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## Licensing Act 2003 Sub Committee

1 December 2008

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for St. Peter's School, Clifton, York YO30 6AB**

#### **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-009440.
3. Name of applicant: St. Peter's School.
4. Type of authorisation applied for: Variation of existing premises licence.
5. Summary of application: The nature of the application is to increase the licensed area of the premises by incorporating the Shepherd Hall located on the lower school campus (known as St Olave's). The provisions and timings of the current premises licence remain unaltered.

#### **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.

#### **Promotion Of Licensing Objectives**

8. 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 by varying one of the conditions as follows:
9. The prevention of public nuisance: 12) Car parking during evening and weekends shall be on the upper campus only. Access via Clifton only.

#### **Special Policy Consideration**

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

## **Consultation**

11. 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.
12. All procedural aspects of this application have been complied with.

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

13. A representation was received from North Yorkshire Fire and Rescue Service on the grounds of public safety which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
  1. The occupancy of the auditorium shall be as follows  
With the retractable seating opened out the occupancy shall not exceed 212 persons standing and 162 persons seated.  
With the retractable seating pushed back the occupancy shall not exceed 374 persons standing.

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

14. A representation was received from an interested party on the grounds of prevention of public nuisance. A copy of this representation is attached at Annex 3.
15. The location of the residential property owned by the interested party in relation to the premises subject to this application is shown on the map attached at Annex 4.
16. 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.
17. 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**

18. There are no planning issues or conditions relevant to this application.

## **Options**

19. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
20. Option 1: Grant the variation of the licence in the terms applied for.
21. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
22. 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.
23. Option 4: Reject the application.

## **Analysis**

24. The following could be the result of any decision made this Sub Committee:-
25. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
26. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
27. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
28. Option 4: This decision could be appealed at Magistrates Court by the applicant.

## **Corporate Priorities**

29. 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.
30. 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**

31.

- **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**

32. 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.
33. 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**

34. 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** 17 November 2008

**Specialist Implications Officer(s):**

Quentin Baker  
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**Wards Affected:** Clifton

**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** - Copy of representation from Interested party
- Annex 4** - Map of area indicating location of residential property owned by interested party in relation to premises subject of application
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations