

Report of the Chief Officer Elections and Regulatory

Report to the Licensing Sub Committee

Date: Tuesday 10th August 2021

Subject: Summary Review of the Premises Licence for Old Red Lion, York Road, Leeds, LS14 2AD

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Crossgates & Whinmoor	
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:		

Executive Summary

West Yorkshire Police have made an application under section 53A of the Licensing Act 2003, for the summary review of the premises licence in respect of Old Red Lion, York Road, Leeds, LS14 2AD.

West Yorkshire Police are of the opinion that these premises are associated with serious crime or serious disorder or both. The Licensing Authority is now under a duty to hold a review hearing in accordance with Section 53C of the Licensing Act 2003.

This engagement follows interim steps which Members carefully considered on the 16th July 2021. Members resolved to exclude the following licensable activities from the scope of the premises licence with immediate effect:

- The sale by retail of alcohol
- The performance of live music
- Entertainment similar to live music, recorded music or dance.

The narrative of this report sets out the background of the premises licence, the relevant law and highlights appropriate guidance for members. A recommendation is also made to Members that the premises licence is reviewed using their statutory powers.

Member must also have regard to reviewing the interim steps pending the appeal period to ensure appropriate and proportionate safeguards are in place at all times.

1.0 Purpose of this Report

- 1.1 This report informs the Members of the Licensing Sub-Committee of an application for a licence summary review made by the West Yorkshire Police in respect of Old Red Lion, York Road, Leeds, LS14 2AD. The application is made on the grounds of serious crime and disorder.
- 1.2 The Licensing Sub Committee now has the responsibility to review the premises licence held by Gibo & Jays Lions Den Ltd.

2.0 History of the Premises

- 2.1 On the 1st August 2005 an application by the licence holder at the time, Greene King Retailing Ltd, was made to convert and simultaneously vary the existing Justices' On Licence and Public Entertainment Licence in to a premises licence.
- 2.2 The variation aspect proposed to extend the hours for licensable activities and attracted representations from the Leeds City Council Environmental Protection Team, Leeds City Council Health & Safety Team, the three local ward councillors and 6 local residents with concerns mainly in relation to public nuisance.
- 2.3 The representations from the two responsible authorities suggested additional measures to promote the licensing objectives, however only the measures suggested by the Environmental Protection Team were agreed and incorporated in to the operating schedule resulting in the representations from the Health & Safety Team and other persons remaining.
- 2.4 The outstanding matters were considered by a Licensing Sub Committee on the 22nd September 2005, where Members of that committee resolved to grant the licence in part authorising all licensable activities Sunday to Thursday 11:00 until 23:00 hours, and Friday & Saturday 11:00 until midnight. The committee also imposed additional measures aimed at promoting the prevention of public nuisance and public safety, including a condition restricting the use of plastic glasses only in the beer garden/external areas.
- 2.5 On the 1st March 2006 an application was made to vary the premises licence. The application offered to reduce the hours for licensable activities as per the hours awarded under the Justice On Licence; Monday to Saturday 10:00 until 23:00 hours and Sunday 12:00 until 22:30 hours. On viewing the licensing record the application attracted a single representation from West Yorkshire Police which explained the police welcomed the variation to revert back to the original hours and theoretically indicating that discussion between the police and the Greene King Retailing Ltd had taken place, leading to the variation application being made.
- 2.6 The condition suggested by the police in their representation to the above application related to the permission sought for the sale by retail of alcohol during non-standard timings and Christmas Day. With the licence holder agreeing to the suggested wording of that condition, the police withdrew their representation and given that no outstanding matters remained the application was granted as requested, subject to the agreements reached.
- 2.7 On the 28th November 2017 an application to transfer the licence to the current licence holder, Gibo & Jays Lions Den Ltd, and an application to appoint the current DPS, Jacqueline Lightfoot, were received by the Licensing Authority. Neither

application attracted a representation from West Yorkshire Police and both applications were granted.

- 2.8 Gibo & Jays Lions Den Ltd submitted a minor variation application on the 7th August 2018 that proposed to remove the condition relating to the use of plastic glasses in the beer garden/external areas. The application also proposed to extend the opening hours of the premises on a morning from 8am to allow the serving of breakfast and also the removal of the embedded restriction relating to Christmas Day trading hours. The minor variation application was shared with West Yorkshire Police and Leeds City Council Environmental Protection Team due to the potential impact the application could have on the crime & disorder and public nuisance licensing objectives. Without the application attracting any comments from either authority or other persons, it is was granted as requested on the 28th August 2018.
- 2.9 On the 29th January 2019 an application to vary the premise licence was received by the Licensing Authority. The application proposed to vary the hours for recorded music, Monday to Saturday 09:00 – 23:00 hours and Sunday 09:00 until 22:30 hours. The application also proposed to vary the hours for alcohol sales on Sundays only, 09:00 until 23:00 hours, whilst all other licensable activities were to remain as existing.
- 2.10 During the consultation period the application was amended by the applicant and further to discussions with West Yorkshire Police. An agreement was reached that a condition be added to the licence that reads, 'between the hours of 09:00hrs and 11:00hrs every Sunday alcohol can only be sold and consumed ancillary to food'.
- 2.11 With no other matters outstanding the application was granted as requested, subject to the above condition added to the licence.

3.0 Main Issues

Application

- 3.1 An application for a summary review of the premises licence has been brought by West Yorkshire Police. A redacted copy of this application is attached at **Appendix A**. The licensing authority is in receipt of a signed copy of the application.
- 3.2 Members will note that in accompaniment of the application a certificate made under section 53(1B) of the Act, which confirms that a senior member of West Yorkshire Police is satisfied that these premises are associated with serious crime or serious disorder or both. A redacted version of the certificate can be found at **Appendix B** of this report and as above, the Licensing Authority is in receipt of a signed copy of the certificate.
- 3.3 Officers can confirm that signed versions of the application and certificate has been served on the premises licence holder and the responsible authorities. This is in line with requirements of the Licensing Act 2003 and took place, by e-mail, on receipt of the application on 14th July 2021, and additionally hand deliver direct to the premises the following day on 15th July 2021.
- 3.4 The licensing authority can confirm that the statutory requirements to advertise the review application have been followed.

The Interim Steps

- 3.5 At the interim steps hearing, the measures available to Members and considered were:
- The modifications of the conditions of the premises licence.
 - The exclusion of the sale of alcohol by retail from the scope of the premises licence.
 - The removal of the designated premises supervisor from the licence.
 - The suspension of the licence.
- 3.6 It was decided that exclusion of the sale by retail of alcohol, the performance of live music and entertainment similar to live music, recorded music or dance, was the most appropriate course of action, as The Committee did not want to prevent the business from functioning altogether. The Committee were of the view that to prevent the sale of alcohol, the provision of live music and similar entertainment was a proportional way of achieving this.
- 3.7 Further information on the resolution taken is contained within the Interim Steps decision notice attached at **Appendix C** of this report.

Representation

- 3.8 In accordance with Section 53B of the Licensing Act 2003, a premises licence holder may submit representation to the interim steps initially taken. In this instance, no such representation has been received.

4.0 Premises Licence

- 4.1 The premises licence holder is Gibo & Jays Lions Den Ltd.
- 4.2 A copy of the premises licence can be found at **Appendix D** of this report.

5.0 Designated Premises Supervisor

- 5.1 The Designated Premises Supervisor is Jacqueline Lightfoot.

6.0 Location

- 6.1 A map which identifies the location of the premises is attached at **Appendix E**.

7.0 Representations

- 7.1 Under the Act representations can be received from responsible authorities and/or other persons. Representations must be relevant and, in the case of another person, must not be frivolous or vexatious.

Representations from Responsible Authorities

- 7.2 The application has attracted representations from both the Licensing Authority and the Environmental Protection Team in their capacities as responsible authorities.
- 7.3 The representation made by the Licensing Authority supports the review sought by West Yorkshire Police. Carmel Brennand, Senior Liaison and Enforcement Officer,

is the author and provides a chronology of events linked to the premises and complaints received by the Entertainment Licensing Section. A copy of the representation and supplementary letter can be found at **Appendix F** of this report.

- 7.4 Also supporting the review application is the Environmental Protection Team, who have submitted a representation providing a chronology of nuisance complaints. A copy of this representation is available at **Appendix G**.

Other representations

- 7.5 The application has attracted representation from members of the public (described as 'other persons' in the legislation).
- 7.6 The licensing authority is in receipt of a total of 37 individual letters of objection which comprise of 34 representations in support of the premises on behalf of local residents/customers/employees of the premises, and 3 representations on behalf of local residents which support the police's application to review the premises licence.
- 7.7 A number of those representations have been received from members of the public who have expressed concern that they may be at risk of retribution should their details be made public. As such their personal details have been redacted and they will remain anonymous. For this reason, despite their strength of feeling they will not be attending the hearing and would like their representations to be considered fully in their absence.
- 7.8 In order to protect personal data, redacted copies of the representations supporting the premises are attached at **Appendix H**, whilst the representations supporting the review application are attached at **Appendix I**. Original copies will be circulated in advance of the hearing for Member's consideration.

8.0 Matters Relevant to the Application

- 8.1 In making their decision, Members may take into account the guidance issued by the Home Office in relation to summary licence reviews. Although this guidance is not provided under Section 182 of the Act, it will be of some assistance in reaching a conclusion in this matter. A copy of this guidance is attached at **Appendix J** of this report.

9.0 Options Available to Members

Determination of Summary Review

- 9.1 In the determination of this review the licensing subcommittee are required to take any of the following steps as it considers necessary for the promotion of the licensing objectives:
- To modify the conditions of the licence which includes adding new conditions or the alteration or omission of an existing conditions;
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding three months;
 - To exclude any licensable activity from the scope of the licence; and
 - To revoke the licence.

Review of the Interim steps

- 9.2 The licensing authority's determination does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged. Should the premises licence holder or applicant appeal the decision, the interim steps decision will remain in place until the appeal is decided or dispensed with. To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place and consider whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place or if they should be modified or withdrawn. The review of the interim steps should take place immediately after the determination under 53C has been reached. In making its decision the licensing authority must consider any relevant representations made. Members are directed to paragraphs 12.29 and 12.30 of the Section 182 Guidance.
- 9.3 In conducting the review under this section, the Members must –
- (a) Consider whether the interim steps are appropriate for the promotion of the licensing objectives;
 - (b) Consider any relevant representations; and
 - (c) Determine whether to withdraw or modify the interim steps taken.
- 9.4 Members may alternatively decide that no action is necessary and that the circumstances of review do not require the licensing subcommittee to take any steps to promote the licensing objectives.
- 9.5 Members of the licensing subcommittee are asked to note that they may not take any steps outlined above merely because they consider it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

10.0 Background Papers

- Guidance issued by the Home Office
- Leeds City Council Licensing Policy

Appendices

- Appendix A - Application Form
- Appendix B - Certificate
- Appendix C - Decision Notice
- Appendix D - Premises Licence
- Appendix E - Map
- Appendix F - Licensing Authority Representation
- Appendix G - Environmental Protection Team Representation
- Appendix H - Public Representations in Support of the Premises
- Appendix I - Public Representations in Support of the Application
- Appendix J - Summary Review Guidance