

Report from the Director – Environment, Transport & Planning

Section 35(3) (a) Application for variation of a premises licence at York Racecourse, Knavesmire Road York, YO23 1EX

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 009168
3. Name of applicant: York Race Committee
4. Type of authorisation applied for: Variation of Premises Licence
5. Summary of application:

The premises is a racecourse providing horse racing facilities, associated hospitality facilities, concerts, conferences and events.

The variation arises from the redevelopment of the southern end of the racecourse site. The overall capacity of the site will remain unchanged. The variation seeks to change the plans attached to the original licence to encompass the new facilities.

Further the variation also seeks the following:

*(*note there have been significant changes to the variation since the consultation date ended resulting in the applicant withdrawing or reducing certain elements of the application, the box below highlights the changes now requested by the applicant, this will differ from the application form at Annex 1)*

- To add the staging of indoor boxing or wrestling events between 10:00 and midnight on 4 occasions per calendar year.
- Provision of late night refreshment outdoors between 23:00 and midnight on no more than 12 days per calendar year.

- Increase the number of permitted occasions for live and recorded music and performance of dance outdoors, which meets the definition of Regulated Entertainment (inclusive of the music showcase events) on a maximum of 4 days per calendar year between 17:00 and 22:30.

Licensable Activity	Existing hours	Variation requested
Films	None permitted	Withdrawn
Boxing or wrestling	None permitted	10:00 until 00:00 everyday – indoors A maximum of 4 events per year
Live Music	10:00 until 04:00 everyday – Indoors Non-Standard Timings - Outdoors: On one occasion a year when a Music Showcase Event follows evening racing on a Friday, live music will take place outdoors between 20:30 – 22:30 hours. On two occasions a year when a Music Showcase Event follow afternoon racing on a Saturday live music will take place outdoors between 17:00 – 19:45 hours. From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.	17:00 until 22:30 – outdoors on 4 occasions per year
Recorded Music	10:00 until 04:00 everyday – Indoors From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.	17:00 until 22:30 – outdoors on 4 occasions per year

Performance of Dance	10:00 until 04:00 everyday – Indoors From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.	17:00 until 22:30 – outdoors on 4 occasions per year
Late night refreshment	23:00 until 04:00 everyday – Indoors From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.	23:00 until 00:00 – outdoors for no more than 12 occasions per year
Supply of Alcohol – on the premises	10:00 until 03:00 everyday From the end of permitted hours New Years Eve to the start of permitted hours New Years Day.	No change
Opening hours	Not restricted	No change

Background

6. A copy of the application and the plans submitted can be found at **Annex 1**.
7. A copy of the current licence is attached at **Annex 2**. The licence was granted on 6 September 2005.
8. An overview of the circumstances in which entertainment activities are not licensable can be found 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:

10. General

- a. All staff involved in the sale of alcohol, will be provided with appropriate instruction and or training to ensure that the Challenge 25 policy is maintained, and that persons who are drunk are not served with alcohol.
- b. Where sales of alcohol are carried out by means of a QR Code the staff delivering the alcohol to the customer will receive appropriate instruction and or training to ensure that the Challenge 25 policy is maintained, and that persons who are drunk are not served with alcohol.
- c. Where alcohol is sold via an automated vending system the sale will be appropriately supervised by a trained member of staff who will have been provided with appropriate instruction and or training to ensure that the Challenge 25 policy is maintained, and that persons who are drunk are not served with alcohol.

11. The Prevention of Crime and Disorder

- a. Indoor boxing and wrestling events will be advance ticketed only and have a maximum attendance of 499 persons.

12. Public Safety

- a. All alcohol sales will be from fixed points. Peripatetic hawkers will not be used for the sale of alcohol.
- b. Amend Annex 2 – Clause 8
No sale of alcohol or soft drinks shall be made in glass containers from the Grandstand & Paddock or Clocktower Enclosures, apart from sparkling wine without the prior approval of the Licensing Authority and Police.

13. The Prevention of Public Nuisance

- a. A noise management plan will be in place for the playing of outdoor recorded and live music.

14. **The Protection of Children from Harm**

Add the following conditions:

- a. A challenge 25 system will be in operation for the sale of alcohol.
- b. All staff carrying out age verification must be at least 18 years old.

Special Policy Consideration

15. This premises is not located within the cumulative impact assessment area.

Consultation

16. 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.
17. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

18. North Yorkshire Police have mediated with the applicant who has agreed a modification to the operating schedule which can be seen at **Annex 4**. Therefore, North Yorkshire Police have not made any representations to this application.
19. The Public Protection Team made a representation which stated the licensing objective of the prevention of public nuisance may be undermined by the granting of this variation. Since the consultation period ended the applicant has negotiated with the public protection officer to amend the application and withdraw or amend some of the licensable activities applied for, consequently the representation by the Public Protection Team has been withdrawn. The changes to the application are outlined in an email exchange between the applicant's solicitor and the Public Protection Officer at **Annex 5**.

Summary of Representations made by Other Parties

19. There have been 43 relevant representations received from other persons. The list of representors is attached at **Annex 6**.
20. The representations are predominantly based on the grounds of the prevention of public nuisance and the prevention of crime and disorder. They state that this objective will be undermined if the application is granted.
21. Copies of the representations are attached at **Annex 7**.
22. A map showing the general area around the venue is attached at **Annex 8**.
23. The mandatory conditions that will be attached to this licence if granted can be found at **Annex 9**. The Legislation and Policy considerations can be found at **Annex 10**.
24. By virtue of s35(4) of the Act, the Committee have the following options available to them in making their decision: -
25. Option 1: Modify the conditions of the licence
26. 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

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

Council Plan

30. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

31. 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 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

32.

- **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** – 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

33. 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.
34. 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

35. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

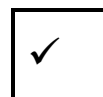
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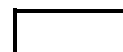
**Report
Approved**



Date 21 May 2024

Specialist Implications Officer(s)
Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Micklegate



For further information please contact the author of the report

Background Papers:

Annex 1 - Application form and plan

Annex 2 - Copy of current licence and plan

Annex 3 - Overview of circumstances in which entertainment activities are not licensable

Annex 4 - Agreements made with North Yorkshire Police

Annex 5 - Agreements made with Public Protection inc. changes to the application

Annex 6 - List of other persons - **CONFIDENTIAL**

Annex 7 - Other persons representations

Annex 8 - Map of area

Annex 9 - Mandatory Conditions

Annex 10 - Legislation & Policy