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## Licensing Act 2003 Sub Committee

2 April 2007

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for Cross Keys, 32 Tadcaster Road, Dringhouses, York, YO24 1LQ**

#### **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.
2. Application reference number: CYC-009012.
3. Name of applicant: Spirit Group Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to vary the premises licence by way of a change to the layout and design of the premises by installing a 'jumbrella' in the outside area. Also to amend the following condition 6 listed in Annex 3 of the licence; "All external drinking areas shall be vacated, cleared and cleaned by 23:20 hours on each and every day," to "All external drinking areas shall be cleared of patrons consuming alcohol and food at 23:20 hours." The hours of operation and the licensable activities are to remain unchanged.

#### **Background**

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

#### **Promotion Of Licensing Objectives**

8. 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:
9. General: Any part of the variation application that changes the plan/layout at the premises is to be of no effect until the work has been completed. All existing conditions to remain.

### **Special Policy Consideration**

10. This premise is not located with the special policy area.

### **Consultation**

11. 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.
12. All procedural aspects of this application have been complied with.

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

13. No representations were received from responsible authorities.

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

14. Representations have been received from three interested parties listed at Annex 3 (confidential). Their representations are attached at Annex 4.
15. 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. The representors are from the St Helen's Road, Tadcaster Road and Mayfield Grove area. 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.
16. 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.

### **Planning Issues**

17. A planning application to site a permanent 'jumbrella' on the terrace at the rear of the premises has been received. This application will be determined at a hearing of the planning committee on 19 April 2007.

### **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 Priorities**

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. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

### **Implications**

30.
  - **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**

31. 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.
32. 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**

33. Members determine the application.

## **Contact Details**

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**Report Approved**



**Date** 20 March 2007

**Specialist Implications Officer(s):**

Suzan Hemingway  
Head of Legal & Democratic Legal Services

Ext: 1004

**Wards Affected:** Dringhouses & Woodthorpe

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

## **Background Papers:**

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application form
- Annex 3 (Confidential)** - List of Interested Parties

**Annex 4** - Copy of 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