



Meeting of Licensing Act 2003 Sub-Committee

30 September 2024

Report from the Director for the Environment, Transport and Planning

Section 52(2) Review of Premises Licence CYC/009433 Museum Gardens, Museum Street, York YO1 7RF

Summary

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of Museum Gardens, Museum Street, York YO1 7RF, Premises Licence Number CYC 009433.
2. Name of applicant: Andrew Dickinson
3. Summary of Review: The application to review the premises licence relates to the following licensing objective:
 - The prevention of public nuisance
4. A copy of the application for review is attached at Annex 1 and is briefly summarised as follows:

A music event took place in the Museum Gardens on 19 and 20 July 2024, the applicant for the review raised complaints regarding the noise from these events. As the premises is an open space within the centre of York it is surrounded by a large number of residential properties therefore several thousand residents were affected by this event which finished at 22.30.

Outdoor events with limited opportunity to suppress/control noise should not be allowed to take place so close to residential properties.

Noise limits should be imposed and enforced to avoid causing a nuisance to residents.

The applicant requests the imposition of a further condition on the licence to prevent a re-occurrence of the noise nuisance experienced during this event.

5. A copy of the current premises licence and plan is attached at Annex 2. The premises licence currently authorises the following:

Licensable Activity	Current Days & Hours
Plays – indoors and outdoors	09:00 to 22:30 everyday
Films – indoors and outdoors	09:00 to 22:30 everyday
Live Music – indoors and outdoors	09:00 to 22:30 everyday
Recorded Music – indoors and outdoors	09:00 to 22:30 everyday
Performance of Dance – indoors and outdoors	09:00 to 22:30 everyday
Late Night Refreshment – indoors and outdoors	23:00 to Midnight for the duration of the York Mystery Plays and Illuminating York ONLY
Supply of alcohol (on the premises)	11:00 to 22:45 Everyday
Opening Hours	07:00 to 23:00 everyday 09:00 to Midnight for the duration of the York Mystery Plays and Illuminating York ONLY

6. The premises licence was first granted on 27 September 2005

Consultation

7. Consultation was carried out by the Applicant and the 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 concerns the notification of a review and the advertisement of a review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder. Notice of the application was displayed in the vicinity of the premises, on the exterior noticeboard at West Offices and on the Council's website.
8. A representation was received from the Environmental Protection Officer at the City of York Council; it appears at Annex 3.
9. There were a further 24 representations received from 'other persons' this includes a representation from the Premises Licence Holder.

2 of those representors wrote in to support the review applicant and 22 wrote to support the premises licence holder.

10. A list of representors appears at Annex 4, and a copy of the representations appears at Annex 5.
11. A map showing the location of the premises is attached at Annex 6. A further map showing the premises in relation to the applicant's address is also included.

Other Relevant Information

12. The premises licence was first granted by the Licensing Authority in September 2005; it previously held a Public Entertainment Licence (PEL) which was converted to a Premises Licence when the Licensing Act 2003 came into force in 2005. In 2012 the premises licence holder varied the licence to add the sale of alcohol.

Options

13. By virtue of S52(4) of the Act, the Sub-Committee may in making their decision take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

14. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
15. Option 2: To exclude a licensable activity from the scope of the licence.
16. Option 3: To remove the Designated Premises Supervisor.
17. Option 4: To suspend the licence for a period not exceeding three months.
18. Option 5: To revoke the licence.
19. Option 6: Take no action

Where the Sub-Committee takes a step mentioned in Option 1 or Option 2, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Otherwise, the modification of conditions or the exclusion of a licensable activity will be permanent.

In deciding which, if any, of these steps to take, the Sub-Committee should direct its mind to the cause or causes of the concerns which the application and representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

The Sub-Committee may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

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, the review applicant or any of the representors.
25. Option 5: This decision could be appealed by the premises licence holder.
26. Option 6: This decision could be appealed by the review applicant or any of the representors.

The decision of the Sub-Committee will not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.

27. Members are reminded that they may only use their discretion to take remedial action in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

Council Priorities

28. 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.
29. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications for review the Council are supporting the licence trade, as well as local residents and businesses. The functions support the Council's Plan commitments to make York a healthier, fairer, more accessible place, where everyone feels valued, creating more regional opportunities to help today's residents and benefit future generations. It supports the particular priority for a fair, thriving, green economy for all.

Implications

30.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions) when setting its Statement of Licensing Policy.
- **Legal** – The decision made by this Sub Committee is subject to appeal rights to the Magistrates Court.
- **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

31. 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 which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.

32. 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

33. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

Contact Details

Author:

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Chief Officer Responsible for the report:

Director of Environment, Transport
and Planning
James Gilchrist

**Report
Approved**



Date 06.09.2024

Wards Affected: Guildhall Ward

Annexes

- Annex 1 - Copy of application for review of premises licence
- Annex 2 - Copy of premises licence, including layout plan
- Annex 3 - Representation from Environmental Protection
- Annex 4 - List of other persons/representors
- Annex 5 - Representations
- Annex 6 - Map showing location of premises
- Annex 7 - Legislation and Policy Considerations