

Licensing Act 2003 Sub Committee

26 June 2017

Report of the Corporate Director of Economy and Place

Section 35 (3) (a) Application for the variation of a premise licence for Fulford Arms, 121 Fulford Road, York, YO10 4EX

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-008985
3. Name of applicant: Punch Taverns Plc
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows:
 - a) To change the layout of the premises.
 - b) Change to existing licensed hours as follows:

| Licensable Activities | Existing Hours | Proposed Hours |
|--|--|----------------------------------|
| Live Music Recorded Music Performance of Dance Activities like dance/music | Sunday - Thursday 10:00 – 23:30 Friday & Saturday 10:00 – 00:30 | Monday – Sunday 10:00 – 02:00 |
| Sale of Alcohol | Sunday – Thursday 08:00 – 00:00 | Monday - Sunday 08:00 – 02:00 |
| Late Night Refreshment | Not currently permitted | Monday – Sunday 23:00 – 02:00 |
| Opening Hours | Sunday – Thursday 08:00 – 00:30 Friday & Saturday 08:00 – 01:30 | Monday – Sunday 08:00 – 02:30 |
| All non-standard timings to remain unaltered | | |

c) Remove the following conditions from Annex 2 of the premises licence:

- All conditions under Public Safety as these are covered under fire safety legislation.
- Condition 7 under Public Nuisance which reads “Recorded music is provided via juke box, the volume is controlled by staff”.

All other conditions to remain unchanged.

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 not located within the special policy area.

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. There were no representations received from responsible authorities.

Summary of Representations made by other persons

15. There were five relevant representations received from other persons on the grounds the prevention of public nuisance licensing objective would be undermined by the granting of this variation. Copies of the representations are attached at Annex 5.
16. A map showing the general area around the venue is attached at Annex 6.
17. 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

18. There are no planning issues.

Options

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

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.

Council Plan

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. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

32.

- **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

33. 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.
34. 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

35. 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 31 May 2017

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Fishergate

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 plans showing existing layout of premises
- Annex 4 - Copy of plans showing proposed layout of premises
- Annex 5 - Copy of other representation
- Annex 6 - Map of area
- Annex 7 - Mandatory Conditions
- Annex 8 - Legislation and Policy Considerations