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Meeting	Licensing Hearing
Date	5 February 2015
Present	Councillors Boyce, Crisp and McIlveen
In Attendance	Councillor Gunnell

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**44. Chair**

Resolved: That Councillor Boyce be elected as Chair of the meeting.

**45. Introductions****46. Declarations of Interest**

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda. None were declared.

**47. The Determination of an Application by Mr Andrew Elliott to Vary a Premises Licence Section 35(3)(a) in respect of Mansion Nightclub, 53-55 Micklegate, York, YO1 6LJ. (CYC-009397)**

Members considered an application by Mr. Andrew Elliot to vary a premises licence.

In coming to their decision, Members took into consideration all of the evidence and the submissions that were presented to them and determined their relevance to the issues raised and the Licensing objectives. The following were taken into account:

1. The application form in particular the operating schedule and the additional steps agreed to be taken by the applicant to promote the licensing objectives.

2. The Licensing Manager's report and her comments made at the Hearing. She had advised that the application was to vary a premises licence to extend some licensable activities to 05:00, the supply of alcohol to 04:30 and the opening hours to 05:00. The applicant had mediated a number of conditions with the Council's Environmental Protection Unit. The premises are located within the Cumulative Impact Zone (CIZ). Consultation had been carried out correctly. Consultation had been carried out successfully.
3. The applicants Solicitors representations made at the hearing in which he advised that in his opinion, the Council's policy is very clear in that the rebuttable presumption does not apply for applications that seek to extend licensed hours and as such, the application should be treated on an individual basis. He advised that the application had been made in order to enhance the business and to compete with other premises in the area that have longer opening hours. It was the intention of the venue to host international acts and to become a destination venue. The venue is well run and the calls made to the police refer to thefts and incidents against staff that had been reported by the management rather than indicating there is a serious crime problem.
4. The representations made in writing and at the hearing by North Yorkshire Police. The Police Legal Adviser submitted that as the premises is located within the CIZ, the rebuttable presumption should apply. Concerns were raised about the pressure upon Police resources should the premises be allowed to open until 5am. However, the police confirmed that they had no specific complaints in relation to the management of the premises and no evidence of crime and disorder resulting from the particular premises.
5. The comments made by Councillor Gunnell as Ward Member, who asked for the concerns of adjacent residents to be taken into consideration to ensure that any disturbance was kept to a minimum. She advised that residents and local businesses work hard to encourage

vitality and business in the area and a balanced approach between the night time economy and the local community is required.

4. Written representations made by local residents in writing.

In coming to their decision the Sub-Committee considered the following options:

- Option 1 Grant the variation of the licence in the terms applied for.
- Option 2 Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
- Option 3 Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
- Option 4 Reject the application.

In coming to their decision of approving the above **Option 2** the Sub-Committee added the following conditions as suggested by the applicant and as agreed with the council's environmental protection unit.

1. There will be no entry / re-entry to the premises (save for persons who have gone to the designated smoking area) after 04:00.
2. A CCTV system will be installed and maintained at the premises. Images will be retained for a minimum period of 28 days and be made available to officers of the responsible authorities on request.
3. The outside smoking area will be monitored by a designated member of staff whose duty it is to ensure that no disturbance is caused by those using the smoking area.
4. The premises will operate a written queuing and dispersal policy to ensure customers leave quietly. That policy will be operated and a copy made available to officers of the responsible authorities on request.

5. Bottle bins will be emptied between 09:00 and 23:00.
6. Notices will be displayed at the Micklegate exit asking customers to leave the premises quietly.
7. During the operation of amplified equipment and regulated entertainment all doors, including fire doors, shall be kept shut when not in use. With the exception to the front door which may remain open during opening hours, providing that the noise emanating does not cause a nuisance to any noise sensitive premises.
8. All windows and doors opening onto the rear car park area of the premises shall be kept closed during regulated entertainment. Except for any door used for access which forms a lobby consisting of a minimum of 2 doors, one at each end of the lobby. These lobby doors shall be kept closed except for ingress and egress and fitted with a self closing device.
9. Notices will be displayed in the car park asking customers to have regard for neighbours by leaving the area quietly.
10. All music shall be played via a noise limiting device to be agreed with City of York Council's Environmental Protection Unit prior to use.
11. Prominent, clear and legible signs shall be displayed in the DJ area to inform DJs that all music is to be played through the noise limiter provided.
12. An alarm system shall be installed and be operational during hours of opening to the public which alerts staff when the rear fire door has been opened.
13. Prominent, clear and legible notices shall be displayed on all fire exits stating that fire exits are for emergency use only.
14. Documented patrols shall be carried out by members of staff at no less than hourly intervals during the hours of opening to the public. The documentation for the patrols shall be made in the course of the patrol or on the completion of each patrol. These checks shall be undertaken outside the building to the front and rear to check for noise from inside the premises and noise from Customer's outside the venue to ensure compliance with

condition 13. The patrol documents shall be kept for a minimum of 3 months and made available to the Licensing Authority or any responsible authority on reasonable request.

15. Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years.
16. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
17. No music or amplified sound shall be audible at the boundary of the car park to the rear of the premises.
18. During hours the premises is open to the public, fire doors shall be fitted with non-locking restrictions which prevent their opening except in an emergency.

#### REASON FOR THE DECISION:

The Sub-Committee resolved that the application for a variation be granted subject to additional conditions. The Sub-Committee considered the application on its own merits. Whilst the premises are within the Cumulative Impact Zone the Statement of Licensing Policy 2014 does not apply a rebuttable presumption against granting a licence when considering a variation to extend licensing hours.

There was insufficient evidence from the Police Representatives to show that the variation of the licence would undermine the licensing objective of the prevention of crime and disorder.

Having regard to the submissions made on behalf of the applicant, the Sub-Committee were satisfied that the operation of the premises with the additional conditions would promote the licensing objectives.

Resolved: That in line with Option 2 the licence variation be granted.

Reason: To address the representations made in writing and at the hearing.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 12.45 pm].