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Meeting	Licensing/Gambling Hearing
Date	7 November 2019
Present	Councillors Galvin, Hook and Mason

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## 22. Chair

Resolved: That Councillor Mason be appointed to Chair the meeting.

## 23. Introductions

## 24. 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 the agenda. None were declared.

## 25. **The Determination of an Application by Deniz Durdu for A Premises Licence [Section 18( 3) (a)] in respect of Cecils, 7 Kimbelow Hill retail Park, York, YO10 5LA (CYC-065069)**

Members considered an application by Deniz Durdu for a Premises Licence [Section 18( 3) (a)] in respect of Cecils, 7 Kimbelow Hill retail Park, York, YO10 5LA (CYC-065069)

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. 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.
2. The following late evidence, circulated prior to and at the hearing:

- Updated proposed conditions received from the applicant's solicitor and corresponding emails between the solicitor and representor.
3. The Senior Licensing Officer's report and the Licensing Manager's comments given at the Hearing. The Licensing Manager outlined the report noting the opening and operating hours and schedule, she noted the information contained within the annexes to the report. She advised that the premises was not in the cumulative impact assessment area. She advised that North Yorkshire Police had 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. The representation had been withdrawn. There was one representation received from 'other persons' mainly on the grounds that the 'prevention of public nuisance' licensing objective will be undermined if the variation is granted. She noted the additional information submitted by the applicant's solicitor and from the representor, which had been circulated to all parties. She then outlined the options available to Members in determining the application.
  4. The representations made by Mr Walker, the Applicant's Solicitor at the hearing. Mr Walker distributed a map which the location of the premises in proximity to other licensed premises and residential properties. He explained that the premises sold hot food to eat in or take away, opened at 11.00am and closed no later than 11.00pm. He added that the application was to sell alcohol with food and clarified that no one would be able to buy alcohol and take it away. This meant that alcohol would only be provided as part of the delivery service post 11.00pm. He noted that the applicant was asking to sell alcohol with food for delivery.

Mr Walker advised that included in the additional information was two similar licenses and that the application being considered was more modest than those two applications. He explained that residential properties were not significantly affected by the premises because of their distance to it. He noted that the lease from the university was stringent. He added that that Unit 7 on the site was able to sell alcohol until 10.00pm without food.

Mr Walker reminded Members that the police had withdrawn their representation and advised that if the licence was breached, it could be reviewed. He ended by stating that the

application showed that the applicant has considered all of the licensing objectives.

In response to questions to the Applicant and Mr Walker it was confirmed that:

- Most orders came via the telephone
- There had been no consultation with the security team at the university. However, there had been no objection from the university.

5. The representations made by Cllr Norman, Hull Road Ward Councillor on behalf of the University of York Student Union and Graduate Student Union. Cllr Norman welcomed the condition offered by the Applicant. He asked Members to consider the Council Plan and noted that the nature of the campus was residential. The location of the premises was important, in particular because of the number of takeaways in the local area. He noted that the premises presented a high likelihood for students to purchase alcohol late. Cllr Norman was asked and explained that the University of York Student Union and Graduate Student Union had not made representation because of the timescale and complexity of making a representation. He added that it would have been useful for both to have been consulted on the application.

Cllr Norman highlighted that there was two issues with the application – the late night sale of alcohol which could contribute to public nuisance and the litter caused by the disposal of items from the takeaway. He requested an additional condition for the premises to help the local community pick to litter.

In response to questions from Members Cllr Norman explained that:

- Most of the litter came from takeaway packaging
- Residential properties were 150yds away from the premises and there were concerns about noise and disorder as a result of the late night alcohol being sold.
- His main concern was about alcohol being sold on the premises.

The applicant and representor were then given the opportunity to sum up. Mr Norman had nothing further to add in his summing up.

In summing up, Mr Walker, on behalf of the Applicant, stated that there was no noise issue at the premises at present and that alcohol would only be served with food. He offered the conditions to consult with the university and to assist with the collection of litter if assistance was needed. He was asked and clarified that customer could sit and dine until 11.00pm and that there would be no alcohol after 11.00pm.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine 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) (a) 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. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly. This option was rejected.

Option 4: Reject the application. This option was rejected.

In agreeing Option 2 the following conditions and modified/additional conditions were added to the licence:

1. Alcohol only be sold after 11.00pm as part of the home delivery service – ie it will not be possible to buy alcohol at the unit itself after 11pm.
2. Alcohol would only be available for purchase with food at all times.
3. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.
4. The CCTV equipment shall have constant time /date generation which must be checked on a daily basis for accuracy.

5. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises and entrances / exits and outside designated smoking areas (excluding toilets).
6. The CCTV system recordings must be kept for a minimum of 28 days.
7. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.
8. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.
9. All CCTV recordings will have sufficient clarity / quality / definition to allow facial recognition.
10. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:
  - retail sale of alcohol;
  - age verification policy;
  - conditions attached to the premises licence;
  - permitted licensable activities;
  - the licensing objectives;
  - opening times for the venue,with such records being kept for a minimum of one year. (For the avoidance of doubt the one year period relates to each entry in the log book and runs from the date of the particular entry.)
11. A refusal register / incident report record shall be maintained for the premises. Such registers, electronic or otherwise stored, will record incidents of staff refusals of underage or drunk people as well as incidents of any anti-social behaviour and ejections from the premises. Such registers shall be kept for a minimum of one year. (For the avoidance of doubt the one year period relates to each entry in the log book and runs from the date of the particular entry.)
12. Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

The Sub-Committee concluded that the application was acceptable with the above mandatory and additional conditions attached which addressed representation 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.

The Sub-Committee considered very carefully the representation of Cllr Norman, Hull Road Ward Councillor. The Sub-Committee considered that on balance, it had received sufficient assurances and evidence from the applicant in order to have a high level of confidence that the premises would be operated responsibly and that it could, with the imposition of conditions, operate without undermining the licensing objectives of prevention of public nuisance. They felt that this decision was proportionate on the basis of Home Office and local guidance and they concluded that on balance that all four licensing objectives would be met in granting the application with the mandatory and the above additional conditions.

The Sub-Committee therefore agreed to grant the licence with the additional conditions referred to above which were appropriate, proportionate and necessary in the circumstances to promote the licensing objectives.

Cllr Mason, Chair

[The meeting started at 10.20 am and finished at 10.55 am].