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**Licensing Act 2003 Sub Committee**

**23 June 2006**

Report of the Director of Neighbourhood Services

**Section 35(3)(a) Application for the Variation of a premise licence for Marmadukes, 4 & 5 St Peter's Grove, York**

**Summary**

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.

Application reference number: CYC-010461

2. Name of applicant: Debretton Hospitality Ltd
3. Type of authorisation applied for: Variation of premise licence
4. Summary of application: The nature of the proposed variation includes; 1) Extending the licensed area to include the garden to the rear of 4 & 5 St Peter's Grove, and the decked area to the right of 4 St Peter's Grove. 2) Provide mini bars in each of the 11 bedrooms.

**Background**

5. A copy of the existing premise licence is attached at Annex 1.
6. A copy of the application to vary the licence is attached at Annex 2.

**Promotion Of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that, in addition to existing conditions attached to the current licence, the licensing objectives would be met as follows:
8. The prevention of crime and disorder: 1) Reception is manned 24 hours a day. 2) CCTV internal and external. 3) Security lights in carpark. 4) Working with the local police and pubwatch scheme.
9. Public safety: 1) Trained staff. 2) Fire safety measures. 3) Swipe card only access to upstairs and bedrooms. 4) Swipe card only entry to premise after dusk.

10. The prevention of public nuisance: 1) Night porter on duty. 2) All non residents to report to reception on arrival.
11. The protection of children from harm: 1) Non resident children are not allowed on the premise other than with family and friends. 2) Children are not allowed in the bar area.

### **Special Policy Consideration**

12. This premise is not located within the area.

### **Consultation**

13. 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.

### **Summary of Representations made by Responsible Authorities**

14. There were no representations received from responsible authorities.

### **Summary of Representations made by Interested Parties**

15. Representations have been received from the interested parties listed at Annex 3a (confidential) and Annex 3b. Their representations are attached at Annex 4.
16. The addresses of the interested parties are indicated on the map attached as Annex 5 (confidential). A further map indicating the general area from which representations were received is attached at Annex 6. An "interested party" is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
17. Members are reminded that representations are only "relevant" if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

### **Options**

18. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
19. Option 1: Grant the variation of the licence in the terms applied for.

20. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
21. Option 3: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
22. Option 4: Reject the application.

## **Analysis**

23. The following could be the result of any decision made this Sub Committee:-
24. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
25. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
26. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
27. Option 4: This decision could be appealed at Magistrates Court by the applicant.

## **Corporate Objectives**

28. 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.
29. These directly contribute to the Council's Safer City priority and corporate aim 4.
30. In addition the licensing objectives of public safety and prevention of public nuisance contribute towards corporate objective 1.4 – protection of residents from pollution, public health and safety hazards.

## **Implications**

31.
  - **Financial** - There are no financial implications
  - **Human Resources (HR)** – There are no human resources implications
  - **Equalities** – There are no equalities implications
  - **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)** – There are no IT implications
- **Property** – There are no property implications
- **Other** – There are no other implications

## Risk Management

32. In compliance with the Councils risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.
33. Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored as they do not provide a real threat to the objectives of this report.

## Recommendations

34. Members determine the application.

## Contact Details

**Author:**  
John Lacy  
Acting Licensing Manager

**Chief Officer Responsible for the report:**  
Andy Hudson  
Assistant Director  
Neighbourhood Services

**Report Approved**  **Date** 13/06/06

**Specialist Implications Officer(s)**  
Suzan Hemingway  
Head of Legal & Democratic Services  
Civic Democratic & Legal Services  
551004

**Wards Affected:** Clifton

**All**

**For further information please contact the author of the report**

**Background Papers:**

Licensing Act 2003

Secretary of State's Guidance issued under section 183 of the Licensing Act 2003

Explanatory Notes to the Licensing Act 2003

Regulations to the Licensing Act 2003

City of York Council Statement of Licensing Policy made under the Licensing Act 2003

**Annexes:**

**Annex 1** - Copy of converted premises licence

**Annex 2** - Application form

**Annex 3a (Confidential)** - List of Interested Parties

**Annex 3b** - List of Interested Parties

**Annex 4** - Representations from Interested Parties

**Annex 5 (Confidential)** - Map of area indicating addresses of Interested Parties

**Annex 6** - Map showing general area from which representations received

**Annex 7** - Mandatory Conditions

**Annex 8** - Legislation and Policy Considerations