

Licensing Hearing

To: Councillors Alexander (Chair), Ayre and Wiseman (Vice-Chair)

Date: Thursday, 13 November 2008

Time: 10.00 am

Venue: The Guildhall

AGENDA

1. Chair

To elect a Member to act as Chair of the meeting.

2. Introductions

3. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

4. Minutes

To approve and sign the minutes of Licensing Hearing(s) held on 4th September and 9th September 2008.

5. The Determination of an Application by Poppleton Community Trust for a Premises Licence Section 18(3)(a) in respect of The Poppleton Centre, Main Street, Upper Poppleton, York, YO26 6JT. (CYC-014381)

If you require any further information, please contact Laura Bootland on Tel 01904 552062 or Fax 01904 551035 or email laura.bootland@york.gov.uk



LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS

Introduction

The procedure outlined below will be followed at all Licensing Hearings.

As Licensing Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. Members of the Licensing Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant licensing issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, the Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

Representations at Licensing Hearings

The Applicant, Ward Councillors, and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At any hearing of an application, the Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to

be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

The Sub-Committee may take into account any documentary evidence or other information in support of the application, representations or notice, either before the hearing or, with the consent of all other parties, at the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection and hear and consider any evidence and argument in relation to it put forward by the Applicant. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may extend or expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be repeated or made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in the written submission. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

Any person behaving in a disruptive manner will be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally.

Procedure prior to the Hearing

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor (*if present*). Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*],

welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.

3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case *[maximum 15 minutes]*.
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses *[maximum 5 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.
12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.

15. The Chair will invite the Representors (or their representative) in the following order to summarise their case [*maximum 5 minutes each party*]
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
16. The Chair will invite the Applicant (or their representative) to summarise their case [*maximum 5 minutes*].
17. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor (*if present*) on law and jurisdiction.
18. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

Procedure after the Hearing

19. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
20. If possible, and for all hearings under:-
 - section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37)
 - section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
 - section 105(2)(a) (counter notice following police objection to temporary event notice)
 - section 167(5)(a) (review of premises licence following closure order)
 - paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
 - paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
 - paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. These officers

will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

21. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant and Representors within 3 working days of the hearing. There can be no further questions or statements.
22. For all other hearings not listed above, if the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

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- Applicant
- Representors & the relevant Responsible Authorities

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City of York Council

Committee Minutes

MEETING	LICENSING HEARING
DATE	4 SEPTEMBER 2008
PRESENT	COUNCILLORS HORTON, MOORE AND WISEMAN (VICE-CHAIR)

1. CHAIR

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

2. DECLARATIONS OF INTEREST

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

3. MINUTES

RESOLVED: That the minutes of the Licensing Hearings held on 17 July and 4 August are signed by the Chair as a correct record.

4. THE DETERMINATION OF AN APPLICATION BY DEBRETTON HOSPITALITY (4HP) LTD FOR THE VARIATION OF A PREMISES LICENCE [SECTION 35 (3)(A)] IN RESPECT OF FOUR HIGH PETERGATE HOTEL & BISTRO, 2-4 HIGH PETERGATE, YORK, YO1 7EH. (CYC-010833)

Members considered an application by Debretton Hospitality (4HP) Ltd for the Variation of a Premises Licence in respect of Four High Petergate, 2-4 High Petergate, York, YO1 7EH.

Members discussed some preliminary matters including the fact that planning permission had not yet been resolved for some parts of the property. After some deliberation it was felt that as the Licence Variation application was a separate issue the hearing should proceed.

In coming to their decision the Sub-Committee took into consideration all of the evidence and submissions that were presented and determined their relevance to the issues raised and the licensing objective; the prevention of public nuisance.

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 Officers report and his comments made at the hearing. The officer clarified that the establishment is to be re-branded as the Lamb and Lion Inn and that the applicant now wishes to use the outside garden for food and drink. He confirmed that City of York Councils planning department had not submitted a representation in respect of the outstanding planning issues. It was confirmed that the Police and Fire Authorities had mediated their representations agreed additional conditions to be attached to the licence.
3. The Applicants representation including the fact that the applicant already operates a number of premises in the city without any reported incidents. It was stated that Debretton Hospitality had a vested interest in maintaining order at the premises to minimise disruption to guests staying in the accommodation above the restaurant. It was reiterated that the applicant had already agreed to a number of additional conditions with the Police and Fire Authorities.
4. The representations made by The Dean & Chapter of York Minster and City of York Councils Environmental Protection Unit both in writing and at the hearing. The Sub Committee considered the representations relevant as both parties had genuine concerns regarding the proximity of residential properties to the premises outdoor garden area.

Members were presented with the following options:

- Option 1** Grant the licence in the terms applied for.
- Option 2** Grant the licence with modified/additional conditions imposed by the licensing committee.
- Option 3** Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
- Option 4** Reject the application.

RESOLVED: That in line with Option 2 the licence be granted

The Sub Committee imposed the following additional conditions:

- 1) That the hours the premises shall be open to the public shall be Monday-Sunday between 10am – Midnight on each and every day.
- 2) That the supply of alcohol is to cease 30 minutes prior to closing on each and every day.
- 3) That all regulated entertainment is to be indoors, held between 10.00am-Midnight. No regulated entertainment is to take place in the rear garden area.

- 4) Late night refreshment is to be served indoors only between 23.00-Midnight on each and every day.
- 5) CCTV will be installed to cover the premises. It will be maintained and working at all times that the premises is open. Copies of recordings must be made available for any relevant authority for 28 days.
- 6) The only acceptable proof of age identification shall be a current passport, photo card driving licence or identification carrying the PASS logo.
- 7) One pint capacity, half pint capacity and 'high ball' tumbler drink glasses will be strengthened glass (tempered glassware) in a design whereby in the event of a breakage the glass will fragment and no sharp edges are left. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers care.
- 8) All off sales shall be in sealed containers.
- 9) Documented staff training will be given regarding the retail of alcohol and such records will be kept accordingly.
- 10) The management of the premises will comply with any reasonable and justified request regarding the provision of door supervisors should the need arise.
- 11) A refusals register and incident report book shall be kept. Such documents will record incidents of staff refusals to underage or drunken people as well as incidents of anti social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any relevant authority.
- 12) Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises area quietly.
- 13) The premise shall participate in the York Pubwatch Pager Scheme.
- 14) The occupancy figure for the ground floor and garden area of the premises shall not exceed 100 persons at any particular time.
- 15) The rear garden area shall be closed by 22.30 in its entirety on each and every day and all external artificial lighting extinguished.
- 16) Prominent notices shall be displayed in the garden area requesting patrons to respect the amenity interests of

neighbouring properties and staff are to encourage compliance at all times.

- 17) All windows and doors opening onto the rear garden area of the premises shall be kept closed during regulated entertainment.
- 18) There shall be the planting of shrubs and the erection of a trellis for climbing plants along the length of the wall separating the premises from the garden area of 9 Precentors Court
- 19) Signs are to be erected on the steps leading into the garden area indicating that the congregation of customers is not permitted.
- 20) The premises licence holder shall liaise regularly with local residents to ascertain any concerns they have relating to use of the garden area and to seek to address these in as far as operations make it reasonable.
- 21) The premises licence holder will consult and keep local residents informed of any applications for Temporary Events Notices submitted to the licensing department affecting the garden area.

REASON: To address the representations made in respect of the prevention of public nuisance.

Councillor David Horton ,Chair
[The meeting started at 11.00 am and finished at 4.05 pm].

MEETING	LICENSING HEARING
DATE	9 SEPTEMBER 2008
PRESENT	COUNCILLORS HYMAN, MOORE AND REID

5. CHAIR

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

6. DECLARATIONS OF INTEREST

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

7. THE DETERMINATION OF AN APPLICATION BY DEBRETTON HOSPITALITY LTD FOR THE VARIATION OF A PREMISES LICENCE [SECTION 35 (3) (A)] IN RESPECT OF MARMADUKES, 4-5 ST. PETERS GROVE, YORK, YO30 6AQ. (CYC-010461)

Members considered an application by Debretton Hospitality Ltd for the determination of an application to vary a premises licence in respect of Marmadukes, 4&5 St. Peters Grove, Bootham, York, YO30 6AQ.

In coming to their decision the Sub-Committee took into consideration all of the evidence and submissions that were presented and determined their relevance to the issues raised and the licensing objectives; the prevention of public nuisance and the prevention of crime and disorder including:

- 1) The Application Form
- 2) The Licensing Officer's report and his comments made at the hearing. The officer outlined his report and reiterated that the premises is located in a predominantly residential area. He confirmed that the original licence already had 8 stringent conditions attached to it. Members were reminded that the rear garden was not licensed under the current licence and presently it could not be used for any licensable activities.
- 3) The Applicants representation including the fact that the hotel is run in an orderly manner and no complaints regarding noise or disorder had been made to any relevant authority to date. The applicants Counsel advised Members that there had been a consultation with local residents to attempt to address their concerns.

- 4) The representations received in writing and at the hearing from local residents, the Headmaster of St. Peters School, City of York Councils Environmental Protection Unit and the Ward Councillor on behalf of a resident. All representors raised concerns regarding the proximity of the rear garden area to residential properties. All were concerned about the possibility of noise nuisance if this area was to be used for licensable activities.

City of York Councils Planning Department also spoke at the hearing. The officer advised that a condition was attached to the planning consent which required the applicant to sound proof the conservatory. The officer felt the condition had not yet been formally discharged. The officer agreed that planning and licensing issues were separate matters.

- 5) Written representations made during the consultation period

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.

RESOLVED: That in line with Option 2 the licence be granted.

The Sub-Committee then imposed the following additional conditions:

- 1) That the hours that the premises shall be open to the public shall be Monday-Sunday between 07.00-02.00 on each and every day.
- 2) That the supply of alcohol and late night refreshment shall be served between the hours of 10.00-01.40 on each and every.
- 3) That the following regulated entertainment activities shall take place at the following times

Plays, films, live music, performance of dance and anything similar to live music and the performance of dance, making music, dancing and anything similar to making music and dancing

- (i) Outdoors between 10.00-22.00 Monday-Sunday

- (ii) Inside between 10.00-Midnight Monday-Sunday

That recorded music shall take place at the following times

- (i) Outdoors between 10.00-Midnight Monday-Sunday

- (ii) Inside between 10.00-02.00 Monday-Sunday

- (iii) Roman Garden 10.00-22.00 Monday-Sunday

4) All windows shall be kept closed after Midnight

5) That conditions 2-8 of the existing licence shall be carried forward to the varied licence.

6) CCTV will be installed to cover the premises. It will be maintained, working and recording at all times that the premises are open. Copies of the recordings shall be kept available for any relevant authority for 14 days.

7) The only proof of age identification shall be a current passport, photo card driving licence or identification carrying the PASS logo.

8) Drinking glasses of any type shall not be allowed to enter or leave the boundary of the hotel grounds whilst under customer care.

9) All off sales that are to leave the boundary of the hotel grounds shall be made in sealed containers.

10) Documented staff training will be given regarding the retail of alcohol and such records kept accordingly.

11) Prominent clear and legible signs shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

12) Alcohol on sales shall not be served after 01.40 hours to allow a period of 20 minutes drinking up time.

13) Regular monitoring of all areas shall be undertaken by staff after 22.00 to address the possibility of noise nuisance to residents living in the vicinity of the premises.

14) A direct contact number for the Duty manager shall be made available to residents living in the vicinity of the premises on request.

15) Mandatory conditions 19,20 and 22 shall apply.

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

Councillor Reid, Chair
[The meeting started at 10.25 am and finished at 1.20 pm].



Licensing Act 2003 Sub Committee**13 November 2008**

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for The Poppleton Centre, Main Street, Upper Poppleton, York, YO26 6JT**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-014381
3. Name of applicant: Poppleton Community Trust.
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The nature of the application is to allow for the supply of alcohol and the provision of regulated entertainment consisting of plays, films, indoor sporting events, live and recorded music and performance of dance and the provision of entertainment facilities making music and dancing.

Background

6. A copy of the application is attached at Annex 1.
7. There is currently both a premises licence and a club premises certificate in existence for the premises.
8. The premises licence is for the provision of regulated entertainment, whilst the club premises certificate is for the both the supply of alcohol and the provision of regulated entertainment to club members.
9. Copies of these licences are attached at Annex 2 (premises licence) and Annex 3 (club premises certificate)
10. Because the application to supply alcohol is a substantial variation to the existing premises licence, the applicant has to apply for the grant of a new licence to allow for this additional provision.

11. Attached at Annex 4 is a schedule comparing existing and proposed licensable activities and hours of operation for the respective licences.

Promotion Of Licensing Objectives

12. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
13. General: 1)The applicant will continue the policies currently in place for the operation of the club premises certificate to ensure the premises are managed in accordance with their primary function which is to provide a community facility for the residents of Upper and Nether Poppleton and the surrounding area.
14. The prevention of crime and disorder: 1)The applicant will look to work closely with the local police to prevent any crime and disorder resulting from the use of the premises.
15. Public safety: 1) The applicant will conduct regular health and safety checks throughout the building to ensure that fire alarm equipment, fire extinguishers and fire exits are serviced and checked at appropriate times.
16. The prevention of public nuisance: 1) Every effort will be made to ensure that doors and windows are kept shut during the playing of music. 2) Members of the public attending events will be requested to show due consideration to neighbouring residents when leaving the premises. 3) The applicant will limit the number of times when alcohol shall be supplied beyond 23:00 hours on a Friday and Saturday to 24 occasions in any calendar year.
17. The protection of children from harm: 1) The manager of the centre and officers of the Trust and those persons working with children will be subject to Criminal Records Bureau checks. 2) Stringent ID checks will be imposed to ensure that alcohol is not sold to anyone under 18 years of age.

Special Policy Consideration

18. This premise is not located within the Special Policy area.

Consultation

19. 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.

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

Summary of Representations made by Responsible Authorities

21. A representation was received from North Yorkshire Police on the grounds of crime and disorder which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
1. The premises primary use shall remain as a Community Centre.
 2. All sales of alcohol made outside the main building (The Poppleton Community Centre) will be in vessels other than glassware.
 3. All consumption of alcohol undertaken outside the main building, but within the external boundary of the Poppleton Community Centre, will be in vessels other than glassware.
 4. All off sales that are taken away from the external boundary of the Community Centre shall be in sealed containers.
 5. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
 6. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
 7. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of door supervisors should the need arise.
 8. Documented records shall be kept of the occasions when the venue is used to serve alcohol beyond 23:00 hours on a Friday and Saturday.
22. A representation was received from North Yorkshire Fire and Rescue Service on the grounds of public safety which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
1. The maximum permitted occupancy of the premises shall not exceed
 - Main Hall - 600 persons
 - Maypole Room with partition in place - 60 persons
 - Dodsworth Room with partition in place - 70 persons seated or 120 persons standing/dancing
 - Maypole and Dodsworth Rooms combined - 250 persons
 - Conservatory - 90 persons
 - Lounge - 58 persons
 - Lounge Extension (annexe) - 44 persons

Summary of Representations made by Interested Parties

23. Representations have been received from the interested parties listed at Annex 5, this includes a 35 name petition, although it should be noted that 7 of the signatories to the petition have also made individual representations. These representations are attached at Annex 6.
24. The addresses of the interested parties are indicated on the map attached as Annex 7.
25. 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.
26. 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.
27. Attached at Annex 8 is a copy of email correspondence between the applicant and the Licensing Section in relation to the application, in which the applicant responds to the representors concerns.

Planning Issues

28. There are no planning issues or conditions relevant to this application.

Options

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

Analysis

34. The following could be the result of any decision made this Sub Committee:-
35. Option 1: This decision could be appealed at Magistrates Court by any of the representors.

36. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
37. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
38. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

39. 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.
40. 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

41.
 - **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

42. 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.

43. 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

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

Contact Details

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Neighbourhood Services

Ext: 1593

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Report Approved



Date 27 October 2008

Specialist Implications Officer(s)

Quentin Baker
Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Rural York West

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of application form
- Annex 2** - Copy of Premises Licence
- Annex 3** - Copy of Club Premises Certificate
- Annex 4** - Comparison schedule of licences
- Annex 5** - List of Interested Parties
- Annex 6** - Representations from Interested Parties
- Annex 7** - Map showing general area from which representations received
- Annex 8** - Correspondence from applicant
- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation and Policy Considerations