

Licensing Act 2003 Sub Committee**17 August 2020**

Report from the Assistant Director – Planning & Public Protection

**Section 35(3) (a) Application for variation of a premises licence for
The Walnut Tree, 73 Heworth Village, York, YO31 1AN****Summary**

1. This report seeks Members determination of an application for the variation of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009050
3. Name of applicant: Waddo's Pub & Grub Company Ltd
4. Type of authorisation applied for: Variation of Premises Licence
5. Summary of application: The variation seeks to alter the layout of the premises to increase the licensable area by including an external bar area for the sale of alcohol from 1200 until 2200 every day. The variation also seeks to increase the hours for the sale of alcohol by 2 hours at the start of the trading day, from 0800.

Licensable Activities	Existing Hours	Proposed Hours
Films	Indoors 0800 to 2300 Sun to Thurs 0800 to 0000 Fri & Sat	No change
Indoor Sports	0800 to 2300 Sun to Thurs 0800 to 0000 Fri & Sat	No change
Live Music	Indoors 1000 to 2230 everyday	No change
Recorded Music	Indoors 1000 to 2300 everyday	No change
Other Entertainment	Indoors 1000 to 2300 everyday	No change
Late Night	Indoors	No change

Refreshment	2300 to 2345 Sun to Thurs 2300 to 0045 Fri & Sat	
Supply of Alcohol	Both on & off sales 1000 to 2330 Sun to Thurs 1000 to 0030 Fri & Sat	Both on & off sales 0800 to 2330 Sun to Thurs 0800 to 0030 Fri & Sat Sale of alcohol in the outside bar: 1200 to 2200 everyday
Opening Hours	0800 to 0000 Sun to Thurs 0800 to 0100 Fri & Sat	No change

Background

6. A copy of the application to vary the licence is attached at Annex 1.
7. A copy of the plan is attached at Annex 2.
8. A copy of the current licence is attached at Annex 3.

Promotion of Licensing Objectives

9. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

General

- a. Staff are trained using CPL online industry training and we have two duty managers who are aware of the licensing objectives.
- b. All policies are displayed
- c. CCTV maintained and available on mobile phones
- d. Compliance checks are done and safety certificates provided by the pub company Ei as part of tenancy agreement

The prevention of crime and disorder

- a. CCTV cameras covering car parks, entry points, garden, bar, lounge and behind the bar. Information boards displaying CCTV in use.
- b. Challenge 21
- c. Staff training

- d. Drugs policy
- e. Door staff SIA licensed and used when required for special events.

Public safety

- a. External lighting in car park and external areas
- b. Local taxi firms advertised within the pub and will call a taxi on behalf of customers if necessary
- c. Staff training using an online portal
- d. Outdoor areas and seating maintained as well as trees and fencing
- e. Premises cleaned regularly, and toilets and outside areas checked regularly
- f. First aid equipment available and first aider on site
- g. All drinks served from the outside bar using non-glass drinkware
- h. Pat test all equipment
- i. Fire alarm serviced as per tenancy agreement
- j. Public liability insurance
- k. All utility certificates available
- l. Each outside event will be risk assessed

The prevention of public nuisance

- a. A4 signage for customer dispersal
- b. Regular patrols of premises
- c. Regulated volume control in place
- d. Beer garden closed at 2100, no live or recorded music past 2200
- e. Leaflet drop the surrounding neighbours when an event is planned
- f. All musical events will be sound checked and monitored during performances

The protection of children from harm

- a. Challenge 21 in use
- b. Children and under 18 policy in place
- c. Beer garden (inc play area closed at 2100)
- d. Children and under 18's must be off the premises by 2100
- e. Signage asking parents to supervise their children at all times
- f. Signage relating to no climbing trees or on garden furniture
- g. Regular patrols of all areas.

Cumulative Impact Assessment Area

10. This premises is not located within the cumulative impact assessment area approved by full council on 21 March 2019.

Consultation

11. 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.
12. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

13. North Yorkshire Police have agreed conditions with the applicant to be attached to the licence if granted, and therefore make no further representation, their agreed conditions are attached at Annex 4.
14. City of York Council Public Protection (Environmental Protection) have agreed conditions with the applicant to be attached to the licence if granted, therefore they make no further representation. The agreed conditions are attached at Annex 5.

Summary of Representations made by Other Parties

15. There were 3 relevant representations received from other persons. The list of representors is attached at Annex 6. Please note that since the end of representation date one of the objectors, number 2 in Annex 7, has since withdrawn their representation so there are now 2 valid representations to consider.
16. The representations are predominantly based on the grounds of the prevention of public nuisance objectives. They state that this objective will be undermined if the application is granted.
17. A copy of all the representations are attached at Annex 7, please disregard number 2 as it has been withdrawn.

18. A map showing the general area around the venue is attached at Annex 8.

Planning Issues

19. There are no outstanding planning issues.

Options

20. By virtue of s35(4) of the Act, the Committee have the following options available to them in making their decision: -
21. Option 1: Modify the conditions of the licence
22. Option 2: Reject the whole or part of the application.
and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

Analysis

23. The following could be the result of any decision made this Sub Committee:-
24. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
25. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

Council Plan

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. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

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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Protection.

**Report
Approved**



27/07/2020

Specialist Implications Officer(s)
Head of Legal & Democratic Services
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Wards Affected: Heworth



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Plan
- Annex 3** - Current licence
- Annex 4** - Conditions agreed with North Yorkshire Police
- Annex 5** - Conditions agreed with Public Protection
- Annex 6** - List of representors CONFIDENTIAL
- Annex 7** - Copy of representations
- Annex 8** - Map of area
- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation and Policy Considerations