

## Licensing Act 2003 Sub Committee

5 February 2015

Report of the Director of Communities and Neighbourhoods

### **Section 35(3) (a) Application for the variation of a premise licence for Mansion Nightclub, 53-55 Micklegate, York, YO1 6LJ**

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-009397
3. Name of applicant: Andrew Elliott
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows:
  - 1) To change the layout to the premises.
  - 2) To remove the embedded conditions relating to credit sales and the attachment of PEL (Public Entertainment Licence) conditions.
  - 3) To extend the hours for the sale of alcohol to between 10:00 and 04:30.
  - 4) To extend the opening hours and hours for permitted regulated entertainment to between 10:00 and 05:00.
  - 5) To extend the hours for late night refreshment to 23:00 and 05:00.
  - 6) To permit extensions to these hours on race days.
  - 7) To add existing conditions to the premises licence;

### **Background**

6. A copy of the existing premise licence is attached at Annex 1. A copy of the plans showing the existing layout of the premises is attached at Annex 2.
7. A copy of the application to vary the licence is attached at Annex 3. A copy of the plan showing the proposed change to layout of the premises is attached at Annex 4.

8. The following schedule lists the existing and proposed licensable activities and hours;

LICENSABLE ACTIVITIES	CURRENT HOURS	PROPOSED HOURS
Films	Monday to Sunday 10:00 – 03:00	Monday to Sunday 10:00 – 05:00
Live Music	As above	As above
Recorded Music	As above	As above
Performances of dance	As above	As above
Activities like music/dance	As above	As above
Late Night Refreshment	Monday to Sunday 23:00 – 03:00	Monday to Sunday 23:00 – 05:00
Supply of Alcohol	Monday to Sunday 10:00 – 02:30  Non standard timings - From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day	Monday to Sunday 10:00 – 04:30  Non standard timings - From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day
Opening Hours	Monday to Sunday 10:00 – 03:00  Non standard timings - From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day	Monday to Sunday 10:00 – 05:00  Non standard timings - From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day
		An additional hour on the end of all timings on racedays and on the morning the clocks go forward

## **Promotion of Licensing Objectives**

9. The applicant proposes the following conditions to be added to those already stipulated on their existing licence:
- i) There will be no entry / re-entry to the premises (save for persons who have gone to the designated smoking area) after 04:00.
  - ii) A CCTV system will be installed and maintained at the premises. Images will be retained for a minimum period of 28 days and be made available to officers of the responsible authorities on request.
  - iii) The outside smoking area will be monitored by a designated member of staff whose duty it is to ensure that no disturbance is caused by those using the smoking area.
  - iv) The premises will operate a written queuing and dispersal policy to ensure customers leave quietly. That policy will be operated and a copy made available to officers of the responsible authorities on request.

## **Special Policy Consideration**

10. This premise falls 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 initially approved for this area by full council on 7<sup>th</sup> January 2011 and an extension to the policy area was approved by full council on 27 March 2014. A copy of the special Policy Statement is attached at Annex 5. A map showing the location of the venue is attached at Annex 6.

## **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.

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

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

13. A representation was received from North Yorkshire Police on the grounds that the following licensing objectives would be undermined if the application was to be granted; the prevention of crime and disorder; public safety; prevention of public nuisance. The following is a summary of their representation:

- 1) The grant of the variation is likely to add to the existing cumulative impact within York's Cumulative Impact Zone (CIZ) area.
- 2) A significant number of premises already provide licensable activities within the vicinity of these premises (on licensed / late night refreshment houses).
- 3) The increased hours of trading will have a significant bearing on the likelihood for crime and disorder.
- 4) Potential negative impact on the current multi-agency work being conducted under the Safer night-time economy strategy.
- 5) The removal of all "compliance with PEL conditions" will have a detrimental impact on the crime and disorder licensing objective.
- 6) Perceived public safety issue as first floor fire exit indicated on plan into neighbouring premises is out of the control of 53-55 Micklegate.
- 7) Potential crime and disorder issue as designated smoking area mentioned in volunteered conditions is not defined as a specific location on submitted plans.

14. North Yorkshire Police did not propose any additional conditions that could be attached to the licence to address these issues, as they oppose the extension to existing licensable hours. A copy of the representation is attached at Annex 7.

15. A representation was received from the Licensing Authority in its role as a responsible authority on the grounds that the prevention of crime and disorder and prevention of public nuisance licensing objectives would be undermined. This representation was subsequently withdrawn when the applicant agreed to the following two conditions being attached to the premises licence:

- i. The maximum occupancy of the premises will be 500 persons.
- ii. All off sales of alcohol shall be made in sealed containers.

16. A further representation was received from CYC Environmental Protection Unit (EPU), on the grounds that the licensing objective, prevention of public nuisance, would be undermined if the variation application was granted. However this representation was withdrawn when the applicant agreed to the following conditions being attached to the premises licence if granted:
- i. Bottle bins will be emptied between 09:00 and 23:00.
  - ii. Notices will be displayed at the Micklegate exit asking customers to leave the premises quietly.
  - iii. During the operation of amplified equipment and regulated entertainment all doors, including fire doors, shall be kept shut when not in use. With the exception to the front door which may remain open during opening hours, providing that the noise emanating does not cause a nuisance to any noise sensitive premises.
  - iv. All windows and doors opening onto the rear car park area of the premises shall be kept closed during regulated entertainment. Except for any door used for access which forms a lobby consisting of a minimum of 2 doors, one at each end of the lobby. These lobby doors shall be kept closed except for ingress and egress and fitted with a self closing device.
  - v. Notices will be displayed in the car park asking customers to have regard for neighbours by leaving the area quietly.
  - vi. All music shall be played via a noise limiting device to be agreed with City of York Council's Environmental Protection Unit prior to use.
  - vii. Prominent, clear and legible signs shall be displayed in the DJ area to inform DJs that all music is to be played through the noise limiter provided.
  - viii. An alarm system shall be installed and be operational during hours of opening to the public which alerts staff when the rear fire door has been opened.
  - ix. Prominent, clear and legible notices shall be displayed on all fire exits stating that fire exits are for emergency use only.
  - x. Documented patrols shall be carried out by members of staff at no less than hourly intervals during the hours of opening to the public. The documentation for the patrols shall be made in the course of the patrol or on the completion of each patrol. These checks shall be undertaken outside the building to the front and rear to check for noise from inside the premises and noise from Customer's outside the venue to ensure compliance with condition 13. The patrol documents shall be kept for a minimum of 3 months and made available to the Licensing Authority or any responsible authority on reasonable request.

- xi. Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years.
- xii. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
- xiii. No music or amplified sound shall be audible at the boundary of the car park to the rear of the premises.
- xiv. During hours the premises is open to the public, fire doors shall be fitted with non-locking restrictions which prevent their opening except in an emergency.

### **Summary of Representations made by other persons**

- 17. Six relevant representations have been received from persons listed at Annex 8 including a representation from the Micklegate Ward Councillors. A copy of these representations is shown at Annex 9.
- 18. 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**

- 19. There are no planning issues regarding this application.

### **Options**

- 20. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-
- 21. Option 1: Grant the variation of the licence in the terms applied for.
- 22. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
- 23. 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.
- 24. Option 4: Reject the application.
- 25. 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**

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

## **Council Plan**

31. 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.
32. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

## **Implications**

33.

- **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**

34. 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.
35. 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**

36. 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:**

Steve Waddington  
Assistant Director– Housing & Public Protection.

**Report  
Approved**



**Date** 14/01/15

## 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 plans showing existing premises layout
- Annex 3** - Copy of application form
- Annex 4** - Copy of plans showing proposed premises layout
- Annex 5** - Copy of CYC Special Policy Statement
- Annex 6** - Map of area showing location of premises
- Annex 7** - Copy of police representation
- Annex 8** - List of representors
- Annex 9** - Copies of representations
- Annex 10** - Mandatory Conditions
- Annex 11** - Legislation and Policy Considerations