

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Four High Petergate Hotel & Bistro, 2-4 High Petergate, York, YO1 7EH

Summary

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-010833.
3. Name of applicant: Debretton Hospitality (4HP) Ltd.
4. Type of authorisation applied for: Variation of existing premises licence.
5. Summary of application: The nature of the application is to permit the provision of regulated entertainment consisting of plays, films, live and recorded music and dancing, the provision of late night refreshment and to amend the plans of the premises to include a ground floor garden area.

Background

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.
8. A table showing the existing and proposed licensable activities is attached at Annex 3.

Promotion Of Licensing Objectives

9. The operating schedule submitted by the applicant offered no additional steps to address the licensing objectives other than those already attached to the existing premises licence.

Special Policy Consideration

10. This premise is not located within the special policy area.

Consultation

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

Summary of Representations made by Responsible Authorities

13. City of York Council Environmental Protection Unit: Make representation on the grounds of the prevention of public nuisance licensing objective. The representation relates specifically to the intended use of the outside area. A copy of the representation is attached at Annex 4 and summarised below:
14. A representation received from North Yorkshire Police was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence:
 1. CCTV will be installed to cover the premises. It will be maintained and working at all times that the premises are open. Copies of the recordings will be kept available for any relevant authority for 28 days.
 2. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
 3. One pint capacity, half pint capacity and 'highball' tumbler drinking glasses will be strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers care.
 4. All OFF SALES shall be made in sealed containers.
 5. Documented staff training will be given regarding the retail of alcohol and such records will be kept accordingly.
 6. The management of the venue will comply with any reasonable and justified request regarding the provision of Door Supervisors should the need arise.
 7. A refusals register and incident report register will be kept. Such documents will record incidents of staff refusals to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any relevant authority.
 8. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

9. The premise shall partake in the York Pubwatch Pager scheme.
15. A representation received from North Yorkshire Fire & Rescue Service was subsequently withdrawn when the applicant agreed to the following condition being attached to the licence:
The occupancy figure for the ground floor and garden area should not exceed 100 persons.

Summary of Representations made by Interested Parties

16. A representation was received from an interested party on the grounds of prevention of public nuisance. A copy of this representation is attached at Annex 5.
17. The location of the residential property owned by the interested party in relation to the premises subject to this application is shown on the map attached at Annex 6.
18. 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.
19. 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

20. To date the applicant has not submitted the required listed building and planning application for the works / change of use to the building. There is an outstanding application for the summerhouse at the rear of the garden and this is unlikely to be determined in the near future.

Options

21. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
22. Option 1: Grant the variation of the licence in the terms applied for.
23. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
24. 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.

25. Option 4: Reject the application.

Analysis

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

Corporate Priorities

31. 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.
32. 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

- 33.
- **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

34. 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.
35. 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

36. 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 12 August 2008

Specialist Implications Officer(s):

Quentin Baker
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Wards Affected: Guildhall East

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** - Table of existing and proposed licensable activities.
- Annex 4** - Copy of representation from Environmental Protection Unit
- Annex 5** - Copy of representation from Interested Party
- Annex 6** - Map of area indicating location of residential property owned by interested party in relation to premises subject of application
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations