
Licensing Act 2003 Sub Committee

Thursday 6 March 2008

Report of the Director of Neighbourhood Services

Section 52(2) review of premise licence for Evil Eye Lounge, 42 Stonegate, York, YO1 8AS

Summary

1. This report seeks Members determination of an application for a review of a premise licence, which has been made under the Licensing Act 2003 in respect of Evil Eye Lounge, 42 Stonegate, York.
2. Name of applicant: Station Manager Alan Bell, North Yorkshire Fire & Rescue Service.
3. Summary of review: This application to review relates to the following licensing objective: Public safety.
4. A copy of the application to review is attached at Annex 1 and is summarised as follows: This application for review is based on a disregard for public safety and protecting the public from harm. It is accompanied by case notes, letters and notices sent to the premise and witness statements. Photographs were also submitted as part of the application, these will be shown as part of the committee hearing and are available for viewing by prior arrangement.
5. A copy of the premises licence is attached at Annex 2. The result of a simultaneous conversion and variation of an existing licence. The variation of the licence was determined and granted at a hearing of the licensing sub-committee held on 30 September 2005.

Background

6. The applicant, in the capacity of 'responsible authority', has requested a review of the premises licence.
7. Members are reminded that a representation is only "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. This is in accordance with S52(7) and (8) of the Act.

8. A response from the premises licence holder to the application has been compiled by Harland & Co Solicitors. A copy of this response is attached at Annex 3.

Other Relevant Information

9. There is currently an outstanding planning application to remove condition 7, that the sale of alcohol is restricted to internet users only, they wish to sell alcoholic drinks to all customers.
10. Copies of two letters sent to the licence holder dated 11 December 2006 and 29 October 2007 from the Licensing Section are attached at Annex 4. These letters are in relation to public safety issues.

Consultation

11. Consultation was carried out by the Applicant and Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the notification of a review and the advertisement of review by licensing authority. Copies of the application were served on all responsible authorities and the premise licence holder. Notice of the application was displayed on the premises and on the exterior noticeboard at the Guildhall. In addition relevant Ward Councillors and Parish Councillors were informed by way of register.
12. As a result of the consultation no further representation was received other than the response received from the premise licence holder.
13. All procedural aspects of this review application have been complied with.

Options

14. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:-
15. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
16. Option 2: To exclude a licensable activity from the scope of the licence.
17. Option 3: To remove the designated premises supervisor.
18. Option 4: To suspend the licence for a period not exceeding three months.
19. Option 5: To revoke the licence.

Analysis

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

21. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
22. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
23. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
24. Option 4: This decision could be appealed by the premises licence holder.
25. Option 5: This decision could be appealed by the premises licence holder.

Corporate Priorities

26. 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.
27. 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

28.

- **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

29. 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.
30. 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

31. 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** 18.02.2008

Specialist Implications Officer(s)

Colin Langley
Interim Head of Legal & Democratic Services
Civic Democratic & Legal Services

Wards Affected: Guildhall

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of review application
- Annex 2** - Copy of existing premises licence
- Annex 3** - Premise Licence Holder response to application
- Annex 4** - Letters dated 11 December 2006 and 29 October 2007 to the licence holder from CYC Licensing Section.
- Annex 5** - Legislation and Policy Considerations