
Licensing Act 2003 Sub Committee

20 November 2006

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Subway, 2 Clifford Street, York, YO1 9RD

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-010949
3. Name of applicant: Wayne Dixon and Kirk Jemison
4. Type of authorisation applied for: Variation of a premises licence.
5. Summary of application: The nature of the application is to extend existing licensed hours for the provision of late night refreshment. The premise is currently licensed Monday to Thursday until 01:00 hours and Friday to Sunday until 03:00 hours. This variation seeks to extend the permitted hours Monday to Sunday until 05:00 hours, premises to open 24 hours daily.

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 applicant proposes the following steps to promote the licensing objectives these are in addition to existing licence conditions.
9. Prevention of Crime and Disorder
 - 1) Food will not be supplied to anyone who is abusive to staff or patrons. No disorderly conduct will be allowed.
 - 2) Existing CCTV will provide 24 hour coverage.
 - 3) SIA registered doorstaff are currently employed at the premises between the hours of 22:00 and 02:00.

10. Public Safety
 - 1) All measures requested by the fire safety officer will be adhered to for all patrons and staff safety.
 - 2) There is freely accessible areas so that the emergency services can enter and work safely.
 - 3) No patrons will be allowed to obstruct any exits or fire exits.
11. Prevention of Public Nuisance
 - 1) Bins will be provided and patrons encouraged to use them to prevent litter.
 - 2) Patrons who are having late night refreshment will be asked to leave and disperse quietly.

Special Policy Consideration

12. 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 8.

Consultation

13. 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

14. No representations were received from responsible authorities, however, after consultation with North Yorkshire Police, the applicants agreed to amend two of their existing conditions:
15. Existing condition 2 to be amended to 'Doorstaff will be employed every Friday, Saturday and Sunday from 22:00 hours until at least 03:00 hours the following morning'.
16. Existing condition 10 the word 'immediate' to be removed so that the condition states 'Litter shall be picked within the [. . .] vicinity of the premise whilst it is open'.

Summary of Representations made by Interested Parties

17. Representations have been received from the interested parties listed at Annex 3 (confidential). Their representations are attached at Annex 4.
18. The addresses of the interested parties are indicated on the map attached as Annex 5 (confidential). A further map indicating the general area from which representations were received is attached at Annex 6. There are two representors; one from Kings Staith area and the other from South Esplanade area. 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.
19. 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.

Options

20. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
21. Option 1: Grant the variation of the licence in the terms applied for.
22. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
23. 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.
24. Option 4: Reject the application.

Analysis

25. The following could be the result of any decision made this Sub Committee:-
26. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
27. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
28. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
29. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Objectives

30. 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.
31. These directly contribute to the Council's Safer City priority and corporate aim 4.
32. In addition the licensing objectives of public safety and prevention of public nuisance contribute towards corporate objective 1.4 – protection of residents from pollution, public health and safety hazards.

Implications

33.
 - **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

34. In compliance with the Councils risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.
35. Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored as they do not provide a real threat to the objectives of this report.

Recommendations

36. Members determine the application.

Contact Details

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Report Approved ✓ **Date** 7 November 2006

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal and Democratic Services
Civic Democratic & Legal Services
Wards Affected: Guildhall East

For further information please contact the author of the report

Background Papers:

- 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 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 6** - Map showing general area from which representations received

Annexes:

- Annex 7** - Mandatory Conditions
- Annex 8** - City Centre Special Policy Statement
- Annex 9** - Legislation and Policy Considerations