

Report of the Director of Neighbourhood Services

**Section 35(3)(a) Application for the Variation of a premise licence for Artful Dodger, 47-49 Micklegate, York, YO1 6LJ**

**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-009017.
3. Name of applicant: Marc Allinson.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend the existing licensable activity hours and the current licensed area.

**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 of the existing hours and licensable activities and the proposed hours and licensable activities 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. General: During functions or private parties, strippers and adult comedians may be employed, but this will be at night with no children allowed. These parties will be by ticket or private invitation only.
11. The prevention of crime and disorder: No additional steps proposed.
12. Public safety: A radio linked to the police is always on site.

13. The prevention of public nuisance: Music is not to be played at a level to cause public nuisance.
14. The protection of children from harm: No unsupervised children. Children are not allowed to use cigarette machine / fruit machines.

### **Special Policy Consideration**

15. The premises fall within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The special policy was approved by the licensing committee on 1 April 2005 and considered by full council on 12 April 2005, a copy of the special policy statement is attached at Annex 10.

### **Consultation**

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

### **Summary of Representations made by Responsible Authorities**

18. City of York Council Environmental Protection Unit: Make representation on the grounds of public nuisance, a copy of the representation is attached at Annex 4.
19. A representation was received from North Yorkshire Police on the grounds of crime prevention, this was subsequently withdrawn when the applicant agreed to the following conditions:
  - 1) CCTV will be installed to cover all licensed areas. It will be maintained, working and recording at all times that the premises are open. Copies of the recordings will be kept available for any Responsible Authority for 7 days.
  - 2) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.

- 3) One pint capacity, half pint capacity and “highball” tumbler drinking glasses will be strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left.
- 4) Drinking glasses of any type shall not be allowed to enter or leave the venue’s licensed area whilst under the customers care.
- 5) All OFF SALES shall be made in sealed containers.
- 6) Documented staff training will be given regarding the retail of alcohol and such records kept accordingly.
- 7) The management of the venue will comply with any written, reasonable and justified request made by the North Yorkshire Police regarding the provision of Door Supervisors should the need arise.
- 8) 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. Both documents will be made available upon a reasonable request from any Responsible Authority.
- 9) Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
- 10) The premises shall partake in the York Pubwatch Pager scheme.
- 11) There shall be no admission to members of the public between 02:00 hours and 08:00 hours. Admission during this time will be to members only.
- 12) Members will be in possession of a valid membership card which they must have held for at least 48 hours. Full details (name, address, contact number and date of birth) of current members will be kept and be available for examination by any Responsible Authority upon request.
- 13) Members may sign in up to two guests. The maximum number of guests allowed at the venue at any one time will be 20. Details of all guests at the venue will be recorded and available for examination by any Responsible Authority.
- 14) The exception to Condition 11 will be for live televised sporting events or pre-booked private parties details of which the police will be notified in writing giving at least 7 clear days.
- 15) The date of notification and date of event shall not be included in calculating the 7 clear days notification period.
- 16) With reference to 02:00 hours in these conditions, on the days that the clocks go forward at the start of British Summertime, the relevant time will be 03:00 hours.
- 17) An adequate number of Door Supervisors will be deployed at the venue from 21:00 hours until the venue closes for business on Friday, Saturday, Race Days and the Sunday before a Bank Holiday Monday.
- 18) The footprint of outside licensed areas shall be clearly marked and defined.

- 19) There shall be no more than 20 people allowed in the outside licensed area at any one time.
  - 20) There shall be no sales of alcohol made in the outside licensed area.
  - 21) There shall be no sales of Late Night Refreshment in the outside licensed area.
  - 22) There shall be no use of outdoor furniture (ie tables and chairs) in the outside licensed area.
  - 23) There shall be no consumption of alcohol allowed in the outside area between 02:00 hours and 08:00 hours.
20. A representation was also received from North Yorkshire Fire and Rescue on the grounds of public safety. This representation was subsequently withdrawn when the applicant agreed to the following condition being attached to the licence; The occupancy figures for the first floor should not exceed 60 persons. The existing condition, 'the maximum occupancy for the premises shall not exceed 100 persons', shall also remain on the licence.

### **Summary of Representations made by Interested Parties**

21. Representations have been received from the interested parties listed at Annex 5 (confidential). Their representations are attached at Annex 6.
22. 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.
23. 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.
24. 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.

### **Planning Issues**

25. There are no planning restrictions / conditions relevant to this premise.

### **Options**

26. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
27. Option 1: Grant the variation of the licence in the terms applied for.
28. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.

29. 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.
30. Option 4: Reject the application.

### **Analysis**

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

### **Corporate Priorities**

36. 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.
37. 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**

38.
  - **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**

39. 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.
40. 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**

41. 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** 8 September 2008

**Specialist Implications Officer(s):**

Quentin Baker  
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Ext: 1004

**Wards Affected:** Micklegate

**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 and licensable activities
- 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** - Mandatory Conditions
- Annex 10** - Copy of City Centre Special Policy Statement
- Annex 11** - Legislation and Policy Considerations