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## Licensing Act 2003 Sub Committee

26 June 2008

Report of the Director of Neighbourhood Services

### **Section 18(3)(a) Application for a premise licence for 28-40 Blossom Street, York, YO24 1AJ**

#### **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-014050.
3. Name of applicant: Whitbread Group Plc.
4. Type of authorisation applied for: Grant of Premises Licence.
5. Summary of application: The nature of the application is to apply for the supply of alcohol, the provision of regulated entertainment consisting of; films, indoor sporting events, live and recorded music and dance; and the provision of entertainment facilities for making music and dancing. The provision of late night refreshment.
6. The applicant states that the premises will operate as a food led public house on the ground floor with limited "one-off" occasional regulated entertainment and with unlicensed hotel accommodation on the upper levels. The proposed permitted hours for these premises are: Monday to Sunday 10:00 hours to 00:30 hours inclusive with the premises closing to the general public 30 minutes thereafter. However, the premises will remain open 24 hours a day to residents in the adjacent hotel accommodation.

#### **Background**

7. A copy of the application is attached at Annex 1.

#### **Promotion Of Licensing Objectives**

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

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. Where engaged doorstaff shall be licensed by the Security Industry Authority.
2. Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose or for consumption in the adjacent hotel.
3. Staff will receive training on matters concerning underage sales, drugs 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. The premises shall operate a proof of age scheme and will require photographic identification from any person who appears to be under the age of 21 years.
6. The management of the premises will liaise with police on issues of local concern or disorder.
7. CCTV will be installed with recording facilities such recordings shall be retained for a period of 31 days and made available within a reasonable time upon request by the police, such as to cover the main entrance to the premises.
8. There shall be no drinks promotions at the premises which are inconsistent with the need to promote responsible drinking.

10. Public safety:

1. To comply with the reasonable requirements of the fire officer from time to time.
2. The premises will have adequate safety and fire fighting equipment and such equipment will be maintained in good operational order.
3. Staff will be trained on matters of safety, evacuation and use of emergency equipment as required.
4. Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.
5. Toughened glasses will be used on the premises where appropriate.
6. Fire exits and means of escape shall be kept clear and in good operational condition.

11. The prevention of public nuisance:

1. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
2. Patrons will be encouraged by staff to leave quietly and respect the interests of the occupiers of any nearby noise sensitive premises. Where appropriate the licence holder or a suitable staff member will monitor patrons leaving at closing time.
3. Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.
4. Contact numbers for local taxi firm(s) shall be kept at the premises and made available to patrons requiring a taxi.

12. The protection of children from harm:

1. The restrictions set out in the Licensing Act 2003 will apply. No unusual or additional risks of harm to children have been identified.
2. No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.
3. Children under the age of 16 shall not be permitted to enter the premises after 21:00 hours unless dining with an adult or attending a pre-booked function or resident in the adjacent hotel.
4. There shall be adequate controls in place including staff training to safeguard against the sale of alcohol to persons under 18 years.
5. The premises supervisor or appointed staff member shall ensure that when children are admitted to the premises their presence is not inconsistent with the style of operation of the premises at that time and the licensable activities that are being carried out.
6. Policies relating to children shall be adequately communicated to patrons by staff or through appropriate signage.

**Special Policy Consideration**

13. The premises fall within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The special policy was approved by the licensing committee on 1 April 2005 and considered by full council on 12 April 2005, a copy of the special policy statement is attached at Annex 6.

## **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. A representation has been received from the following responsible authorities relating to this application.
17. North Yorkshire Police make representation to the grant of the application on the grounds that the prevention of crime and disorder, public safety and public nuisance licensable objectives would be undermined, particularly in relation to the premises being located within the cumulative impact zone. A copy of this representation is attached at Annex 2.
18. North Yorkshire Fire and Rescue Service make representation to the application on the grounds of public safety. They ask that the following condition be attached to the licence if granted; The occupancy figure for the premises should not exceed 400 persons. A copy of this representation is attached at Annex 3.

## **Summary of Representations made by Interested Parties**

19. A representation has been received from an interested party on the grounds of prevention of crime and disorder and public nuisance. A copy of the representation is attached at Annex 4.
20. The address of the interested party, in relation to the premises subject of the application, is indicated on the map attached as Annex 5.
21. An "interested party" is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
22. 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**

23. The premises do not currently have planning permission for use as a hotel. A planning application has been submitted (ref no: 08/01067/FULM) for a change of use but the applicant has requested that the application be held in abeyance pending the submission of additional information. On receipt of this information the application will be determined by the Planning Committee at a date to be set.

## **Options**

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

## **Analysis**

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

## **Corporate Priorities**

34. 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.
35. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

## Implications

36.

- **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

37. 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.
38. 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

39. Members determine the application.  
Reason: To address the representations received as required by the Licensing Act 2003.

## Contact Details

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**Report Approved**

**Date** 9 June 2008

**Specialist Implications Officer(s)**

Quentin Baker  
Head of Legal & Democratic Legal Services

Ext: 1004

**Wards Affected: Micklegate**

**For further information please contact the author of the report**

## Background Papers:

- Annex 1** - Copy of Application form
- Annex 2** - Copy of Representation from North Yorkshire Police
- Annex 3** - Copy of Representation from North Yorkshire Fire & Rescue Service
- Annex 4** - Copy of Representation from Interested Party
- Annex 5** - Map of area indicating address of Interested Party in relation to premises subject of application
- Annex 6** - City Centre Special Policy Statement
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations