



Committee: LICENSING ACT SUB-COMMITTEE

Date: TUESDAY, 1 APRIL 2014

Venue: LANCASTER TOWN HALL

Time: 12.30 P.M.

A G E N D A

1. **The Ivory Lounge, 25 North Road Lancaster** (Pages 1 - 36)

Application to Transfer a Premises Licence

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Mike Greenall (Chairman), Helen Helme and Roger Sherlock

(ii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone: (01524) 582068 or email jglenton@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Tuesday, 25 March 2014.

Meeting of: LICENSING ACT SUB-COMMITTEE

Date: 1ST APRIL 2014

Report of: LICENSING MANAGER

Reference: WP

Title: THE IVORY LOUNGE, 25 NORTH ROAD, LANCASTER

APPLICATION TO TRANSFER PREMISES LICENCE

Members of the Sub-Committee have the following documents attached to this report:

- 1. Application Form (pages 5 to 10)**
- 2. Copy of representation from the Lancashire Constabulary with requested conditions (pages 11 to 28)**
- 3. Copy of Current Premises Licence (pages 29 to 31)**
- 4. Notice of Hearing (pages 32 to 35)**

Details of Application

Minted Leisure Ltd, trading as Dirty Buddha Nightclub, have submitted an application under Section 42 of the Licensing Act 2003 to transfer the premise licence for The Ivory Lounge, 25 North Road, Lancaster. The applicants applied for the application to have immediate effect in accordance with Section 43, and as such are currently trading at the premises and have changed the name of the premises to The Dirty Buddha Nightclub

Section 43 of the Licensing Act 2003 prescribes the circumstances under which a transfer application should have interim effect. Section 43 (1) prescribes that where –

- (a) An application made in accordance with section 42 includes a request that the transfer have immediate effect, and
- (b) The requirements of this section are met,

then, by virtue of this section, the premise licence has effect during the application period as if the applicant were the holder of the licence.

The requirements as prescribed by section 43(1)(b) above mean that an application for the transfer to have immediate effect can only be made with the consent of the holder of the premise licence. That requirement has been met in this instance.

Details of the application to transfer the premises licence are set out in the application form, which is Document 1 attached to this report.

Representations

Under Section 44 of the Act, it is necessary for a hearing to be held to consider the application, as representations have been received from Lancashire Constabulary under Section 42 (6) and (7) stating that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective.

A copy of the representation is attached at document 2

Notice of Hearing

In accordance with the relevant Regulations, the parties have been given notice of the hearing. It was not felt necessary to request any clarification from the parties. The parties have been required in accordance with the Regulations to indicate at least five working days before the hearing whether they intend to attend and/or be represented at the hearing and if they wish any witness to appear at the hearing. Any responses and any further documentation submitted by any of the parties after the circulation of this agenda will be circulated to Members in advance of the meeting. Members are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of the Sub-Committee and all the parties.

Matter for Decision

The Sub-Committee is requested to consider the application and the representation.

This is in accordance with Section 44 (5)) of the Act which provide as follows:

Where a notice is given under Section 42(6) (and not withdrawn), the authority must

- (a) Hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
- (b) Having regard to the notice, reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so.

Relevant Parts of the Council's Statement of Licensing Policy

14.0 The prevention of crime and disorder

14.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.

14.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.

14.3 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that

a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.

14.4 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:

- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
- Use of metal detection or other search equipment or procedures
- Crime and disorder risk assessment in relation to the proposed activities
- Measures to prevent the use or supply of illegal drugs and procedures for searching customers
- Ensuring that all staff are appropriately trained
- Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder
- Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of doorstaff required for the particular premises.
- Ensuring that a register of door staff and their working times is maintained
- Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.
- Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
- Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.
- Adopting the "Night Safe Initiative" and "Safer Clubbing Guide" as statements of best practice
- Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
- Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
- Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
- Maintaining an incident log
- The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters

or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.

- Glasses and glass bottles can be dangerous weapons. As such the Licensing Authority would encourage the use of polycarbonate glasses, in premises. Where a particular issue has been highlighted, particularly if the premises has been brought to review by a responsible authority, a condition to this effect may be imposed.
- It is important that that glasses and bottles are frequently collected to ensure that empty containers do not accumulate in or around the licensed premises. Staff also must prevent the removal of bottles or glasses from the curtilage and grounds of licensed premises, to prevent them being used to cause harm.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

- 14.5 Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person's known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.

Members will of course be mindful that the Policy covers all types of premises in all types of location, and that not all the measures referred to above will be relevant to all premises.

Members are reminded that they should consider each application on its merits, and in the light of all the written and oral information before them at the hearing.

Natural Justice and Human Rights

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and disorder, or for the protection of the rights and freedoms of others. Article 1 of the First Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

Conclusion

Members should consider whether to grant the application to transfer the premises licence, modify any conditions of the licence or, if the exceptional circumstances of the matter require it, to reject the whole or part of the application. Members are reminded that they should state the reasons for their decision.

Document is Restricted

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LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside

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Premises Licence Summary

LAPLWA0643

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION

The Ivory Lounge

25 North Road, Lancaster, LA1 1NS.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- provision of late night refreshment
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
A. Performance of a play (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
B. Exhibition of films (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
C. Indoor sporting event	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00





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Premises Licence Summary

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THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
D. Boxing or wrestling entertainment (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
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E. Performance of live music (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
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F. Playing of recorded music (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
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G. Performance of dance (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
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H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
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I. Late night refreshment (Indoors)	Monday - Wednesday	23:00	04:00
	Thursday - Saturday	23:00	05:00
	Sunday	23:00	04:00
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J. Supply of alcohol for consumption ON the premises only	Monday - Wednesday	14:00	04:00
	Thursday - Friday	14:00	06:00
	Saturday	14:00	08:00
	Sunday	14:00	04:00
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THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday - Wednesday	14:00	04:30
Thursday - Friday	14:00	06:30





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Premises Licence Summary

LAPLWA0643

THE OPENING HOURS OF THE PREMISES continued ...

Description	Time From	Time To
Saturday	14:00	08:30
Sunday	14:00	04:30

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Minted Leisure Limited
498 Blackpool Road, Preston, Lancashire, PR2 1HY.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Minted Leisure Limited 08849482

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Matthew BARRON

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED



LANCASTER CITY COUNCIL

**LICENSING ACT 2003 AND THE LICENSING ACT 2003 (HEARINGS)
REGULATIONS 2005**

NOTICE OF HEARING

To: The Applicant: Minted Leisure Trading as Dirty Buddha Nightclub

Responsible Authority: Lancashire Constabulary

THE LANCASTER CITY COUNCIL, AS LICENSING AUTHORITY, HEREBY GIVES YOU NOTICE that a hearing before a Sub-Committee of the Licensing Act Committee to consider a relevant representation in respect of an application under Section 42 of the Licensing Act 2003 to transfer a premise licence will take place on the **1st April 2014** at Lancaster Town Hall, commencing at 12.30am.

AND TAKE NOTICE THAT each party as listed above is required to give to the Licensing Authority by no later than five working days before the day of the hearing a notice in writing stating whether that party intends to attend or be represented at the hearing, and whether he or she considers a hearing to be unnecessary.

AND TAKE NOTICE THAT if a party wishes any other person (other than the person he/she intends to represent him at the hearing) to appear at the hearing, the notice given by that party and referred to in the preceding paragraph must contain a request for permission for such other person to appear at the hearing, and must set out details of the name of that person and a brief description of the point or points on which that person may be able to assist in connection with the matter to be considered by the Sub-Committee.

GIVEN this 12th day of March 2014 by the Lancaster City Council as Licensing Authority.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

1. Right of attendance, assistance and representation

A party may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.

The hearing will generally take place in public. However, the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking part in public. In such circumstances, a party and any person assisting or representing a party may be treated as a member of the public. The Sub-Committee will exclude the public (and the parties and their representatives) during the decision making process.

The Sub-Committee may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing, and may refuse to permit that person to return, or permit him to return only on such conditions as the Sub-Committee may specify. However, such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which he would have been entitled to give orally had he not been required to leave.

2. Representations and Supporting Information

At the hearing a party shall be entitled to:

- (a) Give further information as applicable in response to a point upon which notice has been given to that party that clarification is required. (Note – if such clarification is required from a party this will have been indicated in the Notice of Hearing).
- (b) Question any other party, but only if given permission by the Sub-Committee; and
- (c) Address the Sub-Committee

3. Failure of Parties to attend the Hearing

If a party has given notice that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or hold the hearing in the party's absence. If the hearing proceeds in a party's absence, the Sub-Committee will consider and give appropriate weight to the application, representation or notice given by that party in their absence.

4. Representations and Evidence

A party who wishes to rely on information or documentary evidence that has not been submitted in advance of the issue of the Notice of Hearing should ensure that such information or evidence, together with sufficient copies for all the parties, is submitted to the Licensing Manager as soon as possible before the day of the hearing.

Parties are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of all the other parties.

A party who wishes to produce audio/visual evidence should make such evidence available as soon as practical, and should give a minimum of two clear working days notice to the Licensing Manager to facilitate arrangements for the appropriate equipment to be available at the hearing.

5. Procedure

A summary of the procedure that will normally be followed at the hearing is enclosed.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all hearings.

However, depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to):

- Whether to proceed in the absence of a party
- Whether to admit new documents/information submitted at the hearing
- Whether it is in the public interest to exclude members of the public from the hearing or any part of the hearing (other than the decision making process)
- Whether any party wished to withdraw representations previously submitted

6. Special Needs

Any person who intends to attend a hearing and who has special needs, for example in connection with access, language, hearing or vision, should inform the Licensing Manager as soon as practical prior to the day of the hearing, so that appropriate provision or arrangements may be made.

PROCEDURE TO BE FOLLOWED AT HEARINGS TO WHICH THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 APPLY

1. The Chairman will introduce the Members and the Legal Adviser and Democratic Support Officer.
2. The Chairman will ask the parties to introduce themselves and any persons with them.
3. The Chairman will confirm that there is no reason why any of the three sub-committee Members should not participate in this matter.
4. The Chairman will confirm that this is a discussion led by the authority, that any questions should generally be put through the Chairman, and that cross-examination will only be permitted if the Sub-Committee considers that it is necessary.
5. The Chairman will ask the parties if they have any requests to cross-examine, and such requests will be considered by the Sub-Committee.
6. The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
7. The Chairman will explain to the parties that the procedure to be followed will be the published one (unless the circumstances of the case require the normal procedures to be varied) – that is,
 - that the Licensing Manager (or his representative) will introduce the details of the application, the reason for the hearing, and the documentation,
 - that each party making representations will address the sub-committee in turn and will call other persons where permission has been given
 - that the applicant/licence holder will present his case and will call other persons where permission has been given
 - that Members may ask questions of all parties and persons
 - that questions from the parties must be directed through the Chairman unless cross-examination has been permitted under 4 above
 - that all parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word
 - that the Sub-Committee will withdraw to make its decision and formulate the reasons for the decision in private, and will ask its Legal Adviser and the Democratic Support Officer to join it in order to assist in documenting the decision and the reasons, or to provide clarification on any point. The decision will be announced in public and confirmed in writing. (In certain circumstances, the decision may not be made on the same day as the hearing). In the event that the Legal Adviser has been asked for clarification on any point then the point raised and the advice given will be declared to all parties.
8. The Chairman will indicate the maximum period of time each party will be allowed in which to present their case, and will seek comments from the parties before the Sub-Committee makes its final indication on this point.
9. The hearing will then proceed following the procedure in 7 above. The Chairman will arrange for reasonable comfort breaks throughout the hearing.