

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Marmadukes, 4 & 5 St Peter's Grove, Bootham, York, YO30 6AQ

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-010461.
3. Name of applicant: Debretton Hospitality Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to vary the existing premises licence to permit additional forms of licensable activity and to modify the hours of licensable activities.

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 and hours of trading 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 City Strategy (Planning): Make representations on the grounds of the prevention of public nuisance licensing objective. A copy of the representation is attached at Annex 4.
14. City of York Council Environmental Protection Unit: Make representations on the grounds of prevention of public nuisance licensing objective. A copy of the representation is attached at Annex 4.
15. A representation received from North Yorkshire Police was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence: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, working and recording at all times that the premises are open. Copies of the recordings will be kept available for any relevant authority for 14 days.
 2. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
 3. Drinking glasses of any type shall not be allowed to enter or leave the boundary of the hotel grounds whilst under customer care.
 4. All OFF SALES that are to leave the boundary of the hotel grounds shall be made in sealed containers.
 5. Documented staff training will be given regarding the retail of alcohol and such records kept accordingly.
 6. 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.
 7. Alcohol (ON SALES) shall not be served after 01:40 hours to allow a period of 20 minutes drinking up time.

Summary of Representations made by Interested Parties

16. Representations have been received from the interested parties listed at Annex 5 (confidential). Their representations are attached at Annex 6.

17. The addresses of the interested parties are indicated on the map attached as Annex 7 (confidential). Two representations are from the Burton Stone Lane Clifton area, one from Clifton area and the remainder from the St Peter's Grove area. A further map indicating the general area from which representations were received is attached at Annex 8.
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. Planning permission was granted in May 2007 for a conservatory on the side of the premises with a condition requiring a scheme of sound insulation to be agreed and implemented. The condition has not been formally discharged.

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 26 August 2008

Specialist Implications Officer(s):

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Wards Affected: Clifton

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 hours of trading and permitted licensable activities
- Annex 4** - Copy of representation from CYC Planning & Environmental Protection Unit
- Annex 5 (Confidential)** - List of Interested Parties
- Annex 6** - Copies of representations from Interested Parties
- Annex 7 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 8** - Map showing general area from which representations received
- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation and Policy Considerations