
Licensing Act 2003 Sub Committee

4 February 2008

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Yates Wine Lodge, Church Lane, Low Ousegate, York, YO1 9QT

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-008997.
3. Name of applicant: Yates Group Ltd.
4. Type of authorisation applied for: Variation of Premises Licence.
5. Summary of application: The nature of the application is to vary the condition on the existing premises licence relating to the occupancy figure of the premises, seeking to increase the occupancy from 560 persons to 650 persons by 90 persons.

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. The prevention of crime and disorder: No additional steps identified as a result of the proposed variation.
10. Public safety: The maximum occupancy figures for the first floor will not exceed 300 people. The total occupancy of the premises will not exceed 650 people.

11. The prevention of public nuisance: No additional steps identified as a result of the proposed variation.
12. The protection of children from harm: No additional steps identified as a result of the proposed variation.

Special Policy Consideration

13. 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 4.

Consultation

14. 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.
15. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

16. A representation has been received from the following responsible authority relating to this application. This is attached at Annex 3 and summarised below:
17. North Yorkshire Police: This representation is made on the grounds of Prevention of Crime and Disorder and Public Nuisance. The premises are situated within the Cumulative Impact Zone, an area which is identified as having the highest levels of crime and disorder in the city centre and subject to the City Centre Special Policy Statement. The police stipulate that it would be reasonable to expect that an increase in capacity at the premises (of over 16%) would mean more people congregating in the area which would have an adverse impact on the area beyond the control of the licence holder, thus leading to an increase in crime and disorder incidents, as well as public nuisance problems.

Summary of Representations made by Interested Parties

18. No representations were received from interested parties.

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.

Planning Issues

20. Permission was granted in October 2007 for the use of the first floor of the premises as a drinking establishment as an extension to the ground floor use. There are no planning conditions in relation to capacity.

Options

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

Analysis

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

Corporate Priorities

31. 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.

32. 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

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. 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.
35. 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

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

Contact Details

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Report Approved ✓ **Date** 15 January 2008

Specialist Implications Officer(s):

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Interim Head of Legal & Democratic Legal Services

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Wards Affected: Guildhall

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 Responsible Authority
- Annex 4** - Copy of City Centre Special Policy Statement
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations