
MEETING	LICENSING/GAMBLING HEARING
DATE	14 MAY 2007
PRESENT	COUNCILLORS MOORE, REID AND B WATSON

65. Chair

RESOLVED: That Councillor Reid be elected as Chair of the meeting.

66. Declarations of Interest

Members were invited to declare any personal or prejudicial interests in any of the business on the agenda. None were declared.

67. The Determination of an Application by Luminar Gems Ltd, Deltic Avenue, Rooksley, Milton Keynes, MK13 8LW for Section 35(3)(a) Determination of Application to Vary Premises Licence in respect of Toffs, 3-5 Toft Green, YO1 1JT (CYC-009396)

Members considered an application by Luminar Gems Ltd to vary a premises licence in respect of Toffs, 3-5 Toft Green, York.

Members were presented with 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 variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly
- Option 4** Reject the application

Officers updated that the Environmental Protection Unit had withdrawn their representation after the submission of an amended plan by the applicant. (Plan ref: 0640/05 Revision B).

Representations were received from the Applicant who stated that the application was not for a beer garden but for a smoking area. The area would not have any seating or piped music and drinks would not be allowed. The proposed smoking area had been moved as far away as possible from the York Backpackers' premises after concerns raised by the City of York Council's Environmental Protection Unit. The Applicant stated that there would be a marshal stationed in the area at all times and a second one controlling admission to the area from the internal door. The Applicant also stated that the proposed smoking area was a reasonable

and pro-active approach to the problems that would occur when the smoking ban came into force on July 1st 2007. The Applicant's solicitor asked to table a letter from Rumours (a neighbouring licensed premises). The request was denied, as the representor was not in agreement.

Representations were also received from York Backpackers' including the fact that many school parties visited their hostel and if the noise levels from Toffs were to increase then these parties may not make repeat visits to the premises. The smoking area was 35m from the back of the hostel and despite the proposed installation of a high fence, parts of the smoking area could be overlooked from various dormitories at the back of the premises. The representor raised concerns that Toffs would not be able to control the noise levels in the outside area and that noise would also emanate from the premises as doors were opened to let people in and out. The representor felt that they could lose business from the noise levels that arose from the smoking area.

Taking into consideration the representations made in writing and at the hearing, the Licensing Objectives and the City of York Council's Statement of Licensing Policy, the Sub-Committee agreed to grant the variation of the premises licence with additional conditions.

RESOLVED: That, in line with above Option 2, the variation of the premises licence be granted with the following additional conditions.

- (i) To approve Plan 0640/05 (Revision B) that was initialled by the Chair at the meeting with the proviso that the fence to be erected be at least 8ft high
- (ii) There will be no drinking in the smoking area
- (iii) There will be no seating in the smoking area
- (iv) There will be no licensed entertainment in the smoking area
- (v) One marshal will control the access and egress from the internal door in the premises leading to the smoking area and the second marshal shall monitor the behaviour of those patrons using the smoking area
- (vi) The maximum occupancy of the area shall be agreed with the appropriate authorities
- (vii) The smoking area shall be closed to patrons at 02:00 hours on each and every day (as offered by the applicant at the hearing)
- (viii) A 24 hours contact telephone number is to be provided to the representor
- (ix) Signs shall be prominently displayed asking patrons not to make a noise

Informatives

- In the interest of the environment the Licensing Authority would prefer that outside heaters were not installed.
- A copy of this decision shall be provided to Development Control for consideration as part of any subsequent planning application process.

REASON: To address the representations made in respect of the prevention of crime and disorder, the prevention of public nuisance and the protection of children.

Councillor A Reid; Chair

The meeting started at 1.40 pm and finished at 3.55 pm.