
Licensing Act 2003 Sub Committee

22 April 2010

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Flares, 6 Tanner Row, York YO1 6JB

Summary

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-009030
3. Name of applicants: Mitchells & Butlers Leisure Retail Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application to vary is as follows
 1. To extend the terminal hour on Fridays and Saturdays for all licensable activities (films, indoor sporting events, live and recorded music, performance of dance, the provision for making music and dancing, late night refreshment and the sale of alcohol) to 03:00 hours with a closing time on these days of 03:30 hours.
 2. To remove conditions 4,7,8 and 16 in Annex 2 of the licence which will then be replaced with similar worded conditions as agreed with the police.
 3. To remove conditions a, b, c and d in Annex 2 under the heading "For Regulated Entertainment".

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: 1) The venue shall not open or operate (other than by way of a Temporary Event Notice) earlier or later than the times listed in Part 1 of the Premises Licence (i.e. the opening hours of the premises).
10. The prevention of crime and disorder: 1) CCTV shall be installed and maintained at the premises and shall be recording at the times when the premises are open for any licensable activity. The images shall be kept and made available for a minimum period of 28 days by a hard drive system. The recordings shall be made available to any Responsible Authority (subject to the Data Protection Act 1998). All recordings used in conjunction with CCTV shall be of evidential quality and indicate the time and date. 2) An adequate number of door supervisors shall be provided at the venue from 20:00 hours (or when the venue opens, if it opens later than 18:00 hours) until the venue has closed for business on Friday, Saturday and Sunday evenings, the evenings preceding a bank holiday Monday and on any day when York race meetings are held. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of door supervisors should the need arise at other times. 3) Standard one pint capacity, half pint capacity and "high ball" tumbler drinking glasses will be strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers care. 4) The only acceptable proof of age identification shall be an international passport, Armed Forces Card, national ID card, photo card driving licence or identification carrying the PASS logo (until other effective identification technology, i.e. thumb print or pupil recognition, is adopted by the Premise Licence Holder).
11. Public Safety. 1) Occupancy of the premises shall not exceed 400 persons.
12. Public Nuisance. - As above.
13. The protection of children from harm. – As above

Special Policy Consideration

14. The premises fall 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 approved by the licensing committee on 1 April 2005 and considered by full council on 12 April 2005, a copy of the special policy statement is attached at Annex 6

Consultation

15. 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.

Summary of Representations made by Responsible Authorities

16. There were no representations received from Responsible Authorities.

Summary of Representations made by Interested Parties

17. A representation was received from an interested party on the grounds of public nuisance. A copy of this representation is attached at Annex 3
18. A map showing the general area around the venue from which the representation is focused is attached at Annex 4
19. 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.
20. 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

21. There are no planning issues or conditions relevant to this application.

Options

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

Analysis

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

Corporate Strategy

32. 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.
33. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

Implications

34.
 - **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

35. 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.
36. 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

37. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

John Lacy
Licensing Manager
Licensing & Regulation

Ext: 1593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1814

Report Approved

Date 25 March 2010

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** - Copy of representation from Interested Party.
- Annex 4** - Map showing general area from which representations received.

- Annex 5** - Copy of City Centre Special Policy Statement .
- Annex 6** - Mandatory Conditions.
- Annex 7** - Legislation and Policy Considerations.