Leeds, LS2 7DA.
- 4.4 The hours of operation are:
22:00hrs until 04:00hrs Sunday to Thursday
22:00hrs until 05:00hrs Friday and Saturday
- 4.5 A redacted copy of the application can be found at **Appendix B** to this report.
- 4.6 Members will also find attached to this report at **Appendix C** additional documents supplied with the application, which includes:
- Dancers Welfare Policy
 - Dancers Code of Conduct
 - Customers Code of Conduct
 - Pricing Policy
 - Trade Union Details

- 4.7 A consideration for Members is the external appearance and all methods of advertising (written, visual or auditory) which must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature. Attached at **Appendix D** Members will find the information supplied in this respect. Due to printing quality, original samples will be available at the meeting.
- 4.8 It is confirmed that the business does not intend to provide vehicles to transport customers or performers to and from the premises and therefore information relating to the licensing of such vehicles is not provided.
- 4.9 A map setting out the location of the premises can be found at **Appendix E**.
- 4.10 A plan showing the proposed layout of the premises including stage, bars, cloakroom, WCs, performance area, dressing rooms and CCTV has been supplied and will be available at the meeting for member's consideration.
- 4.11 The West Yorkshire Police and all ward members have been notified of this application.
- 4.12 A public notice advertising the application has been displayed at the premises for a period of 21 days and published in the local press as required by the legislation.
- 4.13 The applicant has been written to regarding the acceptance of additional measures aimed at preventing the employment of persons under the age of 18, including subcontractors and advertising promotional work such as flyering. Also suggested is a measure regarding age verification checks of all staff employed or subcontracted by the premises and the maintenance/retention of a record log.
- 4.14 At the time of writing we still await a response from the applicant regarding the suggested measures and hope to provide Members with an update at the hearing. For Member's information a copy of the e-mail including the wording of each suggested measure is included at **Appendix F**.

5.0 Objections

- 5.1 In considering any application for the renewal of a licence the authority shall have regard to any observations submitted by the chief officer of police and any other objections received.
- 5.2 Any objection must be provided in writing to the licensing authority, stating the grounds for objection and no later than 28 days after the date of the application.
- 5.3 The Act imposes no pre-qualifications on who may object to an application nor is there any constraint on the grounds upon which objections can be made. Objections may be set out in general terms.
- 5.4 However, the relevant grounds on which the authority may refuse an application are that the grant or renewal of the licence would be inappropriate having regard:

- (i) to the character of the relevant locality; or
- (ii) to the use to which any premises in the vicinity are put; or
- (iii) to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

5.5 The full options available to Members are set out at paragraph 9.1 of this report.

5.6 Members should note that objections may be accepted following the 28 day notice period. This is as a result of a case (Miss Behavin' Ltd v Belfast City Council) where the House of Lords held that while the Act required an authority to take account of objections lodged in time, it did have discretion to take into account late objections if these brought significant relevant information. At the time of writing this report all objections had been received within the notice period.

5.7 Parties will not be permitted to raise new matters in evidence at the hearing without the consent of all other parties.

5.8 In total, the application has attracted one objection from the organization Support After Rape and Sexual Violence Leeds. A copy of which can be found at **Appendix G** of this report.

5.13 No observations have been received from West Yorkshire Police concerning this application.

6.0 Licensing of Sex Establishments Statement of Licensing Policy.

6.1 The current Statement of Licensing Policy for Sex Establishments ("the Policy") was approved by Executive Board on the 17th July 2013 and came in to force on the 1st September 2013.

6.2 The Policy states that the appropriate number of sexual entertainment venues in the city centre is a maximum of four providing these premises are not near properties with sensitive uses or in sensitive locations.

6.3 The Policy states that sensitive uses are:

- Schools and other areas of education
- Play area/parks
- Youth facilities
- Residential area
- Women's refuge facilities
- Family leisure facilities such as cinemas, theatres and concert halls
- Places of worship
- Places used for celebration or commemoration
- Cultural leisure facilities such as libraries and museums
- Retails shopping areas
- Historic buildings

6.4 The Policy provides a list of sensitive locations:

- Millennium Square, Calverley Street
- City Square
- The area around the Combined Courts
- The Headrow, Eastgate
- East Parade, Park Row
- New Briggate, Briggate
- Albion Street, Woodhouse Lane
- Merrion Centre, Merrion Street
- Boar Lane
- New Station Street, Wellington Street

6.5 Officers have used their best endeavors to produce an additional map to identify any properties of sensitive use in the area. This may be found at **Appendix H**, although due to scaling and print quality further copies will be available at the meeting.

Nb: Sensitive premises identified from Google Maps.

6.6 The Policy includes standard conditions to be applied to all licences. Members may decide on a case by case basis whether any of the conditions may be dispensed with, added to or modified.

6.7 The standard conditions as set out in the current Policy may be found at **Appendix I**.

6.8 The Policy sets the hours of operation for sexual entertainment venues as follows:

*22:00 hrs until 04:00 hrs Sunday to Thursday
22:00 hrs until 05:00 hrs Friday and Saturday*

7.0 Other Matters Relevant to the Application

7.1 A sex establishment licence will remain in force for up to one year, or for a shorter period should the licensing authority think fit.

8.0 Options Available to Members

8.1 The licensing sub-committee in considering the application under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 may take any of the following steps it considers necessary:

- Grant the application as requested attaching the standard conditions.
- Grant the application whilst imposing additional conditions and/or altering the standard conditions (or altering in any way the proposed application).
- Refuse the application on the following mandatory grounds;
 - if the applicant is under the age of 18,

- if the applicant has a disqualification following the revocation of their licence
 - if the applicant is not-resident in an EEA state,
 - if the applicant is a company not incorporated in an EEA state,
 - if the applicant has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the applicant is made, unless the refusal has been reversed on appeal.
- Refuse the application on one or more of the following discretionary grounds:
 - That the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reasons;
 - That if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
 - That the number or sex establishments or of sex establishments of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - That the grant of renewal of the licence would be inappropriate, having regard:
 - To the character of the relevant locality; or
 - To the use to which any premises in the vicinity are put; or
 - To the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made

8.2 In paragraph 9.1 “the relevant locality” means:

- In relation to premises, the locality where they are situated; and
- In relation to a vehicle, vessel or stall, any locality where it is desirable to use it as a sex establishment

9.0 Equality and diversity implications

9.1 An Equality, Diversity, Cohesion and Integration Impact Assessment was adopted when the Statement of Licensing Policy was created.

9.2 S149 (1) Equality Act 2010 provides that a public authority must, in the exercise of its functions, have due regard to the need to -

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.3 The Statement of Licensing Policy sets out at paragraphs 7.27 and 7.28:

- 7.27 The council is aware that sex establishments tend to be predominantly marketed to men and that the licensing of these establishments must not encourage discrimination against women especially in regard to women who work at the premises, women who may wish to visit the premises or women who are using the area for other purposes but who may feel intimidated by the presence of such premises.
- 7.28 Accordingly, due regard has already been and will continue to be given during the review of this policy, to the determination of licences and the attaching of conditions.

9.4 In deciding on this application, Members of the licensing subcommittee will have regard for the Equality Act 2010 and Statement of Licensing Policy for the licensing of sex establishments.

10.0 Recommendation

10.1 Members are asked to consider the application for the renewal and variation of a sex establishment licence for the premises at First & Second Floors, 25 Crown Street, Leeds, LS2 7DA.

10.2 Members are asked to consider and if appropriate, approve the external appearance of the premises and all advertising material used to promote the business as set out at **Appendix D**.

10.3 Members attention is drawn to the objections received which are attached at **Appendix G**.

10.4 If Members are minded to approve this application, Members may consider it appropriate to attach the two additional conditions as set out in the objection of the local authority's senior liaison and enforcement officer.

11.0 Appendices

Appendix A	Copy of Current Licence
Appendix B	Redacted Application Form
Appendix C	Additional documents supplied with the application
Appendix D	External appearance/advertising information
Appendix E	Location map
Appendix F	Email Regarding Suggested Measures
Appendix G	Objection
Appendix H	Properties of Sensitive Use
Appendix I	Standard Conditions

12.0 Background Papers

None