



Agenda Item

Licensing Act 2003 Sub Committee

27 September 2010

Report of the Director of Communities and Neighbourhoods

Section 35(3)(a) Application for the variation of a club premises certificate for Haxby & District W.M.C. 64 North Lane, Haxby, York, YO32 3JP

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-009770
3. Name of applicants: Haxby & District W.M.C.
4. Type of authorisation applied for: Variation of club premises certificate.
5. Summary of application: The nature of the application is to remove the embedded restrictions of the Licensing Act 1964 and extend the hours for licensable activities as follows

Licensable Activity	Proposed Times	Proposed Non Standard Timings	Current Times
Live Music	Mon – Sat 10:00 – 23:00 Sun 12:00 – 22:30	Start of permitted hours on New Year's Eve to end of permitted hours on New Year's Day	No restrictions. Grandfather rights from 1964 Act
Recorded Music	Mon – Fri 10:00 – 23:00 Sat 10:00 – 00:00 Sun 12:00 – 22:30	As above	As above
Performance of dance	Mon – Fri 10:00 – 23:00 Sat 10:00 – 00:00 Sun 12:00 – 22:30	As above	As above

Anything of a similar description	Mon – Sat 10:00 – 23:00 Sun 12:00 – 22:30	As above	As above
Provision of facilities for making music	Mon – Fri 10:00 – 23:00 Sat 10:00 – 00:00 Sun 12:00 – 22:30	As above	As above
Provision of facilities for dancing	As above	As above	As above
Provision of facilities for entertainment of a similar description	Mon – Sat 10:00 – 23:00 Sun 12:00 – 22:30	As above	As above
Supply of alcohol	Mon – Thurs 10:00 – 23:00 Fri – Sun 10:00 - 00:00	As above	As per 1964 Act Mon – Sat 10:00 – 23:00 Sun & Good Friday 12:00 – 22:30 Christmas Day between 12:00 – 15:00 and then 17:00 – 22:30
Opening times	Mon - Thurs 10:00 – 23:30 Fri – Sun 0:00 – 00:30	As above	No restrictions

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. General:
 - (a) Committee member is always on duty when the club is open in the evening.
 - (b) Members only admission
 - (c) Off sales will be in sealed containers.

10. The prevention of crime and disorder:
 - (a) CCTV is installed.
 - (b) Door supervisors will be provided should the need arise.
11. Public safety:
 - (a) Health and safety policies are in place.
12. The prevention of public nuisance:
 - (a) When entertainment takes place, doors and windows will be closed.
13. The protection of children from harm:
 - (a) Staff are trained in the requirements of the Licensing Act.

Special Policy Consideration

14. This premise is not located within the special policy 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.
16. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

17. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following conditions being attached to the licence if granted: -
 - (i) CCTV will be installed to cover the premises and will include all areas (including outside areas) 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 at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days and will be made available to any Responsible Authority within 48 hours of a request.
 - (ii) A member of the Committee will always be on duty when the Club is open on an evening. For the purpose of clarity an evening is defined as after 21:00 hours.
 - (iii) All off-sales shall be made in sealed containers (save for those sales specifically for consumption in any outside drinking areas attached to the premises).

- (iv) Documented staff training will be given regarding the retail sale of alcohol and the conditions attached to the Club Premises Certificate. Such records shall be kept for at least one year and they will be made available upon a reasonable request from any Responsible Authority.
 - (v) The management of the venue will comply with any written, reasonable and justified request made by the North Yorkshire Police regarding the provision of door Supervisors should the need arise.
 - (vi) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken 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 and will be kept for at least one year.
 - (vii) 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.
18. A representation was received from City of York Council Environmental Protection Unit on the grounds of the prevention of a public nuisance. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted: -
- (i) Noise and vibration from the premises shall not emanate, so as to cause a nuisance at nearby sound sensitive properties.
 - (ii) When regulated entertainment in the form of recorded and/or live music is provided at the premises, doors and windows shall remain closed other than for ingress or egress.
 - (iii) Notices shall be placed on exit doors and staff to remind customers that there are residential premises in the area and to be quiet when leaving the property.
 - (iv) Bottle bins are only to be emptied between the hours of 09:00 and 21:00, Monday to Sunday.

Summary of Representations made by Interested Parties

- 19. Representations have been received from 5 Interested Parties listed in Annex 3. Their representations are attached at Annex 4.
- 20. A map showing the general area around the venue from which the representation is focused is attached at Annex 5.
- 21. 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.

22. 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

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

Options

24. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
25. Option 1: Grant the variation of the licence in the terms applied for.
26. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
27. 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.
28. Option 4: Reject the application.

Analysis

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

Corporate Strategy

34. 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.
35. 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

36.

- **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

37. 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.
38. 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

39. 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 15 september 2010

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Haxby & Wigginton

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of existing club premises certificate.
- 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** - Mandatory Conditions.
- Annex 7** - Legislation and Policy Considerations.