

	
<b>Meeting of Licensing Act 2003 Sub-Committee</b>	<b>August 2021</b>
Report from the Director – Environment, Transport & Planning	

## Section 52(2) Review of Premises Licence CYC/060429, 59 – 63 Walmgate, York, YO1 9TY

### 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 59 – 63 Walmgate, York, YO1 9TY, premises licence number CYC/060429.
2. Name of applicant: Mr R C Price, 20 St Denys Court, St Denys Road, York, YO1 9PU
3. Summary of Review: The application to review the premises licence relates to the following licensing objectives;
  - The prevention of public nuisance.
  - The prevention of crime and disorder.
4. A copy of the application for review is attached at **Annex 1** and is accompanied by supplementary information provided by the applicant.
5. A copy of the current premises licence and plans is attached at **Annex 2**. The premises licence currently authorises the following:

Licensable Activity	Current Days & Hours
Recorded Music	08:00 to 23:30 everyday
Late night refreshment	23:00 to 23:30 everyday

Supply of alcohol	10:00 to 23:30 everyday
Opening hours	08:00 to 23:30 everyday

8. The premises licence was granted on 09/04/2018.
9. A map showing the location of the premises is attached at **Annex 3**.

### **Consultation**

10. Consultation was carried out by the Applicants 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 the West Offices and on the Councils website. In addition relevant Ward Councillors were informed by way of register.
11. There were two responses from the responsible authorities:
  - a) North Yorkshire Police confirmed they had have reviewed the application for review of premises licence submitted and conducted checks regarding the premises and could confirm that North Yorkshire Police would not be submitting a representation in respect of this application.
  - b) The Council's Public Protection Team confirmed they had been involved in a number of complaints regarding the premises, they stated they were not making a representation to this review but have made a suggestion that may assist the Committee if they choose Option 1 at paragraph 14 below in choosing to add or amend any conditions on the licence. Their comments included at **Annex 4**.
12. Three further representations were received from other persons. One person wrote in support of the review, two people wrote to oppose the review (and therefore support the premises). The list of

representors is at **Annex 5** and a copy of their representations appears at **Annex 6**.

13. The Licensing Authority has received a number of complaints regarding the premises which has resulted in engagement with the premises licence holder regarding potential breaches of licence conditions. Two of the complaints resulted in written warnings being issued to the premises licence holder. A summary of complaints can be seen at **Annex 7**.

## **Options**

14. 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:
15. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
16. Option 2: To exclude a licensable activity from the scope of the licence.
17. Option 3: To remove the Designated Premises Supervisor.
18. Option 4: To suspend the licence for a period not exceeding three months.
19. Option 5: To revoke the licence.

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.

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.

26. 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**

27. 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.

28. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

## **Implications**

29.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **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**

30. 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.
31. 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**

32. Members determine the application.

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

## Contact Details

<b>Author:</b>	<b>Chief Officer Responsible for the report:</b>			
Lesley Cooke Licensing Manager Ext 1515	James Gilchrist Director Environment, Transport & Planning			
		<b>Report Approved</b>	√	<b>Date</b> 17/07/21

**Wards Affected: Guildhall**

## Annexes

**Annex 1** - Copy of application for review of premises licence, plus supplementary information

**Annex 2** - Copy of premises licence

**Annex 3** - Map showing location of premises

**Annex 4** – Public Protection Officer's Comments

**Annex 5** – List of other persons – **CONFIDENTIAL**

**Annex 6** – Other Person's representations

**Annex 7** – Summary of complaints received by the Licensing Authority

**Annex 8** - Legislation and Policy Considerations