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## Licensing Act 2003 Sub Committee

22 December 2006

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for Rumours, 94 Micklegate, York, YO1 6JX**

#### **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-009079
3. Name of applicant: Christopher Leslie Fall
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend the hours for recorded music to run in line with premises opening hours; Monday to Sunday 10:00 hours to 01:00 hours and to remove Condition 1 of Annex 3 of the existing premises licence; "All external speakers shall be switched off at 23:00 each and every day."

#### **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 existing conditions attached to the current licence, the licensing objectives would be met as follows:
9. The prevention of crime and disorder: No additional steps.
10. Public safety: No additional steps.
11. The prevention of public nuisance: No music shall emit from the front of the premises.

12. The protection of children from harm: No additional steps.

### **Special Policy Consideration**

13. 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 7.

### **Consultation**

14. 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. In addition the relevant ward councillors and/or parish council were notified by way of register.

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

15. A representation has been received from the following responsible authority relating to this application. This is attached at Annex 3 and summarised below:
16. City of York Council Environmental Protection Unit: Make representations on the grounds of the prevention of public nuisance licensing objective and ask that if the variation is granted that the following conditions be attached to the licence; 1) The external speakers in the rear beer garden should be switched off at midnight and only be used for background music. 2) The doors and windows must be closed at all times whilst music is being played except for means of ingress and egress. 3) Noise emanating from the licensable activities within the premises after 23:00 hours must be inaudible at the nearest noise sensitive façade.

### **Summary of Representations made by Interested Parties**

17. A representation has been received from one interested party and is attached at Annex 4.
18. The address of the interested party is indicated on the map attached as Annex 5. 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.

19. 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 Restrictions**

20. There are no relevant restrictions.

### **Options**

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

### **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.

### **Corporate Priorities**

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 priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

## 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.

## Contact Details

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Licensing & Regulation

**Chief Officer Responsible for the report:**

Andy Hudson  
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Neighbourhood Services

**Report Approved** ✓ **Date** 13 December 2006

**Specialist Implications Officer(s)**

Suzan Hemingway  
Head of Legal & Democratic Services  
Civic Democratic and Legal Services

**Wards Affected:** Micklegate

**For further information please contact the author of the report**

**Background Papers:**

- Annex 1** - Copy of existing premises licence
- Annex 2** - Application form
- Annex 3** - Representation from Responsible Authority
- Annex 4** - Representation from Interested Party
- Annex 5** - Map of area indicating address of Interested Party

**Annexes:**

- Annex 6** - Mandatory Conditions
- Annex 7** - City Centre Special Policy Statement
- Annex 8** - Legislation and Policy Considerations