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## Licensing Act 2003 Sub Committee

13 May 2010

Report of the Director of Neighbourhood Services

### **Section 35(3)(a) Application for the Variation of a premise licence for The Gallery, 12 Clifford Street, York YO1 1RD**

#### **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-008849
3. Name of applicants: Luminar Gems Limited.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend the hours for the sale of alcohol, the provision of regulated entertainment and late night refreshment until 04:00 hours every day, extend opening times until 04:30 hours, and to remove the conditions superseded by these hours, i.e. Annex 3 conditions 1,2 and 6.

#### **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 states that the premises will continue to observe the current conditions on the licence save for those amended in this application.

#### **Special Policy Consideration**

9. 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 6

### **Consultation**

10. 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.
11. All procedural aspects of this application have been complied with.

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

12. A representation was received from North Yorkshire Police on the grounds of crime and disorder. This 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 and will include all areas (including the smoking terrace) to where the public have access. 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 28 days.
  2. An adequate number of Door Staff will be provided every evening the venue is open for licensable activities from 22:00 hours until the close of business.
  3. Last entry to the venue shall be no later than 03:00 hours.
  4. An occupancy figure of 775 persons shall be imposed to ensure that the licensing objective, "the prevention of crime and disorder" is not undermined.

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

13. Representations have been received from 4 Interested Parties listed in Annex 3. Their representations are attached at Annex 4
14. A map showing the general area around the venue from which the representation is focused is attached at Annex 5
15. 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.

16. 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**

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

### **Options**

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

### **Analysis**

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

### **Corporate Strategy**

28. 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.
29. 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

30.

- **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

31. 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.
32. 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

33. 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 27 April 2010

**Specialist Implications Officer(s):**

Head of Legal & Democratic Legal Services

Ext: 1004

**Wards Affected: Guildhall West**

**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** - Representations from Interested Parties
- Annex 5** - Map showing general area from which representations received.
- Annex 6** - Copy of City Centre Special Policy Statement .
- Annex 7** - Mandatory Conditions.
- Annex 8** - Legislation and Policy Considerations.