

Meeting	Licensing Hearing
Date	26 June 2017
Present	Councillors Douglas, Mercer and Looker

1. Chair

Resolved: That Councillor Douglas 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 which they may have in respect of business on this agenda. None were declared.

4. Minutes

Resolved: That the minutes of the Licensing Hearings held on the 27 February and 15 May 2017 be approved as a correct record and signed by the Chair.

5. Determination of an Application by Punch Taverns Plc for Variation to Premises Licence Section 35 (3)(a) in respect of Fulford Arms, 121 Fulford Road, York, YO10 4EX (CYC-008985)

Members considered an application by Punch Taverns Plc for Variation to Premises Licence Section 35 (3) (a) in respect of Fulford Arms, 121 Fulford Road, York, YO10 4EX.

In considering the application, and the representations made, the sub-Committee concluded the following licensing objectives were particularly relevant to this hearing:

3. The prevention of public nuisance.

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 in the operating schedule for the current licence 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 consultation had been carried out in accordance with the Licensing Act 2003. She also highlighted that there had been no representations made by responsible authorities and that three of the five written representations received from other persons had been withdrawn. In relation to the second bullet point of paragraph 5 of her report, the Licensing Officer clarified that the application is to remove condition 8 and not condition 7.
3. The applicants representations at the Hearing, and those of their solicitor. The solicitor stated that the applicants had been operating for three and a half years and that the change of use had been 'organic', with music and events becoming a more significant part of the business. There was a community focus to these events, with many being for charitable purposes. There were occasional outdoor events but these were covered by Temporary Event Notices (TENs). It was felt that the outdoor events may be where some of the issues highlighted in the written representations had stemmed from. There had only been one complaint in respect of noise made to the Environment Protection Unit (EPU) which was over 12 months old. This had been due to a door being left ajar and this had been rectified immediately, with no complaints since. The applicants had provided all those living in the block of flats opposite the premises with contact telephone numbers to use should they have any complaints. As none had been received, the applicants were confident that there was no disturbance from recorded music. The solicitor also advised the sub-committee that the applicants were withdrawing their application for live music until 02:00.

4. The two of the five representations received in writing that had not been withdrawn (being those at pages 61 to 62 and 68 of the Agenda papers).

In respect of the proposed variations to the licence, 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(3) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the variation to the licence in the terms applied for (which application excludes any variation to the current timings for live music) and including any applicable mandatory conditions of the Licensing Act 2003. This option was **approved**.

Option 2: Grant the variation to 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 option was **rejected**.

Option 3: Grant the variation to 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. The varied licence shall be subject to all the other conditions and the operating schedule for the current licence.

In coming to their decision to approve Option 1, the Sub-Committee was mindful of the fact that no representations had been received from responsible authorities and that three of the written representations received had been withdrawn before the hearing due to their concerns being addressed by the applicants. Outdoor events would be covered by Temporary Event Notices and the applicants had been proactive in writing

to significant numbers of local residents to inform them on the previous occasions where such events had taken place. There were several measures in place to minimise disturbance to local residents including temporary glazing and sole use of a side door when live music was taking place. They also noted that the applicants had withdrawn the application for live music until 02:00, which addressed many of the issues contained in the written representations.

The Sub-Committee concluded that the application was acceptable with the above mandatory conditions attached which addressed representations made both in writing and at the hearing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

Councillor Douglas, Chair

[The meeting started at 10.15 am and finished at 11.15 am].