
Licensing Act 2003 Sub Committee

14 November 2007

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Hotel du Vin, 89 The Mount, York, YO24 1BL

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-011565.
3. Name of applicant: Hotel du Vin York.
4. Type of authorisation applied for: Grant of Premises Licence.
5. Summary of application: The nature of the application is to provide regulated entertainment consisting of films, live and recorded music, performances of dance, the provision of entertainment facilities for making music and dancing, the provision of late night refreshment and the supply of alcohol.

Background

6. A copy of the application is attached at Annex 1.
7. A table of the proposed licensable activities and hours of operation is attached at Annex 2.
8. A provisional statement in relation to these premises was granted with conditions at a hearing of the licensing sub-committee held on 17 July 2006. A copy of the hearing decision is attached at Annex 3 and a copy of the provisional statement is attached at Annex 4.
9. A provisional statement is applied for where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities. If granted, a provisional statement is an assurance that a premises licence would be granted for the premises when the building work is completed. A provisional statement does not 'convert' into a premises licence on completion of the construction or development; a subsequent application for the grant of a premises licence is required.

10. When a person applies for a premises licence in respect of a premise for which a provisional statement has been made, representations by responsible authorities and interested parties will be excluded in certain circumstances. These are where;
- the application for a licence is in the same form as the licence described in the provisional statement;
 - the work in the schedule of works has been satisfactorily completed; and
 - given the information provided in the application for the provisional statement, the responsible authority or interested party could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and there has been no material change in the circumstances relating either to the premises or to the area in the vicinity of those premises since the provisional statement was made.
11. Representations, therefore, cannot be made on the premises licence application in respect of matters upon which representations could have been made when the provisional statement was applied for. The material changes in this application contrary to the provisional statement are;
- Provision of regulated entertainment extended to include films;
 - All licensable activities to take place both indoors and outdoors (the application for the provisional statement was for indoors only); and
 - The removal of condition 1 imposed at the hearing of 17 July 2006 namely "Private functions shall cease at midnight Sunday to Thursday".

Promotion Of Licensing Objectives

12. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
13. General: The applicant agrees to conditions 2 to 5 imposed upon the provisional statement namely;
- 2) Noise from regulated entertainment shall be inaudible at the nearest noise sensitive residential premises.
 - 3) Door staff shall be required on race days, in consultation with the police.
 - 4) There shall be no adult entertainment at the premises.
 - 5) All external drinking areas, other than the courtyard, shall be vacated, cleared and cleaned by 23:30 hours.
14. The prevention of crime and disorder: 1) All staff will be fully trained in customer relations. 2) At least one first aider will be on the premises at all times. 3) There will be a security night porter on duty each night. 4) The premises is covered by CCTV which shall be maintained and in good working order. 5) Door staff and security will be employed as and when necessary and agreed in consultation with the police.

15. Public safety: 1) All staff are trained in emergency planning. 2) There are clear fire safety signage and means of escape in case of fire notices throughout the building, together with fire fighting equipment, emergency lighting and an appropriate means of raising the alarm in event of fire. 3) Fire risk assessment documentation is held at the premises at all times, which is available for inspection upon request, together with Health and Safety risk assessments which are carried out for each department within the hotel. 4) An external Health and Safety Audit Company is employed to inspect the premises twice annually.
16. The prevention of public nuisance: 1) At the request of patrons, free of charge, taxis will be called to the hotel. 2) Noise levels will be kept to acceptable levels so as to cause minimum disturbance to the neighbourhood and residents at the hotel. 3) Deliveries and disposal of waste will be carried out during acceptable hours with due consideration to the neighbourhood.
17. The protection of children from harm: 1) All children must be accompanied by an adult within the premises where licensable activities are taking place. 2) Staff are trained in the licensing objectives and operate a proof of age scheme.

Special Policy Consideration

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

Consultation

19. 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.
20. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

21. North Yorkshire Fire and Rescue Service made representation on the grounds of public safety requesting that they be informed once structural works are completed at the premises in order for them to carry out an inspection to determine occupancy figures. This has been agreed by the applicant.

Summary of Representations made by Interested Parties

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

23. The addresses of the interested parties are indicated on the map attached as Annex 7 (confidential). A further map indicating the general area from which representations were received is attached at Annex 8. All of the representations were from the Scarcroft Road area of York.
24. 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.
25. 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.
26. A letter was received on 13 September 2007 from Ward Hadaway Solicitors acting on behalf of the applicant which addressed the relevant representations. A copy of this letter was subsequently forwarded to each interested party as requested by the solicitor. A copy of the letter is attached at Annex 9.

Planning Issues

27. A copy of the approved planning decision is attached at Annex 10.

Options

28. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
29. Option 1: Grant the licence in the terms applied for.
30. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
31. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
32. Option 4: Reject the application.

Analysis

33. The following could be the result of any decision made by this Sub Committee:-
34. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
35. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
36. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

37. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

38. 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.
39. 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

- 40.
- **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

41. 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.
42. 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

43. 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** 22 October 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 application form
- Annex 2** - Table of proposed licensable activities & trading hours
- Annex 3** - Copy of hearing decision of 17 July 2006
- Annex 4** - Copy of Provisional Statement
- 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** - Copy of Ward Hadaway Solicitors' letter to representors
- Annex 10** - Copy of approved planning permission
- Annex 11** - Mandatory Conditions
- Annex 12** - Legislation and Policy Considerations