
Licensing Act 2003 Sub Committee

17 December 2009

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Red Lion, 52 The Village, Haxby YO32 2HX

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-008954
3. Name of applicant: Trust Inns Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to increase the regulated activities at the premises to include live music and facilities for live music. These may take place from 10:00 hours to 23:30 hours every day with an additional hour on 1st & 17th March, Christmas Eve and Boxing Day and on each bank holiday weekend. The applicants also wish to remove licence conditions 1,2,3 and 5 in Annex 2 and to remove condition 4 in Annex 3.

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 the licensing objectives would be met as follows:
9. The prevention of crime and disorder: 1.) The DPS will monitor the need for door supervisors and in so doing will take into account any advice given by the police.
10. Public Safety. 1) Necessary and appropriate risk assessments shall be conducted by the tenant. 2) Appropriate staff training shall be provided to aid with the promotion of the licensing objectives.

11. Public Nuisance. 1) Noise or vibration shall not emanate so as to cause a nuisance within nearby sound sensitive properties. 2) From 22:00 hours daily, when regulated entertainment in the form of live or recorded music is provided at the remises, doors and windows shall remain closed save for access or egress.

Special Policy Consideration

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

Consultation

13. 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. T. The applicant complied with all statutory requirements.
14. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

15. A representation was received from City of York Council Environmental Protection Unit on the grounds of public nuisance. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted.
 1. Noise or vibration from the premises shall not emanate, so as to cause a nuisance at nearby sound sensitive properties.
 2. When regulated entertainment in the form of recorded music is provided at the premises, doors and windows shall remain closed other than for ingress or egress
 3. When regulated entertainment in the form of live music is provided and is audible beyond the site boundary, windows and doors shall remain closed other than for ingress or egress

Summary of Representations made by Interested Parties

16. Representations have been received from 14 interested parties listed at Annex 3. Their representations are attached at Annex 4.
17. The location of the residential properties owned by the interested parties in relation to the premises subject to this application is shown on the map attached at Annex 5.

18. 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.
19. 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

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

Options

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

Analysis

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

Corporate Strategy

31. 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.
32. The promotion of the licensing objectives will support the Council's strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

Implications

33.
 - **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

34. 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.
35. 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

36. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

John Lacy
Licensing Manager
Licensing & Regulation

Ext: 1593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1814

Report Approved



Date 03 December 2009

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Haxby and Wigginton

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** - List of Interested Parties
- Annex 4** - Copy of representations from Interested Parties
- Annex 5** - Map showing general area from which representations received.
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations