

Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 31st October 2011

**Subject: Application to Vary a Premises Licence in Respect of the High Farm,
Farrar Lane, Adel, Leeds, LS16 7AQ**

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

Summary of Main Issues

1. This is an application to vary a Premises Licence in respect of The High Farm, Farrar Lane, Adel, Leeds, LS16 7AQ.
2. Responsible Authorities have been served with copies of the application and Ward Members have been notified.
3. A hearing to determine this application took place on Monday 26th September 2011 and was adjourned at the Sub Committee's request.
4. On considering the application, the Committee noted that there was willingness from the applicant and residents to compromise on some aspects of the application. Members therefore adjourned the hearing until 31st October 2011 in order to allow further discussions to take place. A Residents' Meeting was organized for Tuesday 11th October 2011.
5. The Meeting took place at the premises with two members of Entertainment Licensing present to provide advice.
6. The hearing for this application has been reconvened with 2 of the 3 Councillors who heard the application initially, and in light of any agreement reached at the Residents' Meeting.

Recommendations

The Committee is asked to:

- consider the application and any relevant representations; and
- take any of the steps detailed at 5.2, if any, they consider necessary for the promotion of the licensing objectives.

1.0 Purpose of this Report

- 1.1 To advise Members of an application made under Section 34 of the Licensing Act 2003 ("the Act") to vary a Premises Licence in respect of the above mentioned premises.
- 1.2 Members are required to consider this application due to the receipt of representations.

2.0 Background Information

- 2.1 An application to Convert and Vary the existing Justices' On Licence into a Premises Licence was received during the transitional period on 5th July 2005.

The application attracted representations from Responsible Authorities and Interested Parties, requiring the Licensing Sub Committee to determine the application at hearing on 26th August 2005.

Prior to the hearing, measures were agreed with West Yorkshire Police, West Yorkshire Fire & Rescue Service, Health & Safety and Environmental Health, with the remainder of outstanding representations from Local Residents.

The Sub Committee considered all submissions, and resolved to grant the application as requested, subject to the agreements reached with the Responsible Authorities.

On 22nd December 2006, an application to vary the Premises Licence was submitted. It proposed to remove a condition relating the use of the external area beyond 23:00 hours, due to the introduction of the non-smoking legislation in 2007.

Representations were received from Environmental Health and Local Residents, but before the application was heard, the Premises Licence was transferred and the new Licence Holder withdrew the application.

An application for Minor Variation was received by the Licensing Authority on 31st December 2009, proposing the removal of a condition in relation to secure receptacles for the deposit of drugs and weapons.

West Yorkshire Police were consulted regarding this application and made no comments in return. Therefore, the Licensing Authority felt that the removal of this condition would not undermine the crime prevention objective, and the licence was duly granted as requested.

2.2 A copy of the existing licence (including all conditions) is attached at **Appendix A** of this report.

3.0 Main Issues

3.1 The applicant is Marston's PLC.

3.2 The location of the premises can be found on the maps attached at **Appendix B**.

3.3 A copy of the application is attached as **Appendix C** to this report. For the assistance of members, the Operating Schedule shows:

3.3.1 Proposed licensable activities

Sale by retail of alcohol
Provision of late night refreshment
Exhibition of a film
Indoor sporting events
Performance of live music
Performance of recorded music
Performance of dance
Provision of facilities for making music
Provision of facilities for dancing

3.3.2 Proposed hours of licensable activities

The proposed hours of licensable activities are as follows:

Sale by retail of alcohol	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	23:00 - 23:30
Provision of late night refreshment	
Monday to Thursday	23:00 - 00:00
Friday & Saturday	23:00 - 02:00
Sunday	23:00 - 23:30
Exhibition of a film	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30
Indoor sporting events	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30

Performance of live music	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30
Performance of recorded music	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30
Performance of dance	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30
Provision of facilities for making music	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30
Provision of facilities for dancing	
Monday to Thursday	10:00 - 00:00
Friday & Saturday	10:00 - 02:00
Sunday	12:00 - 23:30

3.3.3 Proposed Times when the Premises is Open to the Public

The premises propose to open to the public between the following hours

Monday to Thursday	10:00 - 00:30
Friday & Saturday	10:00 - 02:30
Sunday	12:00 - 00:00

3.3.4 Steps to promote the Licensing Objectives

The applicant proposes to take the steps identified in section “P” of the application form to promote the Licensing Objectives.

3.4 Proposed Designated Premises Supervisor

Christina Margaret Groves is to remain as the Designated Premises Supervisor.

3.5 Relevant Representations

3.5.1 Under the Act representations can be received from Responsible Authorities or Interested Parties. Representations must be relevant and, in the case of an Interested Party, must not be frivolous or vexatious.

3.5.2 Interested Parties have made the following representations:

- **Councillor Barry Anderson**
Councillor Anderson is acting as a representative for his local constituents. Members are invited to consider **Appendix D** of this report.
- **Councillor Sue Bentley**
Councillor Bentley's representation is submitted in the role of an Interested Party. Member's attention is drawn to **Appendix E**.
- **Petition**
A Local Resident has submitted a representation including the names, addresses and signatures of other residents. Members are invited to consider **Appendix F** of this report.
- **Local Residents**
Members are invited to consider **Appendix G** of this report.

3.5.3 Any representations may be agreed prior to the hearing. In this instance the Operating Schedule has been amended to include agreed measures with the following Responsible Authorities:

- **Environmental Health**
Members are invited to consider **Appendix H** of this report.

3.6 Adjournment

3.6.1 This application was initially brought before the Licensing Sub Committee on Monday 26th September 2011. Members observed that residents were agreeable to some extension of hours, but concerned about the frequency and extent of those. Likewise the Licence Holder was willing to compromise on some aspects of the application.

Members therefore stood down the application to allow all parties to have a further discussion and to establish whether an agreement could be reached with regard to a closing time earlier than 02:00 hours, or for activities to take place on Saturday nights only rather than Fridays and Saturdays.

The parties reported back that more time was required for the discussion to take place. Members consequently adjourned the hearing to Monday 31st October 2011 when the Committee is scheduled to consist of 2 of the 3 Councillors who heard this application initially.

It was agreed with all parties that a Residents Meeting to be held at the premises on Tuesday 11th October was the best way to fully discuss the application.

The meeting went ahead as planned with Councillor Bentley and Anderson present, a wealth of support from residents and Entertainment Licensing's

Principal Licensing Officer and an Enforcement Officer on hand to provide licensing advice.

Members' attention is drawn to a briefing note of the meeting, attached at **Appendix I**.

3.7 Matters Relevant to the Application

3.7.1 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;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

3.7.2 In the making of their decision Members are obliged to have regard to the national guidance and the council's licensing policy. Members will be aware they must also have regard to the relevant representations made and evidence they hear.

4.0 **Corporate Considerations**

4.1 Consultation and Engagement

4.1.1 The application was subject to a 28 days consultation period in accordance with the Licensing Act 2003. Blue site notices were placed by the applicant on the premises and these were checked by Liaison and Enforcement Officers during the consultation period. The application was advertised in a newspaper circulating in the local area. Representations received during this 28 day consultation.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 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.

4.3 Council Policies and City Priorities

4.3.1 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.

4.3.2 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

4.3.3 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

4.4 Resources and Value for Money

4.4.1 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, due to receive Royal assent in November 2011, may allow local authorities to set their own fees in the future based on full cost recovery.

4.5 Legal Implications, Access to Information and Call In

4.5.1 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.

4.6 Risk Management

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

5.0 Conclusions

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

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

- Grant the variation application as requested;

- Grant the variation application whilst imposing additional conditions and/or altering in any way the proposed operating schedule;
- Exclude any licensable activities to which the application relates; or
- Reject the whole or part of the application.

5.3 Members of the licensing sub committee are asked to note that they may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

6.0 Recommendations

6.1 The committee is asked to:

- consider the application and any relevant representations; and
- take any of the steps detailed at 5.2, if any, they consider necessary for the promotion of the licensing objectives.

7.0 Background Papers

7.1 Guidance issued under s182 Licensing Act 2003

7.2 Leeds City Council Licensing Policy