Licensing Act 2003 Sub Committee   27ᵗʰ January 2015

Report of the Director of Communities and Neighbourhoods

Section 35(3) (a) Application for the variation of a premise licence for Wheatlands Lodge Hotel, 75–85 Scarcroft Road, York, YO24 1DB.

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-009636

3.   <u>Name of applicants</u>: Terrence Wheatley and Robert Wheatley.

4.   <u>Type of authorisation applied for</u>: Variation of premises licence.

5.   <u>Summary of application</u>: The nature of the application is as follows:

   i) To extend the boundary of the premises licence to include the outside areas, namely the rear courtyard situated within the rear parking area, and the front garden and patio area looking onto Scarcroft Road.

   ii) To remove condition 9 in Embedded Restrictions from the premises licence. (This refers to not allowing credit sales).

   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 applicant does not propose any additional measures to those already stipulated on their existing licence.

Special Policy Consideration

9.   This premise is not located within the extended special policy area.

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.

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

Summary of Representations made by Responsible Authorities

12. No representations were received by any of the Responsible Authorities.

Summary of Representations made by other persons

13. Nine relevant representations have been received from persons listed at Annex 3 and their representations are shown at Annex 4.

14. A map showing the general area around the venue is attached at Annex 5.

15. 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

16. There are no planning issues regarding this application.

Options

17. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-

18. Option 1: Grant the variation of the licence in the terms applied for.

19. <u>Option 2</u>: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.

20. <u>Option 3</u>: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.

21. <u>Option 4</u>: Reject the application.

22. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

Analysis

23. The following could be the result of any decision made this Sub Committee:-

24. <u>Option 1</u>: This decision could be appealed at Magistrates Court by any of the representors.

25. <u>Option 2</u>: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

26. <u>Option 3</u>: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

27. <u>Option 4</u>: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

28. 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.

29. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

30.

- **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

31. 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.

32. 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

33. That 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** 29/12/2014

Specialist Implications Officer(s):

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 existing premises licence
- **Annex 2** - Copy of application form
- **Annex 3** - List of representors
- **Annex 4** - Copies of representations
- **Annex 5** - Map of area
- **Annex 6** - Mandatory Conditions
- **Annex 7** - Legislation and Policy Considerations