

Licensing Act 2003 Sub Committee

13 December 2018

Report of the Corporate Director of Economy and Place

Section 35(3) (a) Application for the variation of a premises licence for Hartrigg Oaks, Haxby Road, New Earswick, York, YO32 4DY

1. This report seeks Members determination of an application for the variation of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009691
3. Name of applicant: The Joseph Rowntree Housing Trust
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application as follows:
 - Permit the sale of alcohol to non-residents between 11:00 and 00:00
 - Remove embedded restrictions relating to statutory conditions and credit sales

Licensable Activities	Existing Hours	Proposed Hours
Sale of Alcohol (On the premises)	Unrestricted to residents and their bona fide guests	Retain unrestricted hours for residents Permit the sale of alcohol for non-residents from Monday to Sunday 11:00 to Midnight
Opening Hours	No restrictions	No restrictions

Background

6. A copy of the existing premises licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.

Promotion of Licensing Objectives

8. The applicant states that they seek to promote the licensing objectives as follows –

Licensing Objectives:

General

- a) Hartrigg Oaks is a continuing care retirement community with an existing premises licence.
- b) We would like to hold events for both residents and non-residents which will include the sale of alcohol on the premises during these events.
- c) The Premises shall be under the supervision of the “Designated Premises Supervisor”. We are committed to responsible drinking.

The prevention of crime and disorder

- a) The target customers, location and events will combine to encourage moderate, responsible and social drinking during the managed events.
- b) Written procedures will be put in place and staff/resident volunteers will be trained to identify and address symptoms of drunkenness. Premises will be adequately monitored and supervised at all times.
- c) Notices will be displayed stating no alcohol is to be removed from the premises.
- d) CCTV is also in operation for entrances/exits and the site generally.

Public Safety

- a) Building Maintenance and safety:
 - Maximum occupancy levels will be set and managed by event organiser.
 - Adequate toilet facilities are provided for the prescribed occupancy level.
 - The Premises are adequately ventilated for the prescribed occupancy level.

- The Premises, fittings and apparatus is maintained in good order and in a safe condition.
- b) Cleaning:
- Cleaning schedules are prepared, adhered to and logged.
 - Staff are trained and supervised.
 - Commercial dishwashers are used to ensure glassware, crockery and cutlery is adequately cleaned and sanitised.
 - The overall Premises are maintained in a clean and tidy condition.
- c) Drinking and Driving:
- The Premises are located on a well serviced bus route providing a viable alternative to driving.
 - We respect attendees who choose not to drink and offer a reasonable range of products for those who are looking for alternatives to alcoholic beverages.
 - Customers will be made aware of the ABV of products.
 - Free potable water will be on offer.

The prevention of public nuisance

- a) Staff and visitors who depart late at night will conduct themselves in such a manner to avoid causing a disturbance.
- b) All deliveries and movement of bins/rubbish will take place between the hours of 09:00 to 17:00.
- c) Attendees will be invited to the Premises as part of the actual event, i.e. not open to non-invited guests.

The protection of children from harm

- a) Underage drinking:
- An age verification policy will be adopted to prevent the sale of alcohol to underage attendees.
 - All alcohol will be stored/dispensed in a manner that ensures that it can only be dispensed/consumed under supervision of staff/trained volunteers and is not accessible to children.
 - Children will only be permitted if accompanied and supervised by an invited attendee who is over the age of 18.

Special Policy Consideration

9. The premises is not located within the special policy area.

Consultation

10. 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.
11. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

12. We received representation from North Yorkshire Police on the grounds that the prevention of crime and disorder licensing objective would be undermined if the licence was granted under the terms applied for. However the representation has been withdrawn as the police and applicants have agreed to additional conditions. The conditions can be seen at Annex 3.

Summary of Representations made by other persons

13. There were 2 representations received from other persons mainly on the grounds the prevention of public nuisance licensing objective will be undermined if the variation is granted. A list of the representors is attached at Annex 4. Copies of their representations are attached at Annex 5.
14. A map showing the general area around the venue is attached at Annex 6.
15. Members are reminded that representations are only “relevant” if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Planning Issues

16. There are no planning issues in relation to this application.

Options

17. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-

18. Option 1: Grant the variation of the licence in the terms applied for.
19. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
20. Option 3: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
21. Option 4: Reject the application.
22. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

Analysis

23. The following could be the result of any decision made this Sub Committee:-
24. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
25. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
26. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
27. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

28. 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.
29. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

30.

- **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

31. 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.
32. 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

33. 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:

Michael Slater
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**Report
Approved**



Date 29/11/18

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Huntington/New Earswick

For further information please contact the author of the report

Background Papers:

Annex 1 - Copy of existing premises licence

Annex 2 - Copy of application form

Annex 3 - Copy of agreed conditions from North Yorkshire Police

Annex 4 - List of representors

Annex 5 - Copy of representations

Annex 6 - Map of area

Annex 7 - Mandatory Conditions

Annex 8 - Legislation and Policy Considerations