

## Licensing Act 2003 Sub Committee

6 December 2010

Report of the Director of Communities & Neighbourhoods

### Section 52(2) review of premise licence for the Little John, 5 Castlegate, York, YO1 9RN

#### 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 in respect of Little John, 5 Castlegate, York, YO1 9RN.
2. Name of applicant: Mrs J Robinson
3. Summary of review: This application to review relates to the following licensing objectives: The prevention crime and disorder and the prevention of public nuisance.
4. A copy of the review is attached at Annex 1 and is summarised as follows: This application for review is based on complaints of noise emanating from the premises and the conduct of customers attending the premises. It is accompanied by a “record of issues” recorded by the applicants over a number of years, between August 2007 – October 2010. The “record of issues” is attached at Annex 2.
5. A copy of the premises licence is attached at Annex 3. Which resulted from the simultaneous conversion and variation of an existing licence. The variation was granted following mediation. At this time the licensed area covered both the Little John and Jacks. In October 2005 a variation application was submitted to remove Jacks from the licensed area, following mediation this application was granted. In March 2007 the premise licence was transferred to Mr Chris Ransome who also became the designated premise supervisor. The premise licence authorises the following licensable activities: -

Licensable Activity	Current Days & Hours
Indoor Sporting Events	Monday – Saturday 10:00 – 02:30 Sunday 10:00 – 23:30
Live Music & Recorded Music	Monday – Saturday 10:00 – 02:00 Sunday 10:00 – 23:00

Late Night Refreshment	Monday – Saturday 23:00 – 02:30 Sunday 23:00 – 23:30
Supply of alcohol	Monday – Saturday 10:00 – 02:00 Sunday 10:00 – 23:00
Non Standard Timings	From the end of permitted hours New Year’s Eve to the start of permitted hours New Year’s Day.

## Background

6. The applicant, in the capacity of ‘interested party’, has requested a review of the premises licence. 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.
7. A map showing the address of the applicant in relation to the premises is attached at Annex 4. The applicants property is ajoined to the Little John, the applicants lives at the property and operates a bed and breakfast business.
8. 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.
9. A representation supporting this application has been received from the City of York Council Environmental Protection Unit. Their representation is attached at Annex 5.
10. A representation has also been received from Gosschalks Solicitors on behalf of their clients, Enterprise Inns Plc, who are the freehold owner of these premises. Their representation is attached at Annex 6.
11. A response from the premises licence holder to the application has been compiled by Denison Till Solicitors. A copy of this response is attached at Annex 7.

## Other Relevant Information

12. There are no planning implications in relation to this application.
13. North Yorkshire Police have received a number of reported issues at this premise, a list of the reported issues received for the last 3 months is attached at Annex 8.
14. The Licensing Unit has visited this premise on 5 occasions between 2007 to the present date as part of routine multi agency enforcement work. At 2 of these visits the police found positive drug use in the toilets, 19 April 2008 and 28 June 2008, the police dealt with these issues. Following a visit on 20 December 2008 the Fire Authority determined that a further visit was needed to

carry out a full audit of fire safety measures. At the other 2 visits, 21 February 2008 and 14 August 2010, there were no issues.

## **Consultation**

15. 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 on the exterior noticeboard at the Guildhall. In addition relevant Ward Councillors were informed by way of register.
16. As a result of the consultation further representations were received from the City of York Council Environmental Protection Unit and Gosschalks Solicitors on behalf of Enterprise Inns Plc.

## **Options**

17. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:-
18. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
19. Option 2: To exclude a licensable activity from the scope of the licence.
20. Option 3: To remove the designated premises supervisor.
21. Option 4: To suspend the licence for a period not exceeding three months.
22. Option 5: To revoke the licence.
23. 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**

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

28. Option 4: This decision could be appealed by the premises licence holder.
29. Option 5: This decision could be appealed by the premises licence holder.

### **Corporate Priorities**

30. 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.
31. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

### **Implications**

32.
  - **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**

33. 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.
34. 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

35. 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 18/11/10

**Specialist Implications Officer(s):**

Head of Legal & Democratic Legal Services  
Ext: 1004

Wards Affected: Guildhall

All

For further information please contact the author of the report

**Background Papers:**

- Annex 1** - Copy of review application
- Annex 2** - Copy of "record of issues"
- Annex 3** - Copy of existing premises licence
- Annex 4** - Map of area indicating address of applicant in relation to reviewed premises
- Annex 5** - Representation from Environmental Protection Unit
- Annex 6** - Representations from Enterprise Inns Plc
- Annex 7** - Premise Licence Holder response to application
- Annex 8** - Report from North Yorkshire Police
- Annex 9** - Legislation and Policy Considerations