

	
Meeting of Licensing Act 2003 Sub-Committee	17 November 2022
Report from the Director for the Environment, Transport and Planning	

Section 52(2) Review of Premises Licence CYC/068154 for Sky Blue 16 Barbican Road, York, YO10 5AA

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 Sky Blue, 16 Barbican Road, York YO10 5AA, premises licence number CYC/068154.
2. Name of applicant: PS Jackie Booth, Force Licensing Manager, North Yorkshire Police (NYP)
3. Summary of Review: The application to review the premises licence relates to the following licensing objectives:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
4. A copy of the application for review is attached at Annex 1, the grounds for the review are briefly summarised as follows:
 - a. History of the premises.
 - b. Incident at the premises on 22 January 2022 – report in relation to an allegation of spiking from a 16-year-old female.
 - c. Report in relation to an allegation of underage sales to a 16-year-old female on 22 January 2022.
 - d. Breach of mandatory premises licence conditions.

e. Breach of conditions 1, 2, 3, 8, 12, 13, 17, 18, 23, 24 and 29, within Annex 2 of the premises licence.

f. Management of the premises.

5. The premises licence was granted on 27 April 2021; a copy of the licence and plan is attached at Annex 2. The premises licence currently authorises the following:

Licensable Activity	Current Days & Hours
Live music Recorded music Performance of dance Other entertainment (indoors)	10:00 to 3:30 Monday to Sunday
Late night refreshment (indoors)	23:00 to 03:30 Monday to Sunday
Supply of alcohol (on and off the premises)	10:00 to 03:30 Monday to Sunday
Opening Hours	10:00 to 04:00 Monday to Sunday

Consultation

6. 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 Council's website.

7. No further representations were received.
8. A map showing the location of the premises is attached at Annex 3.

Other Relevant Information

9. The premises has been licensed by City of York Council since 2005 however, as stated above, that licence was revoked following a review application in June 2020. A new licence was granted by the City of York Council in April 2021.

Options

10. 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:
11. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
12. Option 2: To exclude a licensable activity from the scope of the licence.
13. Option 3: To remove the Designated Premises Supervisor.
14. Option 4: To suspend the licence for a period not exceeding three months.
15. 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

16. The following could be the result of any decision made by this Sub-Committee:
17. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
18. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
19. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
20. Option 4: This decision could be appealed by the premises licence holder, the review applicant or any of the representors.
21. Option 5: This decision could be appealed by the premises licence holder.
22. 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.
23. 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

24. 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.

25. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications for review the Council are supporting the 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

26.

- **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

27. 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.
28. 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

29. Members determine the application.

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

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager Ext 1515	Director of Environment, Transport and Planning James Gilchrist		
	Report Approved	√	Date 09/08/2022

Wards Affected: Fishergate Ward

Annexes

Annex 1 - Copy of application for review of premises licence, plus appendices

Annex 2 - Copy of premises licence, including layout plan

Annex 3 - Map showing location of premises

Annex 4 - Legislation and Policy Considerations