

Report from the Assistant Director – Planning & Public Protection

**Section 18(3) (a) Application for a premises licence for Unit 8
Matmer House, Hull Road, York, YO10 3JW.**

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-056908
3. Name of applicant: DPSK Ltd.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for the provision of late night refreshment between the hours of 23:00 and 05:00 every day.

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. The prevention of crime and disorder
 - a) The licence holder will actively co-operate with the local police to ensure that they are made aware of particular problems which affect the area and which may potentially affect the store.

- b) The licence holder will not countenance the use or supply of illegal drugs and staff will inform the police immediately of any such suspected activity on or in the vicinity of the store.
- c) Employment policies are designed to ensure we recruit professional and reputable staff.
- d) The premise does not use or supply glassware.

9. Public Safety

- a) The premises comply with all requisite health and safety legislation.
- b) Regular health and safety risk assessments are carried out and are required under the terms of the terms of the Franchise Agreement.
- c) In the most unlikely event that a greater number of people congregate in the premises than is conducive to public safety, the management will not hesitate to ask people to leave the store and will always encourage them to take advantage of our home delivery service, which is the primary way in which we serve our customers.

10. The prevention of public nuisance

- a) Doors and windows will be kept closed at night to prevent transmission of noise.
- b) Visitors will be asked to leave the premises quietly and with due consideration for our neighbours.
- c) Delivery drivers are instructed to enter and leave their vehicles quietly and considerately, not to leave engines running, to park considerately, and at all times to have in mind the neighbours (particularly residential occupiers).
- d) The management would have no hesitation in banning people who visit the store and regularly leave the premises in a noisy fashion.
- e) Equipment is properly sound insulated and operated strictly in accordance with manufacturers' requirements, guide lines and tolerances.
- f) The air extraction system complies with Building Regulations requirements and is designed to ensure that there is no escape of cooking smells to neighbouring premises.

11. The protection of children from harm:

- a) The store is not licensed for the sale of alcohol.

Special Policy Consideration

12. This premise is not located within the council's special policy area.

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. There were no representations from any of the Responsible Authorities.

Summary of Representations made by Parties other than Responsible Authorities

16. Two relevant representation has been received from other parties. These are shown at Annex 2.

17. A map showing the general area around the venue is attached at Annex 3.

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

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Chief Officer Responsible for the report:

Mike Slater
Assistant Director for Planning and
Public Protection.

Report
Approved



Date 11/11/2016

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Hull Road

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Representations
- Annex 3** - Map of area
- Annex 4** - Legislation and Policy Considerations