
**LICENSING ACT 2003 SUB-COMMITTEE
HEARING**

30 May 2006

Report of the Deputy Chief Executive

**Section 35(3)(a) Application for the variation of a premises licence for
Ali G, 11A Tower Street, York, YO1 9SA**

Application reference number: CYC-010581

Ward: Guildhall

Summary of Application

1. Name of applicant: Mr Ali Gurgur
2. Type of authorisation applied for: Variation of a premises licence.
3. Summary of application: The nature of the proposed variation consists of extending the existing terminal hour for the provision of late night refreshment to 03:00 hours daily.
4. A copy of the existing premise licence is attached at Annex 1.
5. A copy of the application to vary the licence is attached at Annex 2.

Promotion Of Licensing Objectives

6. 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:
7. The prevention of crime and disorder: 1) Food will not be supplied to anyone who is abusive to staff or patrons. 2) No disorderly conduct will be allowed. 3) No goods, which have had no UK duty, will be sold.
8. Public safety: 1) All measures requested by the Fire Safety Officer will be adhered to for all patrons and staff safety. 2) There are freely accessible areas so that the emergency services can enter and work safely. 3) No patrons will be allowed to obstruct any exits or fire exits.
9. The prevention of public nuisance: 1) Bins will be provided and patrons encouraged to use them to prevent litter. 2) Customers will be asked to leave and disperse quietly.
10. The protection of children from harm: 1) As no alcohol is being sold children are allowed on the premises.

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.

Summary of Representations made by Responsible Authorities

12. A representation has been received from the following responsible authority relating to this application. This is attached at Annex 3 and summarised below:
13. City of York Council Environment & Development Services (Planning): Make representations on the grounds of the prevention of public nuisance licensing objective. A planning application for extended hours was refused at a hearing on 2 March 2006 on the grounds that the extension of hours would be a constant source of nuisance to nearby residents who would suffer from a loss of amenity.

Summary of Representations made by Interested Parties

14. Representations have been received from the interested parties listed at Annex 4a (confidential) and Annex 4b. Their representations are attached at Annex 5.
15. The addresses of the interested parties are indicated on the map attached as Annex 6 (confidential). A further map indicating the general area from which representations were received is attached at Annex 7. One representor is from the South Esplanade area and one is from the Tower Street area. 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.
16. 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.

Legislation and Policy Considerations

17. The following provisions of the Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s34 application to vary premises licence; s35 determination of application under section 34; s36 supplementary provision about determinations under section 35; and ss19, 20 and 21 mandatory conditions (attached at Annex 8).
18. The following provisions of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications
19. The following provisions of the Secretary of State's guidance apply to this application: Paragraphs 5.47 Steps to promote the licensing objectives; 13.25 to 13.29 Variations of new premises licences; Paragraphs 3.13 to 3.21 relating to cumulative impact of a

concentration of licensed premises; 3.22 to 3.27 concerning the limitations on special policies relating to cumulative impact; Paragraph 5.47 Steps to promote the licensing objectives.

20. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 3.2 Crime and Disorder; 4.1 Consultation on New Premises Applications, Club Premises Certificates, Variations and Provisional Statements; 4.2 General Principles for Determination of Applications; 5.0 Guidelines for Applicants; 7.0 Licensing Hours and Appendix D Pool Conditions.
21. 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 10.
22. 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.
23. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

Conditions

28. Should members be minded to grant this application they should be aware that they may apply any additional conditions in order to mitigate the issues raised by the responsible authorities and interested parties. These conditions would be in addition to those contained within the applicant's operating schedule and applied to the licence.

Options

29. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
30. Option 1: Grant the variation of the licence in the terms applied for.
31. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
32. 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.
33. Option 4: Reject the application.

Recommendation

34. The Committee are asked to determine the application in accordance with the licensing objectives, the relevant legislation, regulations and statutory guidance and the City of York Council Licensing Policy and Special Policy Statements.

Contact Details

Author:

John Lacy
Acting Licensing Manager

Chief Officer responsible for the Report:

Andy Hudson
Assistant Director
(Environment and Neighbourhoods)

For further information please contact the author of the report.

Background Papers:

Licensing Act 2003

Secretary of State's Guidance issued under section 183 of the Licensing Act 2003

Explanatory Notes to the Licensing Act 2003

Regulations to the Licensing Act 2003

City of York Council Statement of Licensing Policy made under the Licensing Act 2003

Annexes

Annex 1 - Copy of converted premises licence

Annex 2 - Application form

Annex 3 - Representations from Responsible Authorities

Annex 4a (Confidential) - List of Interested Parties

Annex 4b - List of Interested Parties

Annex 5 - Representations from Interested Parties

Annex 6 (Confidential) - Map of area indicating addresses of Interested Parties

Annex 7 - Map showing general area from which representations received

Annex 8 - Mandatory Conditions

Annex 9 - City Centre Special Policy Statement