

Report of the Director of Neighbourhood Services

**Section 35(3)(a) Application for the Variation of a premise licence
for The Red Lion, Main Street, Knapton, York, YO26 6QG**

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-009065.
3. Name of applicant: Richard and Tracey Butler.
4. Type of authorisation applied for: Variation of a premises licence.
5. Summary of application: The nature of the application is to alter the area of the premises currently authorised for carrying out licensable activities to include the outside area and to carry out internal alterations to the premises.

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. No additional steps have been proposed by the applicant to promote the licensing objectives. Conditions existing on the current licence will apply.

Special Policy Consideration

9. This premise is not located within the special policy area.

Consultation

10. 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

11. A representation received from the Environmental Protection Unit was subsequently withdrawn when the applicant agreed to the following two conditions being attached to the licence; 1) The doors and windows must be kept closed at all times whilst music is being played except for means of ingress or egress. 2) Noise emanating from the licensable activities within the premises after 23:00 hours must be inaudible at the nearest noise sensitive façade.

Summary of Representations made by Interested Parties

12. A representation has been received from one interested party, from the Main Street area, and is listed at Annex 3 (confidential). This representation is attached at Annex 4.
13. A map indicating the general area from which the representation was received is attached at Annex 5. 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.
14. 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 Restrictions

15. The following restriction to hours of operation apply;
Monday to Friday 12:00 hours to 23.00 hours, Saturday 11:00 hours to 23:00 hours, Sunday and Bank Holiday 12:00 hours to 22:00 hours.

Options

16. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
17. Option 1: Grant the variation of the licence in the terms applied for.
18. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
19. 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.

20. Option 4: Reject the application.

Analysis

21. The following could be the result of any decision made this Sub Committee:-
22. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
23. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
24. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
25. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

26. 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.
27. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

- 28.
- **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

29. 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.
30. 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

31. Members determine the application.

Contact Details

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Report Approved ✓ **Date** 13 December 2006

Specialist Implications Officer(s)

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Wards Affected: Rural West York

For further information please contact the author of the report

Annexes:

- Annex 1** - Copy of existing premises licence
- Annex 2** - Application form
- Annex 3 (Confidential)** - List of Interested Parties
- Annex 4** - Representations from Interested Parties
- Annex 5** - Map showing general area from which representations received
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations