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## Licensing Act 2003 Sub Committee

11 June 2007

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for Bohemia, 127 Micklegate, York, YO1 6LB**

#### **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-009095.
3. Name of applicant: Mr Hong Son Poc.
4. Type of authorisation applied for: Variation of Premises Licence.
5. Summary of application: The nature of the application is;
  - a) To extend the existing hours for the sale of alcohol, provision of regulated entertainment and provision of late night refreshment until 03:30 hours daily. Premises to close at 04:00 hours daily.
  - b) To remove Condition 16(a) Annex 2 relating to the 'City of York Council Rules for the Management of Places of Public Entertainment' forming part of the premises licence.
  - c) To remove Condition 3 Annex 2 namely "A personal licence holder will be on the premises at all times when the sale of alcohol is taking place".

#### **Background**

6. A copy of the existing premise licence, including the 'City of York Council Rules for the Management of Places of Public Entertainment', 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 applicant does not believe that any further steps, beyond those already set out in existing conditions, are required to promote the four licensing objectives.

## **Special Policy Consideration**

9. 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 8.

## **Consultation**

10. 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.
11. All procedural aspects of this application have been complied with.

## **Summary of Representations made by Responsible Authorities**

12. A representation was received from North Yorkshire Police relating to this application on the grounds of crime and disorder. This representation was subsequently withdrawn after the applicant agreed to the following condition being attached to the premises licence if the variation is granted;  
“There will be no admissions allowed after 03:00 hours.”

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

14. Representations have been received from the 22 interested parties (including a 24 name petition) listed at Annex 3 (confidential). 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. There are no planning issues.

### **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** 29 May 2007

**Specialist Implications Officer(s):**

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**Wards Affected:** Micklegate

**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** - Copy of City Centre Special Policy Statement
- Annex 9** - Legislation and Policy Considerations