
Licensing Act 2003 Sub Committee

24 January 2012

Report of the Director of Communities and Neighbourhoods

Section 35(3)(a) Application for the variation of a premise licence for Eye of York and Tower Gardens, York.

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-010978
3. Name of applicants: City of York Council, Communities and Culture.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows
 - (a) to extend the licensed area to include the Tower Gardens riverbank and the paved area and mooring on the opposite bank (adjacent to Bonding Warehouse).
 - (b) to add 2 additional licensable activities to those already authorised namely (i) the provision of entertainment facilities for making music and (ii) the provision of entertainment facilities for dancing
 - (c) to amend condition 1 in Annex 2 of the licence by adding the words 'military' so the condition now reads " Any event on this land will be either civic or military or family based and will reflect as such.
 - (d) to replace condition 2 in Annex 2 of the licence with the following:-
 - (i) The number of events for the Tower Gardens are to be limited to no more than 10, with a maximum of 30 days activity per calendar year
 - (e) to replace condition 3 in Annex 2 of the licence with the following:-

- (i) Full risk assessment shall be presented 30 days prior to the event by the Event Organiser as specified in the Event Hire Agreement to the Licence Holder.
- (ii) Public Liability Certification and Safety Certification will be presented 30 days before the event by the Event Organiser as named in the Event Hire Agreement to the Licence Holder

(f) to replace conditions 4-5 in Annex 2 of the licence with the following

- (i) The York Safety Advisory Group will be presented with the full risk assessment, Public Liability Certification and Safety Certification where the expected attendance is above 499 people and /or significant demountable structures or road closures are proposed no later than 28 days before the event.

(g) to replace condition 6-17 in Annex 2 of the licence with the following:-

- (i) Event organisers as named in the Event Hire Document shall submit a completed copy of the form "Notification for Provision of live Amplified Music for Event booked on City of York Council Controlled Land", together with a detailed plan showing exact layout of the site and proposed sound monitoring locations, at least 28 days before the event. A copy shall be sent to the Environmental Protection Unit and also the Licensing Unit. The notification shall include a sample of the leaflet to be sent to comply with the condition below and which addresses will receive the leaflet.
- (ii) Prior to an event, noise sensitive premises in close proximity shall be leafleted about the event. Information shall include details of the performance times and any sound checks taking place and a contact telephone number of the Named Event Organiser and a CYC representative. In the event of a complaint regarding sound levels, the Named Event Organiser will make an assessment of no less than 5 minutes in close proximity to the complainants address. If the sound level is within category C or D of the sound monitoring log guidance, the specified action shall be taken and the requirements of the

Named Event Manager to mitigate be carried out immediately. The Named Event Organiser will contact the complainant and check that they are satisfied with the steps taken. If the complaint cannot be resolved on site the City of York Council Complaints Procedure, as outlined at www.york.gov.uk will be instigated.

(iii) The Events Organiser shall appoint a member of their event team as "Sound Monitor". The Sound Monitor will undertake a documented sound check prior to or at the start of the event to ensure that the sound levels are within category A or B as defined in "Sound Monitoring Log for Events on CYC land". During the event, the Sound Monitor shall carry out documented patrols at least once per hour or for each separate act taking place whichever is the more frequent. The monitoring at each location shall be for a representative period whilst the act is taking place (at least 5 minutes) and the observations shall be recorded on the "Sound Monitoring Log Sheet for Events on CYC land". Actions taken shall be in accordance with those stated on the monitoring lo sheet.

(iv) There shall be a litter pick of the area upon the conclusion of the event (or daily conclusion should the event be held over a number of days) with particular emphasis on any glass items that have been brought onto the site by customers.

(h) to replace condition 18 in Annex 2 of the licence with the following:-

(i) All necessary steps shall be taken to ensure that all supervisory staff in sole charge of children and young people are CRB checked by the named Event Organiser.

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, in addition to the proposed changes as listed above, the licensing objectives would be met as follows:
9. General
 - (a) For all events in which alcohol is to be sold a 28 day notification shall be given to the police. The police will have the right to veto such sales upon submission of written, reasonable and justified grounds served within 14 days of the event. The date of notification and the date of commencement of the event shall not form part of the 14 or 28 day notification period
 - (b) Alcohol sales shall be in open non glass vessels and containers only, which will include the decanting of alcohol where necessary.
10. The prevention of crime and disorder
 - (a) For all events where alcohol is to be sold, front line Door Supervisors shall be deployed at all entrance points leading to where alcohol is available for sale and consumption.
 - (b) The management of the venue will comply with any written reasonable and justified request made by North Yorkshire Police regarding the number of Door Supervisors depending on the style of the event.
 - (c) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken people as well as incidents of any anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority and will be kept for at least 3 calendar months from the end of the event.
11. The protection of children from harm
 - (a) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo (until other effective identification technology e.g. thumb print or pupil recognition, is adopted by the premises licence holder)
 - (b) Signage advertising the above condition shall be displayed at all points where alcohol is offered for sale.

Special Policy Consideration

12. The premises (i.e. Tower Gardens) 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 full council on 7 January 2011. A copy of the special policy statement is attached at Annex 5.

Consultation

13. 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.
14. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

15. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following condition being included in the licence if granted.
 - (i) Alcohol will not be allowed to be transferred between the individual licensed areas as covered by the premises licence.

Summary of Representations made by Interested Parties

16. Representations have been received from 2 Interested Parties. Their representations are shown in Annex 3.
17. A map showing the general area around the venue from which the representations are focused is attached at Annex 4.

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 relevant to 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

Author:

Lesley Cooke
Licensing Manager

Tel no: 01904 551515

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director– Housing & Public Protection.

**Report
Approved**



Date 09/01/12

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** - Representations from Interested Parties
- Annex 4** - Map showing general area from which representations received.
- Annex 5** - City Centre Special Policy Statement
- Annex 6** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations.