

**Licensing Act 2003 Sub Committee**

4 September 2017

Report from the Assistant Director – Planning & Public Protection

**Section 18(3) (a) Application for a Premises Licence for Shambles Market, York, YO1 8RY**

**Summary**

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-058836
3. Name of applicant: Make it York
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The proposal is to allow for the provision of the following activities:

<b>Proposed Activity</b>	<b>Timings</b>
Plays (outdoors)	Mon to Sat 09:00 – 22:00 Sun 12:00 – 22:00
Films (outdoors)	As above
Live Music (outdoors)	As above
Recorded Music (outdoors)	As above
Performance of dance (outdoors)	As above
Sale of alcohol (on & off sales)	Mon to Sun 09:00 – 22:00
Opening times	24 hrs

## **Background**

6. A copy of the application is attached at Annex 1. A copy of the plan of the premises is attached at Annex 2.

## **Promotion of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General
  - a) Alcohol will be ancillary to a meal on race days held at York Racecourse.
  - b) The premises shall primarily operate as a food court and not as a bar or vertical drinking establishment. The premises will provide food and non-alcoholic drinks as part of its offer.
  - c) Substantial food will be available at the premises throughout opening hours.
9. The prevention of crime and disorder
  - d) A minimum of 2 SIA Door Staff shall be provided at the premises from 12:00 hrs to close of business on days when race meetings are held at York Racecourse (except on the first meeting in May, the family meeting held in September and the October finale meeting).
  - e) The Premises Licence Holder (PLH) or Designated Premises Supervisor (DPS) shall be responsible for risk assessing the need for additional SIA door staff at the premises during the time(s) above and at any other times the premises is open to the public.
  - f) Steward(s) will be responsible for the external (outside) area when the premises are open to the public, at times when SIA door staff are not employed.
  - g) A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place and at any other times where members of the public are present on the premises.

- h) The CCTV equipment shall have constant time / date generation which must be checked on a daily basis for accuracy.
- i) CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets).
- j) The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days consecutive footage.
- k) North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.
- l) It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.
- m) A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-
- retail sale of alcohol;
  - age verification policy;
  - conditions attached to the Premises Licence:
  - permitted licensable activities;
  - the licensing objectives; and
  - opening times of the venue.
- With such records being kept for a minimum of one year [for the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].
- n) An incident log will be kept at the premises and made available on request to an authorised officer or the police which will record the following:
- all crimes reported to the venue;
  - any complaints received regarding crime and disorder;
  - any incidents of disorder;
  - any faults in the CCTV system;
  - any refusal of sale of alcohol;
  - any visit by a relevant authority or emergency service;
  - SIA on site, including badge number and times on site.

With such records being kept for a minimum of one year [for the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

- o) Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.
- p) There shall be 100 (minimum) chairs/ seats for customer use at all times the premise is open to negate the need for vertical drinking.
- q) At least one Personal Licence Holder shall be on duty at the premises at all times when the retail sale of alcohol takes place.
- r) All drinks shall be served in non-glass vessels only. For glass bottles, the drink is to be decanted into non-glass vessels.
- s) The out boundary of the licensable area shall be clearly defined by a removal semi-permanent in-fill barrier at all times when in use.
- t) Store not radio systems shall be in place through City Centre Manager's Office.

#### 10. The prevention of public nuisance

- a) For any event, event organisers / Make it York shall submit a completed copy of the Event Information Questionnaire extracted from the Council's code of Practice and Guidance Notes on Control of Noise for Concerts and Outdoor Events, together with a detailed plan showing exact layout of the site and proposed sound monitoring locations, at least 28 days before the event. A copy shall be sent to Public Protection and also the Licensing Unit. The notification shall include a sample of the leaflet to be sent to comply with the conditions below and which addresses will receive the leaflet.
- b) Prior to an event, noise sensitive premises in close proximity shall be leafleted about the event. Information shall include details of the performance times and any sound checks taking place and contact telephone number of the Named Event Organiser and a Make it York representative. In the event of a complaint regarding sound levels, the Named Event Organiser will make an

assessment of no less than 5 minutes in close proximity to the complainant's address. If the sound level is within category C or D of the sound monitoring log guidance, the specified action shall be taken and the requirements of the Named Event Manager to mitigate will be carried out immediately. The Named Event Organiser will contact the complainant and check that they are satisfied with the steps taken. If the complaint cannot be resolved on site the City of York Council Complaints Procedure, as outlined at [www.york.gov.uk](http://www.york.gov.uk), will be instigated.

- c) The Events Organiser shall appoint a member of their event team as 'Sound Monitor'. The Sound Monitor will undertake a documented sound check prior to or at the start of the event to ensure that the sound levels are within category A or B as defined in the 'Sound Monitoring Log for Events on CYC Land'. During the event, the Sound Monitor shall carry out documented patrols at least once per hour or for each separate act taking place whichever is the more frequent. The monitoring at each location shall be for a representative period whilst the act is taking place (as least 5 minutes) and the observations shall be recorded on the 'Sound Monitoring Log Sheets for Events on CYC Land'. Actions taken shall be in accordance with those stated on the monitoring log sheet.

#### 11. The protection of children from harm

- a) The premises shall operate a Challenge 25 policy for the sale of alcohol.
- b) The only acceptable proof of age identification shall be a current passport, photo card driving licence, HM forces cards or identification carrying the PASS logo (until other effective identification technology e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder).

#### **Special Policy Consideration**

12. The premise is located within the special policy area approved by full council on 27<sup>th</sup> March 2014. A copy of the policy is attached at Annex 3.

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

## **Summary of Representations made by Responsible Authorities**

15. There were no representations from responsible authorities.

## **Summary of Representations made by Other Parties**

16. Three relevant representations has been received from other parties and are attached at Annex 4.
17. A map showing the general area around the venue is attached at Annex 5.

## **Planning Issues**

18. There are no planning issues regarding this application.

## **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 licence in the terms applied for.
21. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
22. Option 3: Grant 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.

## **Analysis**

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

## **Council Plan**

29. 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.
30. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

## **Implications**

31.
  - **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**

32. 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.
33. 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**

34. 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:**

Mike Slater  
Assistant Director for Planning and Public Protection.

**Report  
Approved**

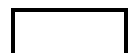


**Date** 15/08/2017

### **Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Guildhall**



**For further information please contact the author of the report**



## **Background Papers:**

Annex 1 - Application form

Annex 2 - Plan of premises

Annex 3 - Special policy

Annex 4 - Representation

Annex 5 - Map of area

Annex 6 - Mandatory Conditions

Annex 7 - Legislation and Policy Considerations