
Licensing Act 2003 Sub Committee

14 May 2010

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for 69 Micklegate, York, YO1 6LJ

Summary

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-015873
3. Name of applicants: To The Moon Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application to vary is as follows
 1. To extend opening hours to 01:00 every day and until 03:00 hours on public holidays, Christmas Eve and New Year's Eve.
 2. To extend the hours for the sale of alcohol to 00:30 hours every day and until 03:00 hours on public holidays, Christmas Eve and New Year's Eve.
 3. To provide facilities for dancing between 12:00 hours and 22:30 hours every day and until 03:00 hours on public holidays, Christmas Eve and New Year's Eve.
 4. To allow the sale of alcohol to 24 persons in a designated seating area without the restriction of serving alcohol as an ancillary to a meal.

Background

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.

Promotion Of Licensing Objectives

8. 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:

9. General: 1) All patrons to be table served and seated in the designated area. 2) Security Staff (in accordance with Section 4 Private Securities Act 2001) will be on the premises on Fridays and Saturdays and bank holidays between 20:00 hours and 01:30 hours.
10. The prevention of crime and disorder: No additional steps proposed.
11. Public Safety. No additional steps proposed.
12. Public Nuisance. No additional steps proposed.
13. The protection of children from harm. 1) Appropriate use of music, film. TV and CDs.

Special Policy Consideration

14. 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 7.

Consultation

15. 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.
16. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

17. City of York Council Environmental Protection Unit: Make representation on the grounds of prevention of public nuisance. A copy of this representation is attached at Annex 3.
18. A representation was received from North Yorkshire Police on the grounds of crime and disorder and public nuisance. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
 1. Alcohol shall be served by way of waiter/waitress service to all patrons at all times.
 2. Alcohol will only be served ancillary to a meal with patrons seated at tables

3. The exception to the above condition shall be for a maximum of 24 customers who shall be seated within the blue area (as defined on the plan submitted with the application)
4. A full food menu (indicative of normal food provision) shall be available at all times the venue remains open.
5. Adequate Door Supervisors shall be provided at the premises from 21:00 hours until the venue closes for business on the following occasions
 - i) Friday and Saturday evenings
 - ii) The evenings before any Bank Holiday
 - iii) York Race days
 - iv) Any evening that the venue intends to remain open beyond 01:00 hours (i.e. non standard times)
6. The venue shall not open or operate (other than by way of Temporary Event Notice) earlier or later than the times listed in Part 1 of the Premises Licence (i.e. the opening hours of the premises).

Summary of Representations made by Interested Parties

19. Representations have been received from 12 Interested Parties listed in Annex 4. These representations are attached at Annex 5
20. A map showing the general area around the venue from which the representation is focused is attached at Annex 6
21. 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.
22. 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.

Planning Issues

23. There are no planning issues or conditions relevant to this application.

Options

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

27. 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.
28. Option 4: Reject the application.

Analysis

29. The following could be the result of any decision made this Sub Committee:-
30. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
31. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
32. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Strategy

34. 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.
35. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

Implications

36.
 - **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

37. 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.
38. 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

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

Contact Details

Author:

John Lacy
Licensing Manager
Licensing & Regulation

Ext: 1593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1814

Report Approved



Date

23 April 2010

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Micklegate

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of existing premises licence.
- Annex 2** - Copy of application form.
- Annex 3** - Copy of representation from Environmental Protection Unit
- Annex 4** - List of Interested Parties
- Annex 5** - Representations from Interested Parties
- Annex 6** - Map showing general area from which representations received.
- Annex 7** - Copy of City Centre Special Policy Statement.
- Annex 8** - Mandatory Conditions.
- Annex 9** - Legislation and Policy Considerations.