

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Plonkers Wine Bar, 5 Cumberland Street, York, YO1 9SW

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-009024.
3. Name of applicant: Mrs Eileen Goodwin & Mr Malcolm Goodwin. (n.b since the application was submitted the premises licence was transferred to Miss L Williams).
4. Type of authorisation applied for: Variation of existing premises licence.
5. Summary of application: The nature of the application is to: 1) bring forward the hours for opening times and the supply of alcohol to tie in with the outside drinking area on Kings Staith, 2) To extend the hours of operation for:- the supply of alcohol, live and recorded music, performance of dance, facility for making music, facilities for dancing, and late night refreshment. 3) allow for the addition of off-sales. 4) to remove conditions (a) and (e) in Annex 2 relating to the "Council's rules for the management of places of public entertainment" and permitted hours of such entertainment. 5) to remove conditions (1) and (2) in Annex 3 relating to limited openings on Sunday and Good Friday and non opening on Christmas Day.

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. General: 1) Door staff provided on Friday and Saturday evenings and on race days. 2) Staff training to be provided. 3) Customers not allowed outside with glass vessels. 4) Off sales in sealed containers only. 5) Regular ID checks – proof of age accepted is passports, driving licence, Pass logo. 6) Signs displayed asking customers to leave quietly. 7) CCTV installed and recording when open.

Special Policy Consideration

11. 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 7.

Consultation

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

Summary of Representations made by Responsible Authorities

14. A representation was received from North Yorkshire Police on the grounds of crime and disorder, public safety and prevention of nuisance, which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
 1. CCTV will be installed to cover the premises. It will be maintained, working and recording at all times when the premises are open. The recordings should be of sufficient quality to be produced in Court or other such hearing. Copies of the recordings will be kept available for any responsible authority for 5 days.

2. The only acceptable proof of age identification shall be a current passport, photo-card driving licence or identification carrying the PASS logo
3. Standard 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 premises 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. An adequate number of door supervisors (minimum of one) shall be provided at the venue from 21:00hrs until the venue has closed for business on Friday, Saturday, the evening preceding a bank holiday and on any day when a York race meeting is held.
8. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of door supervisors should the need arise.
9. 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.
10. 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.
11. The premises shall participate in the York Pubwatch Pager scheme
12. A capacity figure of 130 persons shall be imposed so as not to undermine the licensing objective “Prevention of Crime and Disorder”.

Summary of Representations made by Interested Parties

15. 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 4.
16. 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 5.
17. 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.

18. 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

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

Options

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

Analysis

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

Corporate Priorities

30. 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.
31. 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

32.

- **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

33. 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.
34. 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

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

Contact Details

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Chief Officer Responsible for the report:

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Report Approved



Date 5 January 2009

Specialist Implications Officer(s):

Quentin Baker
Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Guildhall East

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 of trading and permitted licensable activities
- Annex 4** - Copy of representation from Interested party
- Annex 5** - Map of area indicating location of residential property owned by interested party in relation to premises subject of application
- Annex 6** - Mandatory Conditions
- Annex 7** - Copy of City Centre Special Policy Statement
- Annex 8** - Legislation and Policy Considerations