

Licensing Act 2003 Sub Committee

8 February 2018

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for Revolucion de Cuba, New Street, York, YO1 8ND

Summary

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-060019
3. Name of applicant: Revolucion de Cuba Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The proposal is to allow for the provision of the following activities:

Proposed Activity	Timings
Live Music (indoors)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00
Recorded Music (indoors)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00
Performances of Dance (indoors)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00

Late Night Refreshment (indoors)	Sunday to Wednesday 23:00 – 00:30 Thursday 23:00 – 01:30 Friday & Saturday 23:00 – 02:30
Sale of alcohol (on & off sales)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00
Opening times	Sunday to Wednesday 10:00 – 00:30 Thursday 10:00 – 01:30 Friday & Saturday 10:00 – 02:30
Non-Standard Timings for all licensable activities	From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. An additional hour on the evenings preceding a Bank Holiday. An additional hour on the day British Summer Time begins.

Background

6. A copy of the application is attached at Annex 1. A copy of the plan of the premises is attached at Annex 2.

Promotion of Licensing Objectives

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General
 - 1) Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the licensing objectives.

9. The prevention of crime and disorder

- 1) A CCTV system shall be maintained and operated at the premises with cameras positioned both internally and externally.
- 2) Recorded CCTV images will be maintained and stored for a period of 28 days and shall be produced to the Police or Licensing Authority upon request.
- 3) CCTV will be in operation at any time a person is in the premises. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard PC or DVD player.
- 4) Any person left in charge of the premises must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.
- 5) SIA registered door supervisor(s) will be employed every Friday and Saturday from 21:00 until close. At all other times SIA registered door supervisor(s) shall be employed at the premises at such times and in such numbers as a risk assessment, to be carried out by the DPS, deems necessary to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity. When employed, door staff will wear high visibility armbands.
- 6) SIA registered door supervisor(s) will be employed on all race days (unless prior consent has been obtained from the police that SIA are not required), from 17:00 until close.
- 7) When employed, a register of those door staff employed shall be maintained at the premises and shall include:
 - i. The number of door staff on duty;
 - ii. The identity of each member of door staff;
 - iii. The times the door staff are on duty.
- 8) Staff will be trained in the laws relating to underage sales, and that training shall be documented and repeated at 6 monthly intervals.
- 9) A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.
- 10) A representative of the premises will engage in any Pub Watch arrangement.

- 11) A member of staff will be responsible for monitoring the toilets on a regular basis from 19:00 to close Thursday to Saturday.
- 12) A full meals menu and waiter/waitress service shall be available at the premises.

10. Public Safety

- 1) A first aid box will be available at the premises at all times.
- 2) Regular safety checks shall be carried out by staff.
- 3) Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
- 4) The premises shall maintain an Incident Log and public liability insurance.
- 5) One pint and half pint capacity drinking glasses and highball tumblers shall be of strengthened glass.

11. The Prevention of Public Nuisance

- 1) Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
- 2) No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to nuisance.
- 3) The exterior of the building shall be cleared of litter at regular intervals.
- 4) Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.
- 5) Doors and windows at the premises will be closed, after 23:00 daily, save for access and egress.
- 6) A Dispersal and Smoking Policy will be implemented and adhered to (Policies attached to the application).
- 7) The emptying of bins into skips, and refuse collections will not take place between 23:00 and 07:00.
- 8) The external roof terrace area shall not be used outside the hours of 11:00 and 23:00 daily. Staff and door staff (when employed) shall assist with the orderly clearing of the area prior to 23:00 daily.

- 9) There shall be no external regulated entertainment.
- 10) The doors to the external roof terrace area shall be kept closed between 11:00 and 23:00 daily, save for access and egress and shall be kept closed between 23:00 and 11:00 daily except in an emergency.
- 11) The number of customers in the external roof terrace area shall not exceed 84 at any one time.
- 12) There will be no public access into the external area at ground floor level on New Street when the premises are closed.

12. The protection of children from harm

- 1) A “Challenge 21” Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 21. The only acceptable forms of ID are photographic driving licences, passports, HM forces warrant cards, EU/EEA national ID card or similar document or form of identification with the “PASS” hologram.
- 2) Staff training will include the “Challenge 21” Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

Special Policy Consideration

13. This premise is located within the special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.

Consultation

14. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory

requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.

15. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

16. North Yorkshire Police have made a representation on the grounds that the licensing objectives, Prevention of Crime and Disorder and Prevention of Public Nuisance will be undermined by the granting of this application. The grounds for representation are:

- 1) The application relates to a new premises licence in respect of a bar / restaurant in the centre of York's Cumulative Impact Zone (CIZ). An area which City of York Council has identified as being under stress from crime and disorder and public nuisance in its Statement of Licensing Policy.
- 2) The location of the premises is on New Street, covering three floors including a roof terrace. The venue has a substantial open floor plan, and has applied to be licensed until 02:30 hours on a Friday and Saturday. The venue lies within a "hotspot Zone" surrounded by five licensed premises and a boutique hotel (Judges Court) which is adjacent to the site. The applicant seeks opening hours on a Friday and Saturday of 02:30 hours, which is common for vertical drinking establishments and late night refreshment venues, but it is uncommon for a restaurant.
- 3) The applicant has not provided any information as to why this application should be considered to be an exception to the CIZ policy and the applicant should demonstrate specifically, if they are to be issued a premises within the CIZ, how they would actively promote the licensing objectives. Until this is demonstrated, the licensing policy advises that any application for an alcohol licence should be rejected.
- 4) The plan shows a number of design and layout weaknesses, namely:-
 - Recessed ground floor outside drinking area (noise leakage, management by door staff eg pinch point at the main entrance).
 - Live highway directly outside premises (outside foot street hours).
 - Neighbouring pavement cafes.

- Toilets on first floor (no natural surveillance to mitigate crime and disorder).
 - External roof top terrace (capped capacity of 84 persons, management of public nuisance and noise, smoking after 23:00hours when it must close).
 - Ground floor consists of a large open space (no fixed seating which means seating can be removed to enable vertical drinking).
 - Substantial bar on ground floor (not commonly associated with a server point in a restaurant).
- 5) The conditions within the operating schedule appear generic and not tailored counter the problems associated with York city centre, more specifically they do not deal with how they seek to promote the licensing objectives within the CIZ in line with the licensing policy.
- 6) Negative impact that adding yet another large capacity venue in the heart of York's CIZ will have on current multi-agency initiatives set-up to tackle York's current issues within the city's day and night-time economy.
17. The Police representation is attached at Annex 4.
18. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIZ.
19. The Licensing Authority representation is attached at Annex 5.
20. City of York Council Public Protection (Environmental Protection) made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence were to be granted in the terms applied for. Public Protection withdrew the representation after mediation with the applicant who agreed the following conditions be attached to the licence if granted:
- 1) Electronically amplified music emitted from the rooftop bar shall be played or reproduced through loud speakers and a tamper proof noise limitation device.

- 2) A direct contact number for the duty manager shall be made available to nearby premises on request.
 - 3) Any complaints received from local premises to be acted upon immediately.
 - 4) Any noise complaints to be logged in a log book and actions taken also logged.
 - 5) The log book shall be made available to the local authority on request.
21. The Public Protection representation and agreement is attached at Annex 6.

Summary of Representations made by Other Parties

22. Relevant representations have been received from two other parties. The first representation is from a York resident and is attached at Annex 7. The second representation is from a hotel adjacent to the subject premises and is attached at Annex 8. Both representations are on the grounds that if the licence were to be granted it would undermine the licensing objective of prevention of public nuisance and would add to the problems already experienced by the number of licensed premises within the CIZ.
23. A map showing the general area around the venue is attached at Annex 9.

Planning Issues

24. There are no outstanding planning issues.

Options

25. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
26. Option 1: Grant the licence in the terms applied for.
27. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
28. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
29. Option 4: Reject the application.

Analysis

30. The following could be the result of any decision made this Sub Committee:-
31. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
32. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

35. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
36. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

37.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
 - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.

- **Information Technology (IT)** – N/A
 - **Property** – N/A
- Other** – none

Risk Management

38. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
39. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

40. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author: Lesley Cooke Licensing Manager Tel No. 01904 551515	Chief Officer Responsible for the report: Mike Slater Assistant Director for Planning and Public Protection.
---	---

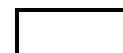
**Report
Approved**



Date 22/01/2018

Specialist Implications Officer(s)
Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Plan of premises
- Annex 3** - Special Policy
- Annex 4** - North Yorkshire Police Representation
- Annex 5** - Licensing Authority Representation
- Annex 6** - Public Protection Representation & Mediated Conditions
- Annex 7** - Resident Representation
- Annex 8** - Hotel Representation
- Annex 9** - Map of area
- Annex 10** - Mandatory Conditions
- Annex 11** - Legislation and Policy Considerations