



Meeting of Licensing Act 2003 Sub-Committee

8 June 2020

Report from the Assistant Director – Planning and Public Protection

Section 52(2) Review of Premises Licence CYC/009221 for The Regency, 16 Barbican Road, York, YO10 5AA

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 (the Act) in respect of The Regency, 16 Barbican Road, York YO10 5AA, premises licence number CYC/00921.
2. Name of applicant: Anthony Dean, Public Protection Manager, on behalf of the Licensing Authority, 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 crime and disorder.
 - Public safety.
4. A copy of the 'application for review' is attached at Annex 1 and is briefly summarised as follows:
 - a) On two occasions, 8 September 2017 and 6 September 2019, City of York Council (CYC) Licensing Officers have accompanied North Yorkshire Police (NYP), the Home Office Immigration Service and Gang Master and Labour Abuse Authority to the premises following the receipt of intelligence that staff working at the premises did not have the right to remain in this country and therefore did not have the right to work in this country. An Officer from North Yorkshire Fire and Rescue Service (NYFRS) as well as Enforcement Officers from CYC Housing Standards were also present on both

occasions. Officers from the HMRC were also present on 6 September 2019.

- b) On both occasions Immigration Officers removed people working at the premises who did not have the right to remain in this country.
 - c) On both occasions CYC Licensing Officers recorded that the Designated Premises Supervisor (DPS) was not present at the premises and that some of the premises licence conditions were not being complied with.
 - d) NYFRS had served notice on the premises, under the provisions of the Regulatory Reform (Fire Safety) Order 2005, on two occasions.
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
Live music Recorded music Performance of dance Activities like music/dance	10:00 to 3:30 Monday to Sunday
Late night refreshment	23:00 to 03:30 Monday to Sunday
Supply of alcohol	10:00 to 03:30 Monday to Sunday
Opening Hours	10:00 to 04:00 Monday to Sunday

6. The premises licence issued on conversion with variation under the Licensing Act 2003 was granted on 28 September 2005.

Consultation

7. 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.

8. Representations were made by North Yorkshire Police on the 'application for review', and a copy is attached at Annex 3.
9. Witness statements were received from North Yorkshire Fire and Rescue Service, the statement is attached at Annex 4.
10. Please note that within the 'application for review' there is a witness statement from Immigration Officer Glynn Jones (appendix 3), within this statement Mr Jones first name is incorrectly spelt (due to an autocorrect function). Mr Jones submitted an amended statement attached at Annex 5 with the correct spelling of his name, Glyn Jones.
11. To provide further clarification, a second witness statement was received from Immigration Officer Glyn Jones, the statement is attached at Annex 6.
12. A map showing the location of the premises is attached at Annex 7.

Other Relevant Information

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

Options

14. 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:
15. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
16. Option 2: To exclude a licensable activity from the scope of the licence.

17. Option 3: To remove the Designated Premises Supervisor.
18. Option 4: To suspend the licence for a period not exceeding three months.
19. Option 5: To revoke the licence.
20. 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.
21. Where the Sub-Committee determines to take a decision as mentioned in Option 4 or Option 5, Members should be mindful that this will not close the premises, they will still be able to continue trading as a restaurant. It will however prevent licensable activities taking place, in this case the supply of alcohol, the provision of late night refreshment, and the provision of regulated entertainment after 23:00 hours - the playing of live and recorded music, the performance of dance and activities like music/dance.
22. 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.
23. 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

24. The following could be the result of any decision made by this Sub-Committee:
25. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.

26. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
27. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
28. Option 4: This decision could be appealed by the premises licence holder, the review applicant or any of the representors.
29. Option 5: This decision could be appealed by the premises licence holder.
30. 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. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications for review the Council are supporting the licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

34.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A

- **Equalities** – N/A
- **Legal** – The legislation and policy considerations associated with this report are contained in Annex 8. 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 29/05/20

Wards Affected: Fishergate Ward

Annexes

- Annex 1** - Copy of application for review of premises licence, plus appendices
- Annex 2** - Copy of premises licence, including layout plan
- Annex 3** - Representation from North Yorkshire Police
- Annex 4** - Witness statement North Yorkshire Fire and Rescue
- Annex 5** - Amended witness statement from Home Office Immigration Service
- Annex 6** - Second witness statement from Home Office Immigration Service
- Annex 7** - Map showing location of premises
- Annex 8** - Legislation and Policy Considerations