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MEETING	LICENSING HEARING
DATE	14 MAY 2010
PRESENT	COUNCILLORS MOORE, PIERCE AND LOOKER

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**63. CHAIR**

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

**64. DECLARATIONS OF INTEREST**

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

**65. THE DETERMINATION OF AN APPLICATION BY TO THE MOON FOR A VARIATION OF A PREMISES LICENCE SECTION 35(3)(A) IN RESPECT OF LOS LOCOS, 69 MICKLEGATE, YORK, YO1 6LJ. (CYC-015873)**

Members considered an application by To The Moon Ltd for the variation of a premises licence for Los Locos, Micklegate, York.

In coming to their decision the sub-committee took into consideration all of the evidence and 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 existing licence conditions and the additional steps agreed to be taken by the applicant to promote the four licensing objectives.
2. The Licensing Manager's report and his comments made at the hearing. He advised that the application was seeking the variation of the licence to extend the opening hours and for the provision of dance. He advised that mediation had been taking place between the applicant and the Environmental Protection Unit (EPU) in regard to a Noise Management Plan and as a result EPU had withdrawn their representation. North Yorkshire Police had also mediated after the applicant agreed to the addition of a number of conditions being added on the licence. Consultation had been carried out correctly and Members were reminded that the premises were within the Cumulative Impact Zone.

3. The applicant's representation at the hearing. He advised that there were four business partners involved in the restaurant, all of whom had extensive experience in the industry. They had no interest in operating a bar and specialised in restaurant style operations. The reason for the application was mainly due to a change in customers' habits, as people were wishing to eat later. The bar area would enable patrons to have pre-dinner drinks and it was not intended to change it into a vertical drinking establishment.
4. The representations made by local residents in writing and at the hearing. They raised concerns regarding noise from the premises as the Perspex roof offered little sound proofing. They advised that the area was residential with neighbours adjacent to the premises. They felt an extension to 01:00 was unreasonable in such a residential area.
5. The representations made by Councillor Merrett as Ward Councillor on behalf of a resident. He advised that the resident was concerned about noise issues. He reiterated the point that the area was densely populated and that this was a special case in that the premises had neighbours attached to it at one side. He urged the sub-committee to refuse the application.
6. Written representations made during the consultation period.

In respect of the proposed variation, the sub-committee had to determine whether to take any of the steps mentioned under Section 35(4) that it considered necessary for the promotion of the licensing objectives. Having regard to the above evidence and representations received, the sub-committee considered the steps which were available to them to take under Section 18(4) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives.

Members were presented with the following options:

- Option 1. Grant the variations of the licence in the terms applied for and including any applicable mandatory conditions as set out in sections 19, 20 and 21 of the Licensing Act 2003.
- Option 2. Grant the variations of the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.
- Option 3. Grant the variations of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly to include any

applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.

Option 4. Reject the application.

In coming to their decision of approving the above Option 2 the sub-committee then imposed the following additional and modified conditions. Bank holiday extensions were withdrawn by the applicant during the hearing.

1. Hours open to the public shall be 09:00 to 01:00 on each and everyday. New Year being de-regulated is not applicable.
2. Extended hours on Christmas Eve shall not apply.
3. The supply of alcohol shall cease 30 minutes prior to closure on each and every day.
4. Provision of facilities for dancing shall be allowed on Monday to Wednesday only between 10:00 and 21:00.
5. Recorded music shall cease 30 minutes prior to closure on each and every day.
6. Late night refreshment shall be allowed between 23:00 and closure on each and every day.
7. Prior to any changes in licensing hours, or the addition of licensable activities, the identified noise management plan shall be implemented as submitted at the hearing. This management plan should directly refer to best practice and guidance provided by relevant professional institutions and standards created nationally, internationally and by the industry.
8. 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 and made available to the Local Authority on request.
9. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
10. A log of any complaints from residents, police or local authority regarding noise shall be kept for a period of 3 years and shall include details of what action was taken to remedy the problem. This log shall be made available to the Local Authority on request.
11. All music shall be controlled by the management of the premises.
12. Alcohol shall be served by way of waiter/waitress service to all patrons at all times.

13. Alcohol will only be served to patrons seated at tables as ancillary to a meal except for a maximum of 24 customers to be seated at tables within the blue area (as identified on the plan submitted with the application).
14. A full food menu (indicative of normal food provision) shall be available at all times the venue remains open.
15. Adequate door supervisors shall be provided at the premises from 21:00 hours until the venue closes for business on the following occasions:
  - (i) Friday and Saturday evenings
  - (ii) The evenings before any bank holiday
  - (iii) York Race days.
  - (iv) Any evening that the venue intends to remain open beyond 01:00 (i.e. non standard times)
16. The venue shall not open or operate (other than by way of Temporary Event Notice) earlier or later than the times listed in part 1 of the Premises Licence (i.e. the opening hours of the premises).

Mandatory Conditions 19 and 21 shall apply.

RESOLVED: That, in line with Option 2, the variations of the licence be granted with modified/additional conditions set out above.

REASON: In order to meet the Licensing Objectives and City of York Council Licensing Policy and to address the representations made.

Councillor Moore, Chair

[The meeting started at 10.15 am and finished at 12.10 pm].