
MEETING	LICENSING HEARING
DATE	25 JANUARY 2010
PRESENT	COUNCILLORS MERRETT, REID AND RUNCIMAN
APOLOGIES	COUNCILLORS

40. CHAIR

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

41. INTRODUCTIONS**42. DECLARATIONS OF INTEREST**

At this point in the meeting, Members are asked to declare any personal or prejudicial interests in the business on the agenda. None were declared.

43. THE DETERMINATION OF AN APPLICATION BY MR. S AND MR. D BINNS TO VARY A PREMISES LICENCE SECTION 35 (3)(A) IN RESPECT OF THE LOWTHER, 8 CUMBERLAND STREET, YORK, YO1 9SW. CYC-009036

Members considered an application by Mr. S Binns and Mr. D Binns for the Variation of a Premises Licence in respect of The Lowther, 8 Cumberland Street, York.

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 crime and disorder, 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. Section G (the performance of dance) and Section J (provision of facilities for dancing) were withdrawn from the application by the applicant at the beginning of the hearing.
2. The Licensing Officer's report and his comments made at the hearing, including the fact the premises is situated on the centre of York in an area with a lot of other establishments located nearby. Mr. Binns had met with the Police and agreed 16 further conditions to be added to the licence. Subsequently the Police had withdrawn their representation. The applicant had also mediated with the Council's Environmental Protection Unit.

3. The applicants representation at the hearing. He advised that he had applied for longer opening hours at the request of customers as they are wishing to arrive later and stay later, but there would be no intention to operate as a Club. He advised that he accepted the additional conditions as agreed with the Police and would accept further reasonable conditions.
4. The representations made by local residents, both in writing and at the hearing. A local resident attended the hearing and expressed his concern regarding the increasing duration of night time noise in the area.
5. Written representations made during the consultation period.

Members were presented with the following options:

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| Option 1 | Grant the licence in the terms applied for. |
| Option 2 | Grant the licence with modified/additional conditions. |
| 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. |

Members chose Option 2 and added the following conditions:

- 1) CCTV will be installed to cover the premises. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced in court or other such hearing. Copies of the recordings will be kept available for any Responsible Authority for 14 days.
- 2) The only acceptable proof of age identification shall be a current passport or photocard driving licence.
- 3) Standard one-pint capacity, half pint capacity and highball tumbler drinking 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.
- 4) Drinking glasses of any type shall not be allowed to leave or enter the premises whilst under the customers care.
- 5) All off-sales shall be made in sealed containers.
- 6) Documented staff training will be given regarding the retail of alcohol and such records kept accordingly.
- 7) An adequate number of door supervisors shall be provided at the venue from 21:00 hours until the venue has closed for business on Thursday, Friday, Saturday and Sunday evenings, the evenings preceding a Bank Holiday and on any day when York race meetings are held.
- 8) 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.

- 9) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under age or drunk people as well as incidents of any anti social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority.
- 10) 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. Door Supervisors will assist in ensuring customers leave quietly.
- 11) The premises shall participate in the York Pubwatch Pager scheme.
- 12) A capacity of 300 persons (ground floor 200 & first floor 100) shall be imposed so as not to undermine the Licensing Objective "Prevention of Crime and Disorder".
- 13) Noise originating from within the premises shall be inaudible at the nearest noise sensitive premises.
- 14) Vibration from the premises shall not emanate so as to cause nuisance at nearest sensitive premises.
- 15) The Manager will carry out nightly checks for the escape of noise or smells.
- 16) The Manager shall supply an emergency contact number to all residents within the vicinity of the premises.
- 17) All windows and doors shall be closed after 00.30am with the nearest windows to residents kept locked after 21:00.
- 18) The speakers to the Jukebox in Zone1, shall be turned off at 23:00.
- 19) There shall be no entry to the top floor after 1am and no admission to the premises shall be allowed after 2.30am.

Mandatory condition 21 shall apply.

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

REASON: To address the representations made.

Councillor Merrett, Chair

[The meeting started at 10.00 am and finished at 11.40 am].