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| Meeting | Licensing Hearing                      |
| Date    | 16 June 2016                           |
| Present | Councillors Douglas, Hunter and Mercer |

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## 6. Chair

Resolved: That Councillor Mercer be elected to Chair the meeting.

## 7. Introductions

## 8. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests. No further interests were declared.

## 9. The Determination of an Application by the Stonegate Pub Company Limited for the Variation of a Premises Licence Section 35(3)(a) in respect of Popworld, George Hudson Street, York YO1 6JL. (CYC-009049)

Members considered an application by the Stonegate Pub Company Limited for the Variation of a Premises Licence Section 35(3)(a) in respect of Popworld, George Hudson Street, York.

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

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 following late evidence received from the Applicant's Solicitors, circulated prior to and at the hearing (with the consent of all parties):
  - Evidence bundle, including
    - background information on the Stonegate Pub Company and a copy of their Licensing Manual
    - details of recent Temporary Event Notice events
    - correspondence with the representors
  - Document setting out amendments to the application in relation to non-standard timings and the door staff condition as agreed with the Police
  - Correspondence from the City of York Council Environmental Health Officer relating to two historic noise complaints received by Environmental Protection in respect of Popworld from 2014
3. The Licensing Manager's report and the Senior Licensing Officers comments made at the Hearing. The Committee received an outline of the application and had been advised that the premises were located within the special policy area. That there were no planning issues and that consultation had been carried out correctly. They had also received confirmation of the Police agreement to non-standard timings and the addition of a door staff condition.
4. The applicants representations made at the hearing which including clarification of agreement of the non standard timings and door staff condition agreed by the Police. The fact that the Manager of Popworld had run the premises for 13 years and that he was committed to working with the local community and that he fully understood the challenges around the premises being situated in a special policy area. That all internal noise would be contained by the acoustic lobby and triple glazing installed 10 years ago and that during that time only 2 noise complaints had been received by the EPU, both of which had been satisfactorily resolved. That Popworld customers had often not finished their evening at 2pm and wished to stay longer at the venue. Reference to other venues in the area which stayed open later and that retention of customers at the premises would assist in managing noise problems in the vicinity and in customer dispersal later in the evening. Confirmation that the premises were not full

at the end of the evening (approximately a third of the capacity - 80 customers weekdays and 100/120 weekends). Confirmation that the Manager and door staff supervised entry, exit and queuing, with barriers erected at weekends. That an extension of hours had been obtained for Stonegate Pub Company's premises in Preston, Doncaster and Portsmouth following which no representations had been received. Confirmation that the applicants were confident that they could manage their customers if a variation was granted. There had been no direct contact with the representors so the applicants were unaware of concerns raised. Travelodge Surveyors Department had subsequently contacted the applicants to offer to work with the hotel to endeavour to alleviate their concerns. That the Stonegate Pub Company were privately owned, responsible operators who had invested in the city owning nine premises which had all been risk assessed. That the TEN events run at Popworld, with non standard hours, had been held without any problems. Reference to premises in the vicinity of Popworld a number of which had longer opening hours. Confirmation that the applicants understood the city and its licensing policy.

5. Representations received which clarified that the designated smoking area was sited to the right of the entry door and was supervised by Popworld employees and the Manager and that no drinks were allowed outside the premises. That a bucket was placed outside the premises for customer's cigarette ends
6. The representations made by the receptionist at Travelodge, Micklegate, who presented representations already submitted in writing by Travelodge Ltd, both from the hotel manager and staff. His reference to the hotel rooms situated on George Hudson Street directly opposite Popworld which the hotel did not fill, unless they were full, owing to the frequency of noise complaints received from customers and to the number of refunds requested. Confirmation that staff did not choose to work morning shifts owing to noise complaints received from hotel residents. Reference to Popworld's designated smoking area situated on George Hudson Street opposite their premises which created noise problems, particularly at weekends which had necessitated calls to the Council.

Confirmation that their main objection was disturbance in the early morning which the additional opening hours they felt would only add to. In answer to questions, confirmation that the hotel had 104 rooms of which 15 fronted onto George Hudson Street. Also that the hotel had installed triple glazing in these rooms, with limited success and that they were proposing acoustic panelling to assist with the problems.

7. The representations made by a resident, who lived above his office in Micklegate and enjoyed living in the city with his children. He had pointed out that some thought was required for city residents and he'd highlighted planning permissions recently granted for additional apartments/student accommodation in the vicinity of George Hudson Street. Reference's he had made to the Micklegate Business Initiative, supported by Councillor Hayes who had also expressed concerns about the extension of hours and the effect this would have on local residents and improvements proposed in the area. Confirmation that he was woken most nights by shouting and general disturbance along Micklegate and felt that an extension of the licensing hours would only add to existing problems

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:

Option 1: Grant the variation of the licence in the terms applied for and including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003. This option was rejected because the Sub-Committee decided that the existing conditions were insufficient and extra conditions were required to address the issue of Crime and Disorder and Public nuisance.

Option 2: Grant the variation 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. This was the approved option in order to meet the Licensing Objectives and City of York Council Licensing Policy. This decision was based on the representations made to the Sub-Committee in writing and at the hearing.

Option 3: Grant the variations of the licence to exclude any of the licensable activities to which the application related and modify/add conditions accordingly to include any applicable mandatory conditions as set out in ss19, and 21 of the Licensing Act 2003. This option was also rejected as the Sub-Committee considered there was no reason to exclude any of the licensable activities, based on the representations, the Licensing Objectives and City of York Council Licensing Policy.

Option 4: Reject the application. This option was also rejected as the Sub-Committee saw no reason to reject the application based on the Licensing Objectives and City of York Council Licensing Policy.

In coming to their decision the Sub-Committee chose Option 2 and granted the application with the following conditions and modified/additional conditions. In coming to their decision of approving the above Option 2 the Sub-Committee added the following conditions as suggested by the applicant and as agreed by the Police.

1. There shall be a minimum of 2 SIA door supervisors on duty when the premises are open to the public on:
  - Sundays to Thursdays from 21:00 (or opening time if later) until close;
  - Fridays from 20:00 (or opening time if later) until close;
  - Saturdays from the time the premises is open to the public until close.

At all other times the need for door supervisors will be assessed by way of risk assessment.

2. To maintain the existing non-standard timings as detailed on the licence other than for Bank Holiday Sundays, as follows:

“An additional hour to the terminal hour on the Sunday preceding Bank Holiday Monday”

3. There shall be no entry to the premises for customers after 2am (save to enable use of the smoking area by existing customers) on Sundays to Thursdays.

All conditions offered by the Applicant in the application, including the operating schedule, for variation of the premises licence under the Licensing Act 2003, should be included in the licence, unless contradictory to the above conditions.

Reasons for the Decision:

The Sub-Committee decided that the application of a variation be granted subject to additional conditions. The Sub-Committee considered the application on its own merits. Whilst the premises were within the special policy area the Statement of Licensing Policy 2014 did not apply a rebuttable presumption against a granting of a licence when considering a variation to extend licensing hours. (Section 7, York Licensing Policy 2014). The burden of proof lay with the representors to show that granting the licence would undermine the licensing objectives.

Ben Hudson was concerned about public nuisance, including existing noise and disturbance within the Cumulative Impact Zone late at night caused by revellers. He was the only resident on Micklegate to make a representation. Travelodge Ltd was also concerned about noise, in particular from the users of the smoking area on George Hudson Street, and the impact on guests staying in the 15 rooms facing that street. The Sub-Committee considered the impact of the additional hours of trading on the licensing objective of the prevention of public nuisance. The issues raised concerned noise in the street as opposed to noise emanating from the premises. The Sub-Committee concluded that provided a condition to prevent late entry after 2am (Sunday to Thursday) was imposed, (as well as the other conditions proposed in the new Operating Schedule and as agreed with the Police) the impact of the additional trading hours would not undermine the licensing objective of preventing public nuisance. The application would achieve the potential benefit of reducing migration late at night from Popworld to existing late night licensed premises in the area.

The condition could also reduce migration to Popworld from other premises after 2am Sunday to Thursday.

Having regard to evidence from the representors, the submissions made on behalf of the applicant, and the fact that the Environmental Protection Officer, the Licensing Authority and the Police were satisfied with the application the Sub-Committee was satisfied that the operation of the premises with the additional conditions would promote the licensing objectives.

Cllr S Mercer, Chair

[The meeting started at 10.00 am and finished at 11.30 am].