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## Licensing Act 2003 Sub Committee

10 May 2010

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for Hull Road Service Station, 339 Hull Road, York YO10 3LE**

#### **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-009573
3. Name of applicants: Inner Space Stations Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to allow for the provision of late night refreshment until 05:00 hours every day and to extend the hours for the sale of alcohol (off the premises) to 24 hours every day.

#### **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.

#### **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) 24 hour digital surveillance. 2) Fully trained staff.
10. The prevention of crime and disorder: 1) Over 21 policy. 2) Passport or driving licence as the only acceptable I.D.
11. Public Safety. 1) Well lit premises.
12. Public Nuisance. As above.
13. The protection of children from harm. As above.

### **Special Policy Consideration**

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

### **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.
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, public nuisance and the protection of children. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
  1. The premises will continue to be used as a petrol forecourt store.
  2. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access to purchase alcohol. It will be maintained, working and recording at all times when the premises are open for licensable activities. The recordings should be of sufficient quality to be produced at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 7 days.
  3. Documented staff training will be given regarding the retail sale of alcohol and such records kept for at least three years.
  4. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo (until other effective identification technology, e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder.)
  5. At the conclusion of the licensed hours for late night refreshment, staff shall undertake a litter pick and general tidy up in the vicinity of the venue.

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

18. Representations have been received from 9 Interested Parties listed in Annex 3. These representations are attached at Annex 4
19. A map showing the general area around the venue from which the representation is focused is attached at Annex 5
20. 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.

21. 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**

22. There are no planning issues or conditions relevant to this application.

### **Options**

23. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
24. Option 1: Grant the variation of the licence in the terms applied for.
25. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
26. 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.
27. Option 4: Reject the application.

### **Analysis**

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

### **Corporate Strategy**

33. 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.

34. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

## **Implications**

35.

- **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**

36. 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.
37. 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**

38. 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** 27 April 2010

**Specialist Implications Officer(s):**

Head of Legal & Democratic Legal Services

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**Wards Affected: Hull Road**

**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** - List of Interested Parties
- Annex 4** - Representations from Interested Parties
- Annex 5** - Map showing general area from which representations received.
- Annex 6** - Mandatory Conditions.
- Annex 7** - Legislation and Policy Considerations.