

Report of the Corporate Director of Economy and Place

Section 35(3) (a) Application for the Variation of a Premise Licence for Drawingboard (formerly Blue Fly Cafe Bar), 10A New Street, York, YO1 8RA.

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-009242
3. Name of applicant: Blue Fly (York) Ltd
4. Type of authorisation applied for: Variation of Premises Licence.
5. Summary of application: The nature of the application is as follows:
 - a) To extend the existing outside area from 2.1m to 3.1m from and parallel to the host building.
 - b) Removal of Condition 14 in Annex 2 (Public Safety);
“Seating to be provided for 64 persons.”
 - c) Removal of Condition 15 in Annex 2 (Public Safety);
“Maximum occupancy 64 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.
8. A copy of the plan showing the existing layout of the premises is attached at Annex 3.
9. A copy of the plan showing the proposed changes to layout is attached at Annex 4.

Promotion of Licensing Objectives

10. The applicant offered no additional conditions to those already existing on the current premises licence.

Special Policy Consideration

11. This premise is located within the special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 5.

Consultation

12. 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.
13. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

14. North Yorkshire Police submitted a representation to the application on the grounds that two of the licensing objectives could be undermined if the variation to the application were to be granted; namely the prevention of crime and disorder and public safety.
15. Increasing the outside area from 2.1m to 3.1m would extend this area into the road, which the police do not see as a problem during footstreet hours, but would create an obstruction of the highway outside these hours when the road is used for vehicular traffic.
16. The police do not support the removal of conditions 14 and 15 relating to the provision of seating and occupancy for 64 persons as it is felt this would alter the character of the premises from a cafe bar to that of a vertical drinking establishment.
17. In conclusion the police ask that the application be modified by reducing the size of the pavement cafe area back to 2.1m from the host building between 17:00 hours and 04:30 hours daily and for conditions 14 and 15 to remain on the licence.

18. A copy of the representation is attached at Annex 6.

Summary of Representations made by other persons

19. There was one relevant representation received from an interested party, which is attached at Annex 7.

20. A map showing the general area around the venue is attached at Annex 8.

21. 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

22. A planning application has been submitted to increase the outside area in line with the licensing application. The application is yet to be determined.

Options

23. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-

24. Option 1: Grant the variation of the licence in the terms applied for.

25. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.

26. 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.

27. Option 4: Reject the application.

28. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

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.

Council Plan

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 priorities to protect vulnerable people, build strong communities, and protect the environment.

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

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Chief Officer Responsible for the report:

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**Report
Approved**



Date 27/04/17

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Guildhall

For further information please contact the author of the report

Annexes:

- Annex 1 - Copy of existing premises licence
- Annex 2 - Copy of application form
- Annex 3 - Copy of plans showing existing layout of outside area
- Annex 4 - Copy of plans showing proposed layout of outside area
- Annex 5 - Special Policy
- Annex 6 - Copy of police representation
- Annex 7 - Copy of other representation
- Annex 8 - Map of area
- Annex 9 - Mandatory Conditions
- Annex 10 - Legislation and Policy Considerations