

Report of the Director of Environment, Transport & Planning

Section 35(3) (a) Application for variation of a premises licence for the Old Grey Mare, Clifton Green, York, YO30 6LH

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 009044
3. Name of applicant: The Old Grey Mare Ltd
4. Type of authorisation applied for: Variation of Premises Licence
5. Summary of application:

The premises currently trades primarily as a public house with a premises licence granted on conversion of the Justices Licence in 2005. The variation seeks the following:

- a) Internal and external alterations to the plan which forms part of the premises licence to include a glass atrium to rear, pergola to the side, replacement of garage doors with windows and doors, remove internal walls, replace internal doors and new external French doors.
- b) Change the existing pool room/public bar into a shop/deli
- c) Extend the supply of alcohol hours from 8:00 every day, alcohol to be served ancillary to food between 8:00 and 10:00
- d) Attach a raft of new conditions to the licence by way of an updated operating schedule
- e) Remove conditions 1 to 3 from Annex 2 of the current licence.

Licensable Activity	Existing hours	New hours sought
Films – Indoors	0700 to Midnight	No change
Indoor Sport Live Music – Indoors & Outdoors Recorded Music – Indoors Other entertainment – Indoors	1000 to Midnight	No change
Late Night Refreshment – Indoors & Outdoors	2300 to 0015	No change
Supply of Alcohol – on & off the premises	1000 to Midnight	0800 to Midnight
Opening hours	0700 to 0030	No change

Background

6. A copy of the application can be found at **Annex 1**, including a plan of the premises.
7. A copy of the current licence and plan is attached at **Annex 2**, due to the size of the plan a photograph of the plan has been produced.
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:

General

- a. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- operation of the CCTV system (including the downloading of evidence);
- retail sale of alcohol;
- age verification policy;
- conditions attached to the Premises Licence;
- permitted licensable activities;
- the licensing objectives; and
- opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]

- b. An incident log will be kept at the premises and made available on request to an authorised officer or the police which will record the following:
- all crimes reported to the venue
 - any complaints received regarding crime and disorder
 - any incidents of disorder
 - any faults in the CCTV system
 - any refusal of sale of alcohol
 - any visit by a relevant authority of emergency service
- c. The sale of alcohol between 08:00 and 10:00 daily, will be ancillary to food.

The prevention of crime and disorder

- d. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place and at any other times where members of the public are present on the premises.
- e. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
- f. The CCTV system must be capable of providing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days consecutive footage.
- g. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This

should be complied with within 48 hours of the request being made.

- h. It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.
- i. The use of door staff will be risk assessed on an ongoing basis by the licence holder or designated premises supervisor. Where engaged, Door Supervisors shall be licensed by the Security Industry Authority.

The prevention of public nuisance

- j. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

The protection of children from harm

- k. The premises shall operate the Challenge 25 policy for the sale of alcohol.
- l. The only acceptable proof of age identification shall be a current passport, Photo card Driving Licence or identification carrying the PASS logo (until other Effective identification technology e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder).

Special Policy Consideration

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

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 met with the applicant prior to the submission of this variation and have agreed a modification to the operating schedule which can be seen at paragraph 9 above. Therefore North Yorkshire Police have not made any representations to this application.

Summary of Representations made by Other Parties

14. There have been 4 relevant representations received from other persons. The list of representors is attached at **Annex 4**.
15. The representations are predominantly based on the grounds of the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm. They state that these objectives will be undermined if the application is granted.
16. A copy of the representations are attached at **Annex 5**.
17. A map showing the general area around the venue is attached at **Annex 6**.
18. The mandatory conditions that will be attached to this licence if granted can be found at **Annex 7**. The Legislation and Policy considerations can be found at **Annex 8**.
19. By virtue of s35(4) of the Act, the Committee have the following options available to them in making their decision: -
20. Option 1: Modify the conditions of the licence
21. 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

22. The following could be the result of any decision made this Sub Committee:-

23. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
24. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

Council Plan

25. 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.
26. 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

27.

- **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

28. 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.
29. 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

30. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

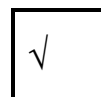
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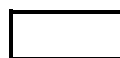
**Report
Approved**



Date
09/08/2022

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

Wards Affected: Clifton Ward



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 (Photograph of plan due to size of document)
- Annex 3** - Overview of circumstances in which entertainment activities are not licensable
- Annex 4** - List of other persons - **CONFIDENTIAL**
- Annex 5** - Other persons representations
- Annex 6** - Map of area

Annex 7 - Mandatory Conditions
Annex 8 - Legislation & Policy