

Meeting	Licensing Hearing
Date	28 November 2016
Present	Councillors Boyce, Mason and Richardson

15. Chair

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

16. Introductions

17. 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.

18. Minutes

Resolved: That the minutes of the Licensing Hearing held on 7 November 2016 be approved as a correct record and then signed by the Chair.

19. The Determination of an Application by DPSK Ltd for a Premises Licence Section 18(3) (a) in respect of Unit 8 Matmer House, Hull Road, York, YO10 3JW (CYC-056908)

Members considered an application by DPSK Ltd for a Premises License Section 18 (3) (a) in respect of Unit 8, Matmer House, Hull Road, 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 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 Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that the premises were outside the special policy area, consultation had been carried out in accordance with the Licensing Act 2003 and there had been no representations received from responsible authorities. She also pointed to the additional information provided by the applicant since the report was written which addressed some of the concerns raised by Representors. In answer to questions during the Hearing, the Licensing Officer confirmed that there was no alcohol licence applied for – only late night refreshment of hot food and non-alcoholic drinks. She also confirmed that there were a number of takeaway food outlets in the Matmer House Units, and that the latest licensed hours related to Unit 3 known as Pizza House, which was licensed for late night refreshment between 11pm and 4am every day, and this included alcohol sales.
3. The Applicant's representations at the hearing. They clarified that their intention was to close to the public at 23:00 and operate a delivery service only after this time. They advised that they wished to run this service from 23:00 till 05:00, but if the Sub-Committee were minded to grant this licence they would accept a reduction in hours in line with other businesses operating in the area. In response to representations they informed the Sub-Committee that a bin was already in place at the front of the store and this would be emptied regularly. Drivers would park at the front of the store and leave via the front door, in order to mitigate the noise for residents at the rear of the building. In response to questions during the Hearing they confirmed that they anticipated that trade would be from students, but could not confirm that all deliveries would be to the campus away from the immediate area of the premises. They anticipated that trade would be much quieter outside term time of the University.
4. The representations made by Councillor Neil Barnes, on behalf of Hull Road Ward Councillors, in writing and at the hearing. He clarified that Ward Councillors were not

objecting to the business, but rather the operating hours, as it was felt deliveries in the early hours of the morning would contribute to anti-social behaviour issues in the local area that Ward Councillors were currently working to address. He also asked for consideration to be given to earlier closing times during the working week, Sunday to Thursday as opposed to late opening every night.

5. Written representations made during the consultation period.

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 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 public nuisance.

Option 2: Grant 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.

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** 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 of approving the above **Option 2** the Sub-Committee then imposed the following additional conditions:

1. The premises shall not be open to the public between 23:00 and 04:00 and therefore no food orders can be made in person by the public at the premises during this time.
2. Any trade between 23:00 and 04:00 shall be restricted to a delivery only service.
3. The delivery only service shall be managed so as to ensure that between 23:00 and 04:00 such deliveries are only made to residential addresses.
4. Between the hours of 23:00 and 04:00 vehicles used for the delivery service shall only be parked at the front of the premises whilst awaiting orders, and delivery drivers are to enter and leave the premises only by the front door of the premises during this time.
5. A Notice must be clearly displayed in the window of the premises informing customers that trading is by delivery only between 23:00 and 04:00 and the premises are closed to the public during those hours therefore no food orders can be made in person by the public at the premises during this time.
6. A bin must be placed outside the premises and be emptied regularly.

Reasons for the Decision

The Sub-Committee took into consideration that there had been no objection from public protection, or any other responsible authorities. The Sub-Committee were aware from local knowledge that the area in which the premises were situated was in the vicinity of a number of existing late night takeaways and a garage with shop open 24/7. They were also aware of anti-social behaviour being an existing issue in the area. However, the Sub-Committee did not consider that granting the licence until 4am (to be in line with the existing closing time at

Unit 3), would give rise to a significant impact on anti social behaviour PROVIDED THAT the licence was conditioned so that the premises were closed to the public from 11pm and only deliveries were to take place from the premises between 11pm and 4am. This would decrease the likelihood of people congregating outside the premises late at night causing disturbance. In addition, in order to protect the residential amenity of the residents to the rear of the parade of shops, the Sub-Committee considered it reasonable to condition the licence so that delivery drivers would park at the front of the shop and only use the front entrance.

Councillor Boyce, Chair

[The meeting started at 10.10 am and finished at 11.00 am].