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## Licensing Act 2003 Sub Committee

31 May 2007

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for the Duchess of York (cruise vessel moored at Acaster Malbis, York).**

#### **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-010891.
3. Name of applicant: Richard Dearlove.
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 remove condition 7 which states; "The style of business shall not be changed from a cruise operation and therefore alcohol shall only be served whilst the premises is in motion with the exception of a 30 minute period prior to the cruise commencing."
6. The applicant is seeking to permanently moor the vessel at the landing on the River Ouse at the Ship Inn, Moor End, Acaster Malbis, York where it will be used as a café and holding facility for customers waiting to take a boat trip on the River King. The removal of condition 7 will permit alcohol to be served to customers using the facility as well as non-alcoholic drinks and snacks.

#### **Background**

7. A copy of the existing premise licence is attached at Annex 1.
8. A copy of the application to vary the licence is attached at Annex 2.

#### **Promotion Of Licensing Objectives**

9. The applicant does not propose any further conditions to those currently attached to the 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. There were no representations received from Responsible Authorities.

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

14. Representations have been received from the 5 interested parties listed at Annex 3 (confidential) and Acaster Malbis Parish Council. Their representations are attached at Annex 4.
15. The addresses of the interested parties are indicated on the map attached as Annex 5 (confidential). A further map indicating the general area from which representations were received is attached at Annex 6.
16. 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.
17. 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**

18. This proposal requires planning permission, at the time of writing this report no planning application has been received.

## **Options**

19. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
20. Option 1: Grant the variation of the licence in the terms applied for.

21. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
22. 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.
23. Option 4: Reject the application.

## **Analysis**

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

## **Corporate Priorities**

29. 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.
30. 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**

31.
  - **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**

32. 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.
33. 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**

34. Members determine the application.

## Contact Details

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**Report Approved**



**Date** 11 May 2007

**Specialist Implications Officer(s):**

Suzan Hemingway  
Head of Legal & Democratic Legal Services

Ext: 1004

**Wards Affected:** Bishopthorpe

**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 (Confidential)** - List of Interested Parties
- Annex 4** - Copies of representations from Interested Parties
- Annex 5 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 6** - Map showing general area from which representations received
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations