

Licensing Act 2003 Sub Committee

11 April 2019

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for Moxy Hotel, Stonebow, Black Horse Lane, York, YO1 7NE

Summary

1. This report seeks Members determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-063711
3. Name of applicant: QM Hotel (UK) Limited
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The proposal is to allow for the provision of the following activities:

Proposed Activity	Timings
Films (indoors)	Monday to Sunday 24 hours
Indoor Sport	Monday to Sunday 10:00 to 03:00
Live Music (indoors)	Monday to Sunday 10:00 to 03:00
Recorded Music (indoors)	Monday to Sunday 10:00 to 03:00
Performance of Dance	Monday to Sunday 10:00 to 03:00
Late Night Refreshment (indoors)	Monday to Sunday 23:00 to 03:00
Sale of alcohol (on & off	Monday to Sunday

sales)	10:00 to 03:00
Opening times	Monday to Sunday 24 hours
Non-Standard Timings for all licensable activities	New years eve 10:00 to terminal hour on new years day Residents and their bona fide guests will be entitled to be served alcohol 24 hours a day, 7 days a week

Background

6. A copy of the application is attached at Annex 1. A copy of the plans of the premises are attached at Annex 2.

Promotion of Licensing Objectives

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

8. General

None

9. The Prevention of crime and disorder

1. The use of doorstaff will be risk assessed on an ongoing basis by the licence holder or premises supervisor.
2. Alcoholic drinks may not be removed from the premises in open containers save for consumption in any external area provided or in hotel bedrooms.
3. Staff will receive training on matters concerning underage sales, drug policies and operating procedures.
4. There shall be a zero tolerance policy in relation to drugs at the premises and there shall be regular checks by management to prevent the use of drugs by patrons. Drugs seized shall be stored securely and handed to the police.
5. A CCTV system shall be fitted to the reasonable satisfaction of the police with recording facilities. Recording will be retained for a

reasonable period and provided to a police officer upon reasonable request subject to data protection legislation.

10. Public Safety

6. The premises will have adequate safety and fire fighting equipment, such equipment will be maintained in good operational order.
7. Staff will be trained on matters of safety, evacuation and use of emergency equipment as required.
8. Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.

11. The Prevention of Public Nuisance

None

12. The Protection of children from harm

9. There shall be adequate controls in place including staff training to safeguard against the sale of alcohol to persons under 18 years.
10. Where children are admitted to the premises their presence shall not be inconsistent with the style and operation of the premises at the time and licensable activities that are being carried out.

Cumulative Impact Assessment Consideration

13. This premises are not located within the cumulative impact area.

Consultation

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

Summary of Representations made by Responsible Authorities

16. North Yorkshire Police have made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application.
17. The Police representation is attached at Annex 3.
18. City of York Council Public Protection (Environmental Protection) made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence was to be granted in the terms applied for.
19. The Public Protection representation is attached at Annex 4.

Summary of Representations made by Other Parties

20. Representations have been received from 17 other persons on the grounds that three of the licensing objectives would be undermined if the premises licence were to be granted. A list of representors is attached at Annex 5. Copies of the representations are attached at Annex 6.
21. A map showing the general area around the venue is attached at Annex 7.

Planning Issues

22. There are no outstanding planning issues.

Options

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

Analysis

28. The following could be the result of any decision made this Sub Committee:-
29. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
30. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
31. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
32. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

33. 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.
34. 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

35.
 - **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

36. 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.
37. 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.

Recommendation

38. That Members determine the application.

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

Contact Details

Author:

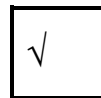
Lesley Cooke
Licensing Manager

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Chief Officer Responsible for the report:

Mike Slater
Assistant Director for Planning and Public Protection

**Report
Approved**

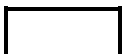


28/03/19

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 - Plans of the premises

- Annex 3** - North Yorkshire Police Representation
- Annex 4** - EPU Representation
- Annex 5** - List of Representors (confidential)
- Annex 6** - Other Representations
- Annex 7** - Map of area
- Annex 8** - Mandatory Conditions
- Annex 9** - Legislation and Policy Considerations