
Licensing Act 2003 Sub Committee

17 July 2008

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Stonebow Snooker Club (The Duchess), Stonebow House, The Stonebow, York, YO1 7NP

Summary

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009129
3. Name of applicant: Mr T Tunstall & Mr M Tunstall
4. Type of authorisation applied for: Variation of premise licence
5. Summary of application: The nature of the application is to extend the existing hours for the supply of alcohol and to provide regulated entertainment and late night refreshment and to amend the existing internal layout as the applicant proposes to increase toilet provision and provide additional escape doors.

Background

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.
8. A table listing the existing hours of operation and proposed hours of operation is attached at Annex 3.

Promotion Of Licensing Objectives

9. The operating schedule submitted by the applicant shows that, in addition to existing conditions attached to the current licence, the licensing objectives would be met as follows:
10. The prevention of crime and disorder: 1) CCTV with a minimum 7 day recording, with access for authorities. 2) SIA registered door staff to adequate level. 3) Early warning system. 4) Warning and advice signs. 5) Supervision

of premises. 6) Co-operation with police and council. 7) No alcohol to be consumed outside premise. 8) No off sales.

11. Public safety: 1) Queue management and barriers when needed. 2) Fire safety risk assessments are in place.
12. The prevention of public nuisance: 1) Patrols requesting patrons not to litter or made excessive noise. 2) Doorstaff supervision will be provided until patrons disperse.
13. The protection of children from harm: 1) Adequate supervision. 2) 14 year olds will only be admitted when supervision by over 18 year old. 3) Under 18s must vacate the premise when live music finishes.

Special Policy Consideration

14. This premise is not located within the special policy area.

Consultation

15. 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.
16. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

17. A representation has been received from North Yorkshire Fire and Rescue Service on the grounds of public safety. A copy of the representation is attached at Annex 4.
18. A representation was also received from the Environmental Protection Unit on the grounds of public nuisance but was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence;
 - 1) A staff policy will be put in place to monitor sound levels that may emit from the premises. The policy will require staff to monitor noise levels from the premises at the nearest residential properties to ensure music and other activities are inaudible. Records will be kept on the premises detailing times and dates of when monitoring was carried out.
 - 2) All doors at the rear of the premises shall be kept closed when music is playing.

Summary of Representations made by Interested Parties

19. Representations have been received from the interested parties listed at Annex 5 (confidential). Their representations are attached at Annex 6.
20. The addresses of the interested parties are indicated on the map attached as Annex 7 (confidential). A further map indicating the general area from which representations were received is attached at Annex 8. An “interested party” is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
21. Members are reminded that representations are only “relevant” if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
22. The Head of Licensing, in consultation with the Assistant Director of Neighbours & Community Safety, has considered the relevance of certain comments made by two separate legal representatives of a business in the vicinity. Those comments were deemed not to be relevant representations. A copy of the correspondence is attached at Annex 9 for members’ background information.

Planning Issues

23. The premise currently has D2 planning use and can therefore be used as a concert hall. Applications have been submitted for change of use and structural alterations.

Options

24. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
25. Option 1: Grant the variation of the licence in the terms applied for.
26. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee. Members are reminded that the licensing authority should only impose conditions on a premise licence which are necessary and proportionate for the promotion of the licensing objectives. If other law exists it is not necessary to duplicate those legal requirements. Additional or supplementary measures maybe considered that are necessary to promote the licensing objectives.
27. Option 3: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
28. Option 4: Reject the application.

Analysis

29. The following could be the result of any decision made this Sub Committee:-
30. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
31. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
32. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

34. 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.
35. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

36.
 - **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

37. 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.
38. 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

39. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

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Report Approved



Date 07/07/2008

Specialist Implications Officer(s):

Quentin Baker
Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Guildhall

All

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application form
- Annex 3** - Table of existing and proposed hours
- Annex 4** - Copies of representations from Responsible Authorities
- Annex 5 (Confidential)** - List of Interested Parties
- Annex 6** - Copies of representations from Interested Parties
- Annex 7 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 8** - Map showing general area from which representations received
- Annex 9** - Representation deemed not relevant.
- Annex 10** - Mandatory Conditions
- Annex 11** - Legislation and Policy Considerations