
Licensing Act 2003 Sub Committee**29 November 2018**

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for Try Market Halls, Market Hall Unit (comprising of Ground and Part Basement as set out on the plans), Stonebow House, The Stonebow, York, YO1 7NP**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-062590
3. Name of applicant: Try Market Halls York Limited
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The proposal is to allow for the provision of the following:

Proposed Activity	Timings
Plays (Indoors)	Sunday to Wednesday 07:00 – 23:00 Thursday to Saturday 07:00 – 00:30
Films (Indoors)	Sunday to Wednesday 07:00 – 23:00 Thursday to Saturday 07:00 – 00:30
Live Music (Indoors)	Sunday to Wednesday 07:00 – 23:00 Thursday to Saturday 07:00 – 00:30
Recorded Music (Indoors)	Sunday to Wednesday 07:00 – 23:00 Thursday to Saturday 07:00 – 00:30

Performances of Dance (Indoors)	Sunday to Wednesday 07:00 – 23:00 Thursday to Saturday 07:00 – 00:30
Provision of anything similar to live & recorded music or dance	Sunday to Wednesday 07:00 – 23:00 Thursday to Saturday 07:00 – 00:30
Late Night Refreshment (Indoors)	Thursday to Saturday 23:00 – 00:30
Supply of Alcohol (On & off sales)	Sunday to Wednesday 10:30 – 23:00 Thursday to Saturday 07:00 – 00:00
Opening Hours	Sunday to Wednesday 07:00 – 23:30 Thursday to Saturday 07:00 – 01:00
Non Standard Timings for all licensable activities and Opening Hours	From the end of permitted hours on New Year's Eve until the start of permitted hours New Year's Day. An additional hour on the day when British Summertime commences.

Background

6. A copy of the application is attached at Annex 1. Copies of plans of the premises are attached at Annex 2.

Promotion of Licensing Objectives

7. The applicant has offered the following proposed conditions in order to address the four licensing objectives as follows:
 - 1) The premises shall not operate as a nightclub.
 - 2) The provision of licensable activities shall be ancillary to the use of the premises as a Market Hall and food court at all times.
 - 3) The premises shall operate in accordance with an Operating Management Statement (OMS) a copy of which is supplied in writing to the licensing authority and the police. The OMS may be subject

to amendment as best practices develop and any amendments must be notified to the licensing authority and police in advance.

4) This licence excludes any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

5) Staff will be trained in relation to the four licensing objectives.

6) Steps will be taken to ensure that fire exits are clearly indicated and kept clear of obstruction at all times.

7) Any fire fighting equipment will be regularly serviced and maintained at all times.

8) Staff training will be carried out in order to prevent underage sales.

9) Digital colour CCTV will be installed to cover the premises and will include all areas to where the public have access to consume alcohol and where licensable activities are undertaken.

10) CCTV will be maintained, working and recording at all times when the premises are open.

11) CCTV recordings shall be of an evidential quality in all lighting conditions and will be of sufficient quality to be produced in court or other such hearing.

12) Copies of the recordings will be kept available for any responsible authority for 28 days.

13) Copies of the recordings will display the correct time and date of the recording.

14) A member of staff trained to use the CCTV system shall be on duty at all times so as to ensure the recorded images are made available for inspection and downloading immediately upon request to any responsible authority.

15) All images downloaded from the CCTV system must be provided in a format that can be viewed on readily available equipment without the need for specialist software.

16) Clear notices shall be prominently displayed requesting customers to leave the premises and area in a quiet and orderly fashion.

17) Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises; and the opening times of the venue.

18) Such records (referred to in condition 17) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.

19) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.

20) Both documents (referred to in condition 19) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.

21) The venue shall partake in the York Night-time economy radio system (if required).

22) All doors and windows shall be closed when regulated entertainment is provided after 23:00 hours each night (except for ingress and egress).

23) Clear signage shall be displayed requesting that customers respect local residents and to leave the premises quietly.

24) A documented noise management plan shall be submitted to and approved by City of York Council within two months of the licence being granted, once approved it shall be implemented. The noise management plan will also include a procedure for investigating noise complaints.

25) Bottle bins are only to be emptied in line with Stonebow House refuse policy.

26) A Challenge 25 proof of age scheme shall be operated where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.

27) Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premise where alcohol is sold or supplied for consumption on the premises.

28) No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be

transmitted through the structure of the premises which gives rise to a nuisance.

29) A noise limiter must be fitted to the musical amplification system.

30) During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premise, and that this area shall be swept and / or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage.

Special Policy Consideration

8. This premise is not located within the special policy area. However, the premise borders the special policy area with the main customer entrance opening onto Whip-ma-Whop-ma-Gate which is in the special policy area. The special policy area was approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.

Consultation

9. 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.
10. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

11. A representation has been received from North Yorkshire Police on the grounds that the prevention of crime and disorder and prevention of public nuisance licensing objectives would be undermined if the premises licence were to be granted in the terms applied for. The police are concerned that if the premises licence is granted in the terms applied for the venue could operate as a large vertical drinking establishment / entertainment venue. Furthermore the rear of the premises is on St Saviourgate which has a high number of residential properties and a number of apartments above

the premises itself. The police believe the proposed operating hours are more in line with a bar / entertainment venue and not in keeping with a food hall / market.

12. To mitigate their concerns the Police suggest if the sub-committee is minded to grant the premises licence, that the licence is conditioned as follows:
 - 1) The premises shall primarily operate as a food hall / market, providing food and non-alcoholic drinks, with substantial food being available at all times the premises is open to the public. Not operating as a bar or vertical drinking establishment
 - 2) There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
 - 3) A minimum of 350 table covers shall be provided on the ground floor and a minimum of 200 table covers shall be provided on the basement floor at all times the venue is open to negate the need for vertical drinking. (The exception will be for the basement level any change to minimum table covers must be agreed in writing with North Yorkshire Police and the Licensing Authority, 28 days before any changes).
 - 4) Only non-glass vessels or toughened glasses shall be used in the outside designated area.
 - 5) All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
 - 6) During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and / or washed, and litter and sweepings collected and stored in accordance with the approved refuse store.
 - 7) The footprint of the outside area shall be clearly defined by semi-permanent removal barriers.
 - 8) Tables, chairs and barriers / other outside furniture shall only be placed outside the premises, as defined on the plans, between 09:00 hours and 21:00 hours daily.

- 9) Door Supervisors shall be employed as follows:
Sunday to Thursday there shall be a minimum of 2 SIA licensed door supervisors for up to 300 capacity on duty at the premises while it is open for licensable activities from 20:00 hours. Thereafter there shall be 1 SIA door supervisor per 100 additional people or part thereof.
On Fridays and Saturdays there shall be a minimum of 5 SIA door supervisors from 20:00 hours until 30 minutes past closing time. When employed, door staff will wear high visibility arm bands.
- 10) Doors and windows at the premises are to remain closed after 23:00 hours save for access and egress and to remain closed during the playing of all amplified music and other entertainment (save for entry and egress).
13. A copy of the police representation is attached Annex 4.
14. A representation has been received from City of York Council Public Protection Service (Environmental Health) on the grounds that the prevention of crime and disorder and prevention of public nuisance licensing objectives would be undermined if the premises licence were to be granted in the terms applied for. In order to mitigate their concerns they ask that a number of amendments be made to the applicants proposed conditions and that a number of additional conditions are attached to the licence if granted.
15. A noise management plan has been proposed by the applicant, however, Public Protection believe that owing to the size of the proposed development this should be submitted for approval before the premises open in order to ensure it is adequate.
16. A copy of this representation is attached at Annex 5.

Summary of Representations made by Other Parties

17. Representations have been received from 77 other persons on the grounds that all four of the licensing objectives would be undermined if the premises licence were to be granted. A list of representors is attached at Annex 6. It is to be noted that 8 of the representors are not resident in the York area. Copies of the representations are attached at Annex 7.

18. Twenty two representations have been received in support of the application. A list of these representors has been attached at Annex 8. Copies of their representations are attached at Annex 9
19. A map showing the general area around the venue is attached at Annex 10.

Planning Issues

20. There are no planning issues in relation to this application.

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 licence in the terms applied for.
23. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
24. Option 3: Grant 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.

Council Plan

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 Plan for a prosperous city for all and a council that listens to residents.

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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Chief Officer Responsible for the report:

Mike Slater
Assistant Director for Planning and Public Protection.

**Report
Approved**

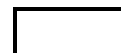


Date 20/11/2018

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** - Copy of Special Policy
- Annex 4** - North Yorkshire Police representation
- Annex 5** - Public Protection representation
- Annex 6** - List of other representors
- Annex 7** - Copy of other representations
- Annex 8** - List of supporting representors
- Annex 9** - Copy of supporting representations
- Annex 10** - Map of area
- Annex 11** - Mandatory Conditions
- Annex 12** - Legislation and Policy Considerations