

Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 10th 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 3rd September until the 24th September. However due to an adjournment at the magistrates court the hearing date was further deferred to the 12th November. At the hearing on the 12th 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 17th 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 3rd 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

