



Meeting of Licensing Act 2003 Sub-Committee

8 April 2019

Report from the Assistant Director – Economy & Place

Section 52(2) Review of Premises Licence CYC/09086 for The Clockhouse, Kingsway West, York, YO24 3BA

Summary

1. This report seeks Members determination of an application for a review of a premises licence which has been made under the Licensing Act 2003 in respect of The Clockhouse, Kingsway West, York, YO24 3BA, premises licence number CYC/09086.
2. Name of applicant: Anthony Dean, Public Protection Manager, City of York Council, Eco Depot, Hazel Court, York, YO10 3DS.
3. Summary of Review: The application to review the premises licence relates to the following licensing objective;
 - The prevention of public nuisance.
4. A copy of the application for review is attached at Annex 1 and is briefly summarised as follows:
 - a. The premises licence holder, who is also the designated premises supervisor, for the Clockhouse Public House was prosecuted by City of York Council in July 2016 for breach of licence conditions relating to the licensing objective of the prevention of public nuisance.
 - b. Throughout 2017 and 2018 the Public Protection Team continued to receive periodic complaints from local residents regarding noise emanating from the Public House. Further breaches of licence condition were witnessed by Authorised Officers of the Council in May 2018.

- c. In May 2018 the premises licence holder was interviewed under caution in relation to the breaches of licence condition, reminded of his licence conditions and his obligations under the Licensing Act 2003.
 - d. In October 2018 Authorised Officers of the Council witnessed further breaches of licence conditions relating to noise at the premises.
 - e. In January 2019 the premises licence holder pleaded guilty to Section 136 offences (unauthorised licensable activity due to, breach of licence conditions), at the Clockhouse Public House in May and October 2018.
 - f. Since January 2019 further complaints have been received regarding noise and anti social behaviour at the premises.
5. A copy of the current premises licence is attached at Annex 2. The premises licence currently authorises the following:

Licensable Activity	Current Days & Hours
Indoor Sporting Events	11:00 to 23:30 Monday to Saturday 10:00 to 23:30 Sunday
Live Music	11:00 to 23:30 Monday to Saturday 10:00 to 23:30 Sunday
Recorded Music	11:00 to 23:30 Monday to Saturday 10:00 to 23:30 Sunday
Supply of Alcohol	11:00 to 23:30 Monday to Saturday 10:00 to 23:30 Sunday
Opening Hours	11:00 to 00:30 Monday to Saturday 10:00 to 00:30 Sunday

8. The premises licence issued on conversion with variation under the Licensing Act 2003 was granted on 13 September 2005.

Consultation

9. Consultation was carried out by the Applicants and the Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, Paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concerns the notification of a review and the advertisement of a review by licensing authority. Copies of the application were served on all responsible authorities and the premises licence holder. Notice of the application was displayed in the vicinity of the premises, on the exterior noticeboard at the West Offices and on the Councils website. In addition relevant Ward Councillors were informed by way of register.
10. No further representations were received.
11. A map showing the location of The Clockhouse is attached at Annex 3.

Other Relevant Information

17. There are no planning implications in relation to this application.

Options

18. By virtue of S52(4) of the Act, the Sub-Committee may in making their decision take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
19. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
20. Option 2: To exclude a licensable activity from the scope of the licence.
21. Option 3: To remove the Designated Premises Supervisor.
22. Option 4: To suspend the licence for a period not exceeding three months.
23. Option 5: To revoke the licence.

Where the Sub-Committee takes a step mentioned in Option 1 or Option 2, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify. Otherwise the modification of conditions or the exclusion of a licensable activity will be permanent.

In deciding which, if any, of these steps to take, the Sub-Committee should direct its mind to the cause or causes of the concerns which the application and representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

The Sub-Committee may decide that no action is appropriate if it finds that the Review does not require it to take any steps that are appropriate to promote the licensing objectives.

Analysis

25. The following could be the result of any decision made by this Sub-Committee:
26. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
27. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
28. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
29. Option 4: This decision could be appealed by the premises licence holder, the review applicant or any of the representors.
30. Option 5: This decision could be appealed by the premises licence holder.

The decision of the Sub-Committee will not have effect until the end of the period given for appealing against the decision, or if the decision is appealed against, until the appeal is disposed of.

31. Members are reminded that they may only use their discretion to take remedial action in relation to matters that are raised by this review and are relevant to the promotion of the licensing objectives.

Council Priorities

32. 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.
33. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

34.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – The decision made by this Sub Committee is subject to appeal rights to the Magistrates Court.
 - **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

35. 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 which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
36. 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

37. Members determine the application.

Reason: To address the application for review received as required by the Licensing Act 2003.

Contact Details

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**Report
Approved**



Date 25/03/19

Wards Affected: Westfield Ward

Annexes

Annex 1 - Copy of application for review of premises licence, plus appendices

Annex 2 - Copy of premises licence

Annex 3 - Map showing location of premises

Annex 4 - Legislation and Policy Considerations