

Licensing Act 2003 Sub Committee

7 February 2019

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for Stone Roses Bar, 4 King Street, York, YO1 9SP

Summary

1. This report seeks Members determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-063009
3. Name of applicant: Tyrone O'Dwyer
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 activities:

Proposed Activity	Timings
Live Music (indoors)	Monday to Saturday 11:00 – 01:00 Sunday 11:00 to 00:00
Recorded Music (indoors)	Monday to Sunday 11:00 to 02:00
Late Night Refreshment (indoors)	Monday to Sunday 23:00 to 02:00
Sale of alcohol (on & off sales)	Monday to Sunday 11:00 to 02:00
Opening times	Monday to Sunday 11:00 to 02:30
Non-Standard Timings for all licensable activities	New years eve Sale of alcohol / Late night refreshment 11:00 to 03:30 Opening Hours 11:00 to 04:00

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.
7. This premises was previously licensed. Following the receipt of an application to vary the name of the designated premises supervisor, a check was made of the status of the licence holder on the Individual Insolvency register, this check was undertaken on the 19 December 2018. This register gave the status as 'Currently Bankrupt', with the order being made on the 11 June 2018.
8. Under Section 27 of the Licensing Act 2003, a premises licence lapses if the holder of the licence becomes insolvent; an individual becomes insolvent on being made bankrupt. As the premises licence holder was made bankrupt on the 11 June 2018, the licence lapsed on that date.
9. There are provisions within the Licensing Act to reinstate a licence within 28 days of the licence lapsing. No action was taken in relation to these provision therefore on the 19 December officers hand delivered a letter to the premises and the licence holders home address to advise that licensable activities could no longer take place.

Promotion of Licensing Objectives

10. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
11. General
 - 1) All full time staff to have a personal licence. Staff have training in first aid, health and safety, fire training, CCTV operation.
12. The prevention of crime and disorder
 - 1) Radiolink to Police, Council CCTV and other licensed premises.
 - 2) CCTV system installed.
13. Public Safety
 - 1) A maximum capacity of 100 persons.

- 2) Door supervisors inside and outside the premises.
- 3) CCTV Inside and outside the premises.
- 4) First Aider on site.

14. The Prevention of Public Nuisance

- 1) All doors and windows closed when entertainment is taking place
- 2) Signs at exits asking patrons to leave quietly.
- 3) DJ to request patrons to leave quietly, along side staff and door supervisors.

15. The protection of children from harm

- 1) No person under 18 years of age is allowed in the premises after 19:00 hours or on occasions where the management deem it appropriate.
- 2) PASS accredited ID scheme in place.

Special Policy Consideration

16. This premises are located within the special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.

Consultation

17. 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.
18. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

19. North Yorkshire Police have made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIZ
20. The Police representation is attached at Annex 4.
21. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIZ.
22. The Licensing Authority representation is attached at Annex 5.
23. City of York Council Public Protection (Environmental Protection) made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence was to be granted in the terms applied for.
24. The Public Protection representation is attached at Annex 6.

Summary of Representations made by Other Parties

25. There have been no relevant representations received from other parties.
26. A map showing the general area around the venue is attached at Annex 7.

Planning Issues

27. There are no outstanding planning issues.

Options

28. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
29. Option 1: Grant the licence in the terms applied for.

30. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
31. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
32. Option 4: Reject the application.

Analysis

33. The following could be the result of any decision made this Sub Committee:-
34. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
35. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
36. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
37. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

38. 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.
39. 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

40.
 - **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

41. 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.
42. 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

43. 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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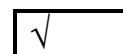
**Report
Approved**



22.01.2019

Specialist Implications Officer(s)
Head of Legal & Democratic Services
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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** - North Yorkshire Police Representation
- Annex 5** - Licensing Authority Representation
- Annex 6** - EPU Representation
- Annex 7** - Map of area
- Annex 8** - Mandatory Conditions
- Annex 9** - Legislation and Policy Considerations