
Licensing Act 2003 Sub Committee

11 December 2006

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for The Woodman, 16 Main Street, Bishopthorpe, York, YO23 2RB

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-008938
3. Name of applicant: Carol Ann Temple
4. Type of authorisation applied for: Variation of premises licence
5. Summary of application: The nature of the application is: a) to extend existing licensed hours for the sale of alcohol; b) to provide regulated entertainment consisting of films, indoor sporting events, live music, recorded music and provision of facilities for making music and dancing; c) to provide late night refreshment; d) to remove all embedded restrictions listed in Annex 1 of the current premises licence.

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 detailing existing hours and proposed hours 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: CCTV will be fitted if required.
11. Public safety: Premises are subject of a regulatory reform (fire safety) audit. Children's play equipment in garden subject to regular inspection.

12. The prevention of public nuisance: Inner door to lobby and all windows to remain closed when entertainment being provided. Applicant is aware of noise issues which could emerge. Music to be reduced to quieter 'wind down' music for last 30 minutes. Appropriate notices to be displayed at all exits requesting customers to be quiet.
13. The protection of children from harm: Requirements of the Licensing Act 2003 will be complied with.

Special Policy Consideration

14. This premise is not located within the 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.

Summary of Representations made by Responsible Authorities

16. A representation has been received from the following responsible authority relating to this application. This is attached at Annex 4 and summarised below:
17. Environmental Protection Unit make representation on the grounds of public nuisance and ask that the following conditions be attached to the licence if the variation to the licence is granted; 1) Noise from the operation of amplified music or regulated entertainment originating from on the premise shall be inaudible within noise sensitive premises. 2) All windows shall be kept shut during the operation of amplification equipment and regulated entertainment. 3) During the operation of amplification equipment and regulated entertainment all external doors shall be kept shut when not in use, with the exception to the front door that may remain open during opening hours providing that the inside porch is kept shut when not in use.

Summary of Representations made by Interested Parties

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

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. Nineteen representations were received from the Main Street area, 4 from Church Lane, 2 from Ebor Court, and one each from Acaster Lane, Chantry Lane, Croft

Court. 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.

20. Five representations received from interested parties were not deemed to be relevant as they were not considered to be in the vicinity of the premises. This decision was made by the Head of Licensing and Regulation in consultation with the Assistant Director of Neighbourhood Services under the terms of the Licensing Act 2003 and the City of York Council delegation scheme.
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.

Options

22. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
23. Option 1: Grant the variation of the licence in the terms applied for.
24. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
25. 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.
26. Option 4: Reject the application.

Analysis

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

Corporate Objectives

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. These directly contribute to the Council's Safer City priority and corporate aim 4.
34. In addition the licensing objectives of public safety and prevention of public nuisance contribute towards corporate objective 1.4 – protection of residents from pollution, public health and safety hazards.

Implications

35.
 - **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

36. In compliance with the Councils risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.
37. Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored as they do not provide a real threat to the objectives of this report.

Recommendations

38. Members determine the application.

Contact Details

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Licensing & Regulation

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Neighbourhood Services

Report Approved ✓ **Date** 24 November 2006

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal & Democratic Services
Civic Democratic & Legal Services

Wards Affected: Bishopthorpe

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of converted premises licence
- Annex 2** - Application form
- Annex 3** - Table detailing current hours and proposed hours
- Annex 4** - Representations from Responsible Authorities
- Annex 5 (Confidential)** - List of Interested Parties
- Annex 6** - 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

Annexes:

- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation and Policy Considerations