

## Report of the Head of Licensing and Registration

### Report to Licensing Committee

**Date:** 15<sup>th</sup> July 2013

**Subject:** Update on applications received under the Licensing Act 2003 and Gambling Act 2005 between January 2013 and May 2013

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

1. This report provides detail of licence applications processed by Entertainment Licensing under both the Licensing Act 2003 and Gambling Act 2005.

### Recommendations

2. That Licensing Committee note the contents of the report.

#### 1.0 Purpose of this report

- 1.1 To inform the Licensing Committee of applications for new or variations to existing premises licences under the Licensing Act 2003 and Gambling Act 2005 and the outcome of those applications.

#### 2.0 Background information

- 2.1 Entertainment Licensing receives applications under the Licensing Act 2003 and Gambling Act 2005 for new premises licenses and variations to existing licences.
- 2.2 Applicants are required to advertise for a 28 day notice period during which time representations can be received from responsible authorities, other persons and, in the case of gambling applications, interested parties.

## 2.3 Licensing Act 2003

2.4 The Licensing Act 2003 provides a clear focus of the promotion of four statutory objectives which must be addressed when licensing functions are undertaken. These four licensing objectives are:

- The prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

2.5 Under the Licensing Act 2003 the representations may be made by a responsible authority or any other person, this includes any individual, body or business regardless of their geographic proximity to the premises. For a representation to be relevant it must relate to one or more of the licensing objectives and not considered to be frivolous, vexatious or repetitious.

## 2.6 Gambling Act 2005

2.7 The Gambling Act requires licensing authorities to have regard to three statutory licensing objectives when exercising their functions. These three objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.8 Section 153 of the Gambling Act 2005 sets out the principles to be applied by the licensing authority, which is to aim to permit the use of premises for gambling so far as the authority think the application is in accordance with any relevant code of practice or guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with the authority's statement of licensing policy.

2.9 Under the Gambling Act 2005 representations may be made by responsible authorities or interested parties. For the purpose of this Act an interested party is a person who:

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- (b) has business interests that might be affected by the authorised activities
- (c) represents persons in either of these two groups

2.10 For a representation to be admissible it must be received from either of these two groups and the authority must determine its relevance. The only representations that are likely to be relevant are those that relate to the licensing objectives, or that raise issues under the licensing authority's statement of licensing policy, or the Gambling Commissions guidance or codes of practice.

- 2.11 Representations must not be vexatious or frivolous, or will certainly not influence the authority's determination of the application.
- 2.12 In all instances, ie both the Licensing Act 2003 and Gambling Act 2005, where no representations are received the licensing authority must grant the application. This is carried out in accordance with the officer delegation scheme.
- 2.13 At the request of Licensing Committee Members, in order to avoid the necessity for hearings under the Licensing Act 2003 where representations can be resolved, officers now liaise with applicants and relevant parties to agree additional control measures. This may result in an amendment to the application and/or additional measures (conditions) to satisfy concerns
- 2.14 Upon amendment of an application to the satisfaction of all parties the representation may be withdrawn.
- 2.15 Applications will be brought before the Licensing Sub-Committee where there is an outright representation or where the concerns would not benefit from a liaison meeting.

### **3.0 Main issues**

- 3.1 This report presents a summary of the applications processed between January 2013 and May 2013.
- 3.2 The following table provides a summary of the number of applications processed during the said reporting process. Fuller information may be found in the following paragraphs and appendices to this report.
- 3.3 Licensing Act 2003

Total number of applications	72
Applications with no representations (granted by officer delegation)	26
Applications with representations resolved prior to a hearing	31
Number of applications withdrawn	3
Number of hearings	9
Number of pending hearings	3
Applications granted at hearing	6
Applications refused at hearing	3

### 3.4 Gambling Act 2005

Total number of applications	4
Applications with no objections (granted by officer delegation)	3
Applications with objections resolved prior to a hearing	N/A
Number of applications withdrawn	N/A
Number of hearings	1
Number of pending hearings	0
Applications granted at hearing	1
Applications refused at hearing	0

### 4.0 Licensing Act 2003 Cumulative Impact Policies and applications received

- 4.1. The Councils statement of Licensing Policy (Licensing Act 2003) designates five areas of the Leeds district which are subject to cumulative impact policies. These areas are as follows:

Area 1 – City Centre  
Area 2 – Headingley/Hyde Park  
Area 3 – Woodhouse  
Area 4 – Chapel Allerton  
Area 5 - Horsforth

- 4.2 Members attention is drawn to Appendix A1 and A2 of this report which sets out details of applications received within the Area 1 (City Centre) and Area 2 (Headingley) Cumulative Impact Policy areas.
- 4.3 Members' will note that no applications were received in Cumulative Impact Areas 3, 4 and 5 during this reporting period.

### 5.0 Licensing Act 2003 South Leeds Local Area Guidance and applications received

- 5.1 Members' may recall that Local Licensing Guidance was recently introduced in respect of the South Leeds area, following the Joint Strategic Needs Assessment conducted by NHS Leeds in 2012 where it was identified that life expectancy in the Leeds10 and 11 areas is lower than other areas of Leeds. The three contributory factors to a reduced life expectancy being alcohol, obesity and smoking.
- 5.2 Applicants for licences under the Licensing Act 2003 will be requested to have regard to this guidance and for the suggested measures contained therein to be considered when developing their licence applications.
- 5.3 Details of applications in the Leeds 10 and 11 areas are set out at Appendix B.

## **6.0 Licensing Act 2003**

### **Applications received throughout remaining Leeds districts**

6.1 At Appendix C to this report Members will find details of the applications received for the remaining areas of the Leeds district which are not subject to a cumulative impact policy or local area guidance.

## **7.0 Licensing Act 2003**

### **Temporary Event Notices**

7.1 In addition to the attachment Members will be interested to know that within the same reporting period the Licensing Authority received 592 Temporary Event Notifications (TEN's) under the Licensing Act 2003.

7.2 A TEN is a notice by a premises user that they intend to use the premises for an occasional licensable activity.

7.3 Only the police or environmental health may make representations against a TEN. In the case of a normal TEN (where 10 working days' notice have been supplied) any TEN subject to representation will require a hearing before the Licensing Sub-Committee.

7.4 A 'late' TEN (where the notice is given between 5 and 9 working days prior to the event) attracting representations will be issued with a counter notice preventing the event from going ahead.

7.5 Within the stated reporting period the Licensing Authority has issued one counter notice for a TEN scheduled to be held in the LS6 area.

7.6 In addition five TEN's have been withdrawn following the receipt of objections.

## **8.0 Gambling Act 2005**

### **Applications received throughout whole Leeds district**

8.1 Appendix D to this report provides details of the applications received under the Gambling Act 2005.

## **9.0 Corporate Considerations**

### **9.1 Consultation and Engagement**

9.1.1 New premises licence applications and full variations to existing licences are subject to a 28 day consultation period.

9.1.2 The consultation period is advertised by the display of a site notice at the premises and an advert in a local newspaper.

### **9.2 Equality and Diversity / Cohesion and Integration**

9.2.1 The council has adopted statements of licensing policies (Licensing Act 2003 and Gambling Act 2005) which sets out the principals the council will use to exercise its functions. The policies are developed with matters of equality, diversity and human rights taken into consideration. Policies are regularly reviewed in line with the legislation. The council has completed equality, diversity, cohesion screening and impact assessments with regards to the consultation process undertaken during the review of the policy.

### **9.3 Council Policies and City Priorities**

9.3.1 When determining applications under the Licensing Act 2003 and the Gambling Act 2005 the Licensing Authority must have regard to the relevant legislation, guidance issued by the Home Office (Licensing Act) and the Gambling Commission (Gambling Act), the council's own statement of licensing policies and any associated local area guidance appertaining to the relevant licensing function.

9.3.2 Applicants are expected to have had consideration to the relevant policy and any local area guidance when completing their applications and the licensing authority will refer to the policy/local area guidance when making its decision.

9.3.3 The licensing regimes contribute to the following outcomes as set out in the Best Council Plan 2013-17:

- Improve the quality of life for our residents, particular those who are vulnerable or in poverty;
- Make it easier for people to do business with us; and
- Achieve the savings and efficiencies required to continue to deliver frontline services.

Best Council Objectives:

- Building a child friendly city – improving outcomes for children and families
- Promoting sustainable and inclusive economic growth – improving the economic wellbeing of local people and businesses
- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city

### **9.4 Resources and Value for Money**

9.4.1 Licence compliance underpins the licensing regime and Entertainment Licensing ensures compliance through liaison with licence holders, multi-agency partners and communities of Leeds.

### **9.5 Legal Implications, Access to Information and Call In**

9.5.1 All information provided in this report is publicly accessible and there is no legal implication to the recommendations of this report.

### **9.6 Risk Management**

9.6.1 As this is an advisory report there are no risks associated.

## **10 Recommendations**

10.1 That members note the contents of the report.

### **Background Papers**

Licensing Act 2003

Statement of Licensing Policy 2011-2013 Licensing Act 2003

Gambling Act 2005

Statement of Licensing Policy 2013-15 Gambling Act 2005