

Report of the Director of Neighbourhood Services

**Section 18(3)(a) Application for a premise licence for
69-71 Micklegate, York YO1 6LJ**

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-015873
3. Name of applicant: To The Moon Ltd.
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The nature of the application is to allow for the supply of alcohol and the provision of regulated entertainment consisting of films, recorded music and the provision of entertainment facilities for dancing.

Background

6. A copy of the application is attached at Annex 1.
7. These premises were first granted a Justices (restaurant) Licence in November 1991 by the York Magistrates and this remained in place until the previous owners surrendered it in November 2008. This licence allowed for the sale of alcohol as an ancillary to a table meal from 10:00 hours to midnight on weekdays and from 12:00 hours to 23:30 hours on Sundays and Good Friday.

Promotion Of Licensing Objectives

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. General: 1) Regular staff training to cover all legislation requirements. 2) Voluntary closure policy to be 30 minutes after final supply of alcohol. 3) Alcohol will be ancillary to food.

10. The prevention of crime and disorder: 1) Installation of CCTV. 2) Utilise Drinkaware. 3) Join 'Pubwatch scheme'. 4) Liaise with Local Authority.
11. Public safety: 1) Liaise with appropriate bodies to ensure adequate health and safety/fire polices are in place.
12. The prevention of public nuisance: 1) Encourage patrons to leave quietly. 2) Noise levels to adhere to sound report required levels.
13. The protection of children from harm: 1) Staff training on underage drinking and identification. 2) Entertainment/programming to be used at appropriate times.

Special Policy Consideration

14. 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 5

Consultation

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

Summary of Representations made by Responsible Authorities

17. A representation was received from North Yorkshire Police on the grounds of crime and disorder which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
 1. The premises shall operate primarily as a restaurant i.e. the provision of meals with patrons seated at tables.
 2. Alcohol will be served ancillary to a meal.
 3. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced in

Court or other such hearing. Copies of the recordings will be kept available for any responsible authority for 28 days.

4. The only acceptable proof of age identification shall be a current passport photocard driving licence or identification carrying the PASS logo.
 5. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers' care
 6. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police 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 Responsible 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 premises shall only stay open until 03:00 hours on New Year's Eve (i.e. 03:00 hours New Year's Day)
 10. There shall be a maximum of 60 seated covers to ensure that the Licensing Objective "the Prevention of Crime and Disorder" is not undermined.
 11. The sale of alcohol shall cease 30 minutes prior to the closing of the venue.
 12. The emptying of bottle bins in the rear yard shall only take place after 08:00 hours and before 23:00 hours.
 13. The "provision for dancing" shall be withdrawn from the original application.
18. A representation was received from North Yorkshire Fire and Rescue Service on the grounds of public safety which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
1. The maximum permitted occupancy of the ground floor should not exceed 100 persons with the front door opening outwards.

Summary of Representations made by Interested Parties

19. Representations have been received from the interested parties listed at Annex 2. These representations are attached at Annex 3.
20. The addresses of the interested parties are indicated on the map attached as Annex 4.

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. There are no planning issues in relation to this premise. A3 planning usage is in place.

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**Author:**

John Lacy
Licensing Manager
Licensing & Regulation

Ext: 1593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1814

Report Approved



Date 6 August 2009

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** - List of Interested Parties
- Annex 3** - Representations from Interested Parties
- Annex 4** - Map showing general area from which representations received
- Annex 5** - Copy of City Centre Special Policy Statement
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations