

Report of the Director of Neighbourhood Services

Section 52(2) review of premise licence for Ziggys, 53-55 Micklegate, York, YO1 6LJ

Summary

1. This report seeks Members determination of an application for a review of a premise licence, which has been made under the Licensing Act 2003.
2. Name of applicant: Helen Howlett, Senior Environmental Protection Officer, City of York Council.
3. Summary of review: This application to review relates to the following licensing objective. Prevention of public nuisance.
4. A copy of the review application is attached at Annex 1 and is summarised as follows: This application for review is based on a number of complaints received regarding this premise over the last year which undermine the prevention of public nuisance licensing objectives. It is accompanied by a summary report of investigation and actions taken, letters and legal notices.
5. A copy of the premises licence is attached at Annex 2. Which resulted from the conversion of an existing licence. A variation application was received on 3 February 2006 to increase the hours for the provision of regulated entertainment and supply of alcohol. This was granted following mediation between the applicant and Environmental Protection Unit on 20 April 2006.

Background

6. The applicant, in the capacity of 'responsible authority', has requested a review of the premises licence.
7. Members are reminded that a representation is only "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. This is in accordance with S52(7) and (8) of the Act.
8. A local resident is supporting the application listed at Annex 3. A copy of their representation is attached at Annex 4. They live within the vicinity of the premise and their address is indicated on the map attached at Annex 5.

Other Relevant Information

9. There are no planning implications in relation to this application.
10. North Yorkshire Police have recently had issues with the use of unlicensed door staff at the premise, a letter and correspondence is attached at Annex 6.
11. The Licensing Unit has visited the premise on a number of occasions during 2009 to discuss the operation of the premise and complaints. On 2 April a full inspection was carried out with the premise licence holder and designated premise supervisor, no issues were identified. On 3 July a joint visit was carried out with the Environmental Protection Unit as legal notices in respect of noise nuisance had been served. This visit was arranged with the premise licence holder, the cause of the noise issues were discussed and the licence holder stated that he would relocate the speakers adjacent to the newly installed double rear fire exit doors in the basement away from the doors, the DJ stand would also be relocated further away from the doors and noise seals would be fitted to the doors. On 28 August an unannounced evening enforcement visit was carried out with North Yorkshire Fire & Rescue Service during the visit Officers checked that works discussed at the 3 July visit have been carried out, the speakers and DJ stand had been relocated. On 20 October a joint visit was carried out with North Yorkshire Police to discuss the unlicensed door staff issue (see para 10) and allegations of overcrowding, (ensuing correspondence is attached at Annex 6), this visit was arranged with the premise licence holder.

Consultation

12. Consultation was carried out by the Applicant and Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the notification of a review and the advertisement of review by licensing authority. Copies of the application were served on all responsible authorities and the premise licence holder. Notice of the application was displayed on the premises and within the Guildhall and 9 St Leonard Place reception areas.
13. As a result of the consultation a representation has been received from a local resident. An email representation was also received from a second local resident, at the time of preparing this report a hard signed copy of this representation had not been received.
14. All procedural aspects of this review application have been complied with.

Options

15. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:-

16. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition including a requirement to display a notice explaining the outcome of this review).
17. Option 2: To exclude a licensable activity from the scope of the licence.
16. Option 3: To remove the designated premises supervisor.
18. Option 4: To suspend the licence for a period not exceeding three months.
19. Option 5: To revoke the licence.
20. Members are also reminded of the option to issue a 'yellow card', ie a warning as to future conduct which may accompany options 1 – 4.

Analysis

21. The following could be the result of any decision made this Sub Committee:-
22. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
23. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
24. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
25. Option 4: This decision could be appealed by the premises licence holder.
26. Option 5: This decision could be appealed by the premises licence holder.

Corporate Strategy

27. 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.
28. 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 in sustainable city objectives.

Implications

29.
 - **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

30. 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.
31. 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

32. 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** 05/01/10

Specialist Implications Officer(s)

Head of Legal & Democratic Legal Services

Ward affected: Guildhall

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of review application
- Annex 2** - Copy of existing premises licence
- Annex 3** - Details Interested Party making representation
- Annex 4** - Representation from Interested Party
- Annex 5** - Map of area indicating address of Interested Parties
- Annex 6** - Letter from North Yorkshire Police
- Annex 7** - Legislation and Policy Considerations