

Licensing Act 2003 Sub Committee

**15th November
2012**

Report of the Director of Communities and Neighbourhoods

**Section 35(3)(a) Application for the variation of a premise licence for
The Regency Restaurant, 16 Barbican Road, York, YO10 5AA.**

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-009221
3. Name of applicants: Chong Hung Chun.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to:-
 - a) to extend the hours of operation for the following licensable activities:-

Activity	Proposed Timings	Proposed Location	Current Timings	Current Location
Live music	Mon – Sun 10:00 – 03:30	Indoors	Mon – Sat 17:30 – 00:30	Indoors
Recorded music	Mon – Sun 10:00 – 03:30	Indoors	Mon – Sat 17:30 – 00:30	Indoors
Performance of dance	Mon – Sun 10:00 – 03:30	Indoors	Mon – Sat 17:30 – 00:30	Indoors
Activities similar to music and dance	Mon – Sun 10:00 – 03:30	Indoors	Mon – Sat 17:30 – 00:30	Indoors

Late night refreshment	Mon – Sun 23:00 – 03:30	Indoors	No restrictions	Indoors
Supply of alcohol	Mon – Sun 10:00 – 03:30	on and off the premises	Mon – Sat 10:00 – 23:00 Sunday and Good Friday 12:00 – 22:30 Christmas Day 12:00 – 15:00 and 19:00 – 22:30	
Opening times	Mon – Sun 10:00 – 04:00		No restrictions	

All of the above proposed timings to include an extra hour on the day that British Summer Time commences. There is also a proposal for additional hours from the end of permitted hours on New Year's Eve to the commencement of permitted hours on New Year's Day; this also features of the current licence.

- b) To remove the embedded conditions and the conditions listed under Annex 2 of the current premises licence.
- c) To alter the layout of the licensed area including the addition of the first and second floors.

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

- a) All staff involved in the sale of alcohol will receive training in relation to the licensing objectives.

- b) This training will be documented and will be made available to an authorised officer upon request.

10. The prevention of crime and disorder:

- a) CCTV will be installed at the premises.
- b) It shall record during the hours the premises are open to the public and include the time and date of the recording
- c) As a minimum, it will record a head and shoulders image of each individual who enters the premises through the main entrance, said image to be of evidential quality.
- d) Recordings shall be kept for a minimum of 28 days with said images being produce to an authorised officer upon demand.
- e) The premises licence holder or a nominated representative shall be an active member of the local Pubwatch scheme or its equivalent (where such scheme is in existence) and shall regularly attend the meetings.

11. The prevention of public nuisance:

- a) Whenever regulated entertainment is taking place, regular assessments shall be made of any noise emanating from the premises. Whenever said assessments indicate that noise is likely to cause nuisance to any local residents, remedial steps shall be taken to reduce the level of noise.
- b) A clear legible and conspicuous notice requesting patrons to avoid causing noise, nuisance or disturbance to local residents shall be displayed at every exit.

12. The protection of children from harm

- c) There shall be a “Challenge 21” policy in operation at the premises requiring any individual who appears to be under the age of 21 to produce identification to prove that they are over the age of 18, the sale of alcohol being refused where they are unable to do so.
- d) The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited ‘proof of age’ card, any other form of identification previously agreed with representatives of the North Yorkshire Police Licensing Unit.

Special Policy Consideration

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

Consultation

14. 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.
15. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

16. The council's Development Control Unit makes representation on the grounds of the prevention of the public nuisance licensing objective. A copy of this representation is attached at Annex 3.
17. North Yorkshire Police make representation on all 4 licensing objectives. A copy of this application is attached at Annex 4.
18. The council's Environmental Protection Unit proposed the following conditions which have been accepted by the applicant and these will be included in the licence if granted.
 - i) All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided, after 23:00hrs each night (except for ingress and egress)
 - ii) A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
 - iii) Clear signage shall be displayed requesting that customers respect neighbouring residents and leave the premises quietly.
 - iv) The use of external areas shall be restricted to 10:00hrs – 23:00hrs each day. After this time, customers shall only be permitted at the front of the property, fronting onto Barbican Road, for the purpose of smoking.

v) A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

Summary of Representations made by other persons

19. Relevant representations have been received from residents at 18 addresses close to the venue. These addresses are listed in Annex 5. Their representations are shown in Annex 6.
20. A map showing the general area around the venue is attached at Annex 7.
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. Appropriate planning permissions are required for the premises.(as referred to in Annex 3)

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.
28. 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

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

Council Plan

34. 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.
35. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

36.
 - **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

37. 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.
38. 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

39. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

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Chief Officer Responsible for the report:

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Assistant Director– Housing & Public Protection.

**Report
Approved**



Date 07/11/2012

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Fishergate

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** - Representation from Development Control
- Annex 4** - Representation from North Yorkshire Police
- Annex 5** - List of representors.
- Annex 6** - Copies of representations from local residents
- Annex 7** - Map of area
- Annex 8** - Mandatory Conditions
- Annex 9**- Legislation and Policy Considerations.