

Licensing Hearing

To: Councillors Hayes, Mercer and Richardson

Date: Monday, 7 November 2016

Time: 10.00 am

Venue: The Thornton Room - Ground Floor, West Offices (G039)

A G E N D A

1. Chair

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

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

4. Minutes

To approve and sign the minutes of Licensing Hearings held on 09 June and 16 June 2016.

5. The Determination of an Application by Make it York for a Premises Licence Section 18(3) (a) in respect of Parliament Street and St Sampson's Square, York (Christmas Market site) (CYC-056707)

Democracy Officer:

Name: Laura Clark

Contact Details:

- Telephone – (01904) 554538
- Email - Laura.Clark@york.gov.uk

For more information about any of the following, please contact the Democratic Services Officer responsible for servicing this meeting:

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- For receiving reports in other formats.

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我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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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

City of York Council

Committee Minutes

Meeting	Licensing/Gambling Hearing
Date	9 June 2016
Present	Councillors Douglas, Mercer and Richardson

1. Chair

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

2. Introductions

3. 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.

4. Minutes

Resolved: That the minutes of the Licensing Hearing held on 19 May 2016 be approved as a correct record and then signed by the Chair.

5. The Determination of an Application by Loungers Ltd for a Premises Licence Section 18(3)(a) in respect of Cosy Club, 19-22 Fossgate, York YO1 9TA (CYC-055481)

Members considered an application by Loungers Ltd for a Premises Licence Section 18(3)(a) in respect of Cosy Club, 19-22 Fossgate, York, YO1 9TA.

The Sub-Committee noted that the representations made by:

- North Yorkshire Police
- The Council's Licensing Authority
- Mr S Midgley, Commercial Director, Ossett Brewery Taverns Ltd, The Hop

had been withdrawn prior to the hearing.

The Panel noted that the applicant had agreed to the following additional conditions:

1. Alcohol will only be served on the mezzanine level (level C) and in Zone B on the deposited plans to persons seated at chairs and tables by waiter/waitress
2. Substantial food will be available throughout the trading day with the last orders for food being taken at 10:00pm to permit preparation and consumption of the same.
3. The areas shaded and marked A, B and C on the enclosed plan will contain seating to accommodate no less than 210 persons.
4. At any time there will be a minimum number of seats in the areas marked A on the enclosed plan to accommodate 50 persons and there will be no more than 35 persons standing in that area at any one time.

These conditions would replace the following conditions in the original application:

- There will be a minimum of 60 seated covers for diners on the ground floor and a minimum of 60 seated covers for diners on the first floor. Customers must be permitted to place food orders (full menu) no less than 2 hours before the premises closes to the public.
- Customers must be permitted to place food orders (full menu) no less than 2 hours before the premises closes to the public.

The Panel noted Mr John Walker's confirmation at the hearing that he wished to withdraw his representation, having received confirmation from Loungers Ltd of the additional conditions.

In respect of the proposed licence, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 18(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 licence in the terms applied for and including any applicable mandatory conditions of the Licensing Act 2003 as amended. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions of the Licensing Act 2003 as amended. This option was **approved**.

Option 3: Grant the licence to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions of the Licensing Act 2003 as amended. This option was **rejected**.

Option 4: Reject the application. This option was **rejected**.

In coming to their decision the Sub-Committee chose Option 2 and granted the application with the following conditions and modified/additional conditions:

1. Overcrowding shall not be permitted in any part of the premises.
2. The premises licence holder, or the person appointed to be in charge of the premises when licensable activity is taking place shall provide or have the unhampered use of a telephone on the premises for use in an emergency.
3. The premises shall operate primarily as a restaurant, not as a bar or vertical drinking establishment providing food and non-alcoholic drinks.
4. Alcohol will only be served on the mezzanine level (level C) and in Zone B on the deposited plans to persons seated at chairs and tables by waiter/waitress
5. Substantial food will be available throughout the trading day with the last orders for food being taken at 10:00pm to permit preparation and consumption of the same.
6. The areas shaded and marked A, B and C on the submitted plan will contain seating to accommodate no less than 210 persons.
7. At any time there will be a minimum number of seats in the areas marked A on the submitted plan to accommodate 50 persons and there will be no more than 35 persons standing in that area at any one time.
8. Management and staff shall be in attendance in the trading area at all times that alcohol is sold or supplied.
9. A colour digital CCTV system shall be installed within the

premises and be operational and recording at all times when licensable activities take place.

10. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy
11. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets)
12. The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days.
13. North Yorkshire Police or other Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.
14. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or other Responsible Authority.
15. A premises incident book/refusals register shall be kept, (or EPOS till recording system). Such registers will record incidents of staff refusals to under age or drunken people as well as incidents of any alcohol related anti-social behaviour and ejections from the premises. These records shall be kept for a minimum of one year. (For the avoidance of doubt, the one year period relates to each respective entry and runs from the date of that particular entry).
16. There shall be no off sales of alcohol.
17. An adequate number of door supervisors (at least one) shall be provided at the venue from 17:00 hours to the close of business on the evenings of race meetings held at York Racecourse (save for the family meeting held in September and the first meeting in May)
18. When door supervisors are on duty they shall sign in and out of the premises incident book, providing full details of their name and SIA number.
19. Fire appliances, suitable to the fire risks at the premises, shall be provided to the satisfaction of the Licensing Authority and such equipment shall be maintained in proper working order and kept available for instant use. Such equipment shall be conspicuously placed and unobstructed at all times.
20. Background music shall not be played at a level that will

cause unreasonable disturbance to the occupants of any properties in the vicinity.

21. The applicant shall co-operate with the police or officers of the local authority in the implementation of any initiatives to combat crime, disorder, antisocial behaviour or nuisance in the vicinity.
22. The premises licence holder shall take appropriate measures to ensure that patrons leave the premises in a quiet and orderly fashion.
23. The premises licence holder shall ensure that adequate measures are in place to prevent the escape of odours from the premises. These include odours from food preparation and refuse storage.
24. The premises licence holder shall ensure that adequate measures are in place to remove litter or waste arising from their customers and to prevent such litter from accumulating in the immediate vicinity of their premises.
25. Doors and windows shall be kept shut after 23:00 hours except for entry to and egress from the premises and in cases of emergency.
26. The premises shall operate a Challenge 25 policy for the sale of alcohol.
27. The only acceptable proof of age identification shall be a current passport, photo card driving licence or identification carrying the PASS logo (until other effective identification technologies e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder).
28. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:
 - Operation of the CCTV system (including the downloading of evidence)
 - Retail sale of alcohol
 - Age verification policy
 - Conditions attached to the licence
 - Permitted licensable activities
 - The licensing objectives and
 - Opening times of the venuewith such records being kept for a minimum of one year.
(For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry).

Reason for the Decision:

The Sub-Committee noted that, in response to the additional conditions offered by Loungers Ltd, the representors had withdrawn their representations. The Sub-Committee therefore agreed to grant the licence with the additional conditions referred to above.

Councillor Richardson, Chair

[The meeting started at 1.30 pm and finished at 1.50 pm].

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

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].

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Licensing Act 2003 Sub Committee**7th November 2016**

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for the Parliament Street and St Sampson's Square Christmas Market.**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-056707
3. Name of applicant: Make It York.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for:
 - a) An individual licence for a food and drinks marquee valid only during the duration of the York Christmas market each year.
 - b) The provision of regulated entertainment (plays, films, live and recorded music and dance) between 09:00hrs and 23:00hrs Monday to Saturday and 12:00 noon and 23:00hrs on Sundays.
 - c) The sale of alcohol between 09:00hrs and 23:00hrs Monday to Saturday and 12:00 noon and 23:00hrs on Sunday.
 - d) On New Year's Eve all licensable activities to cease at 20:00hrs.

Background

6. A copy of the application is attached at Annex 1.

Promotion of Licensing Objectives

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

8. General

- a) The licence shall only be valid during the duration of York Christmas market each year and only applies to the area within the designated Christmas marquee boundary.
- b) The licence holder will submit a plan showing the layout of the event each year to the licensing authority and police at least 28 days prior to the event. This will include the position of the marquee, toilets, bars, stage, entrance and exits, fire fighting equipment and any other information required.

9. The prevention of crime and disorder

- a) Store net radio systems shall be in place through City Centre Manager's Office
- b) Staff training shall be provided to members of staff to include:-
 - retail sale of alcohol
 - age verification policy
 - conditions attached to the premises licence
 - permitted licensable activities
 - the licensing objectives
- c) The marquee and any outside drinking area forming part of the marquee area shall be clearly defined by removable barriers.
- d) A minimum of 2 SIA registered door staff will be provided between the following times:
 - Monday to Thursday - 19:00 hrs until close of business;
 - Friday to Sunday – 12:00 noon until close of business;and at all other times the need for door supervisors shall be risk assessed.
- d) All 'on sales' of alcohol must be served in non glass vessels, or in the 'Make It York' approved souvenir mug.
- e) All 'off sales' of alcohol in glass vessels must be in sealed containers.
- g) All 'off sales' of alcohol in open vessels, must be served in non glass vessels. The only exception to this is to alcohol served in the 'Make It York' approved souvenir mug, and may only be used to serve mulled wine, mulled cider, liquor coffee and hot chocolate.

10. The prevention of public nuisance

- a) Consideration will be given to church services held within the city centre.
- b) The York Safety Advisory Group will be presented with the full Event Manual, Risk Assessment, Public Liability Certification and Safety Certification no later than 28 days before the event.
- c) Event organisers as named in the Event Hire Document shall submit a completed copy of the Event Information Questionnaire extracted from the Council's Code of Practice and Guidance Notes on Control of Noise for Concerts and Outdoor Events, together with a detailed plan showing exact layout of the site and proposed sound monitoring locations, at least 28 days before the event. A copy shall be sent to Public Protection and also the Licensing Unit. The notification shall include a sample of the leaflet to be sent to comply with the condition below and which addresses will receive the leaflet.
- d) Prior to an event, noise sensitive premises in close proximity shall be leafleted about the event. Information shall include details of the performance times and any sound checks taking place and a contact telephone number of the Named Event Organiser and a CYC representative. In the event of a complaint regarding sound levels, the Named Event Organiser will make an assessment of no less than 5 minutes in close proximity to the complainant's address. If the sound level is within category C or D of the sound monitoring log guidance, the specified action shall be taken and the requirements of the Named Event Manager to mitigate will be carried out immediately. The Named Event Organiser will contact the complainant and check that they are satisfied with the steps taken. If the complaint cannot be resolved on site the City of York Council Complaints Procedure, as outlined at www.york.gov.uk, will be instigated.
- e) The Events Organiser shall appoint a member of their event team as "Sound Monitor". The Sound Monitor will undertake a documented sound check prior to or at the start of the event to ensure that the sound levels are within category A or B as defined in "Sound Monitoring Log for Events on CYC Land". During the event, the Sound Monitor shall carry out documented patrols at

least once per hour or for each separate act taking place whichever is the more frequent. The monitoring at each location shall be for a representative period whilst the act is taking place (at least 5 minutes) and the observations shall be recorded on the "Sound Monitoring Log Sheets for Events on CYC Land" Actions taken shall be in accordance with those stated on the monitoring log sheet.

11. The protection of children from harm:

- a) A "Challenge 21" Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 21. The only acceptable forms of ID are photographic driving licences, passports, HM forces cards, or a form of identification with the "PASS" hologram.

Special Policy Consideration

12. This premise is located within the special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 2.

Consultation

13. 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.
14. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

15. The North Yorkshire Police have mediated with the applicants who have agreed to 3 additional conditions being attached to the licence if granted. These are:-
- i. The Christmas Market may only operate on consecutive days between the 1st November and the 6th January.

- ii. To qualify as the Christmas Market (as per the above condition) the Market must have a Christmas theme.
- iii. Any point of sale for the retail sale of alcohol outside the tented structure of the Tipi shall only be permitted for the sale of mulled wine, mulled cider, liquor coffee and hot chocolate.

Summary of Representations made by Parties other than Responsible Authorities

- 16. One relevant representation has been received from a ward councillor. This is shown at Annex 3.
- 17. A map showing the general area around the venue is attached at Annex 4.

Planning Issues

- 18. There are no planning issues regarding this application.

Options

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

Analysis

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

26. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
27. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
28. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

29. 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.
30. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

31.

- **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

32. 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.
33. 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

34. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

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Licensing Manager

Tel No. (01904) 551515

Chief Officer Responsible for the report:

Mike Slater
Assistant Director for Planning and
Public Protection.

**Report
Approved**



Date 20/10/2016

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Special Policy
- Annex 3** - Representation
- Annex 4** - Map of area
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations