

## Licensing Act 2003 Sub Committee

16 December 2010

Report of the Director of Communities and Neighbourhoods

### Section 18(3)(a) Application for a premise licence for 14 Goodramgate, York, YO1 7LQ

#### Summary

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-017699
3. Name of applicant: Ambiente Tapas Ltd.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow:

Licensable Activity	Indoors / outdoors / both	Days	Hours
Live Music	Indoors	Monday – Sunday	10:00 – 00:00
Recorded Music	Indoors	Monday – Sunday	10:00 – 00:00
Late Night Refreshment	Indoors	Monday – Sunday	23:00 – 00:00
Sale of Alcohol	On the premises	Monday – Saturday Sunday	10:00 – 23:30 12:00 – 23:30
Opening Times		Monday – Sunday	10:00 – 00:00

#### Background

6. A copy of the application is attached at Annex 1.
7. This venue previously had a premises licence which lapsed in November 2008 when the licence holder at that time was declared bankrupt.

8. During the period between June 2006 and July 2008 the Council needed to contact a previous licence holder on 6 occasions because of complaints about noise from the premises. This included a Noise Abatement Notice being served on the owner in May 2007.
9. A summary of that licence is as follows

<b>Licensable Activity</b>	<b>Indoors / outdoors / both</b>	<b>Days</b>	<b>Hours</b>
Live Music	Indoors	Monday - Sunday	10:00 – 23:30
Recorded Music	Indoors	Monday - Sunday	10:00 – 23:30
Activities like music/dance	Indoors	Monday - Sunday	10:00 – 23:30
Facility for making music	Indoors	Monday - Sunday	10:00 – 23:30
Late Night Refreshment	Indoors	Sunday – Thursday Friday - Saturday	23:00 – 00:30 23:00 – 01:30
Sale of Alcohol	On & Off	Sunday – Thursday Friday - Saturday	10:00 – 00:00 10:00 – 01:00
Opening Times		Sunday – Thursday Friday - Saturday	08:00 – 00:30 08:00 – 01:30

### **Promotion Of Licensing Objectives**

10. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
  11. General
    - (a) Staff training.
  12. The prevention of crime and disorder:
    - (a) CCTV within the premises.
    - (b) There will be no irresponsible sale promotion or discounting of prices for alcohol.
    - (c) No customer will be permitted to take glasses or bottles from the premises.
    - (d) An incident book relating to the occurrences of crime and disorder will be kept.
  13. Public safety:

- (a) Emergency lighting systems are in place throughout the premises
  - (b) Fire alarms are fitted throughout all public areas.
  - (c) Free drinking water will be available to customers.
  - (d) A first aid trained member of staff will be available at all times.
14. The prevention of public nuisance:
- (a) Amplified music played within the premises will not be audible from outside of the building.
  - (b) Staff and customers will be notified to leave the premises quietly to respect the need of the local residents.
15. The protection of children from harm:
- (a) Children will only be admitted when accompanied by an adult.
  - (b) No alcohol will be sold to any person who is under 18 or appears to be under 21 and is not carrying a challenge 21 card.

### **Special Policy Consideration**

16. This premise is not located within the area.

### **Consultation**

17. 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. In addition the relevant ward councillors and/or parish council were notified by way of register.
18. All procedural aspects of this application have been complied with.

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

19. 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 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 7 days and

will be made available to any Responsible Authority within 48 hours of a request.

- (ii) Copies of the recordings will display the correct time and date of the recording.
  - (iii) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo (until other effective identification technology, e.g. thumb print or pupil recognition is adopted by the Premises Licence Holder).
  - (iv) Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers care.
  - (v) Documented staff training will be given regarding the retail sale of alcohol and the conditions attached to the Premises Licence. Such records shall be kept for at least one year and they will be made available upon a reasonable request from any Responsible Authority.
  - (vi) There will be a minimum of 30 seated covers laid out at all times the venue is open.
20. 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.
- (i) All windows and doors shall be kept closed whilst regulated entertainment is taking place, except for ingress and egress.
  - (ii) Customers shall not be permitted to take their drinks outside of the premises after 21:00 hours.

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

- 21. A representation was received from an interested party on the grounds of public nuisance. A copy of this representation is attached at Annex 2
- 22. A map showing the general area around the venue from which the representation is focused is attached at Annex 3.
- 23. 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

### **Planning Issues**

- 24. In 2008 planning permission was granted for change of use from a bar (class A4) to restaurant with hot food take away (uses classA3/A5). A 21:00 hour closing time condition was imposed. This related to the Codfather Fish and Chip shop. A further planning application would be required for a restaurant only operation and later opening hours.

## Options

25. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
26. Option 1: Grant the licence in the terms applied for.
27. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
28. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
29. Option 4: Reject the application.

## Analysis

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

## Corporate Priorities

35. 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.
36. 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

37.
  - **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

38. 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.
39. 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

40. Members determine the application.  
Reason: To address the representations received as required by the Licensing Act 2003.

## Contact Details

### Author:

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Licensing Manager

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### Chief Officer Responsible for the report:

Steve Waddington  
Assistant Director– Housing & Public  
Protection.

Report Approved  Date 09 December 2010

### Specialist Implications Officer(s)

Head of Legal & Democratic Services  
Ext: 1004

Wards Affected: Guildhall East

All

For further information please contact the author of the report

**Background Papers:**

- Annex 1** - Application form
- Annex 2** - Representations from Interested Party
- Annex 3** - Map showing general area from which representations received
- Annex 4** - Mandatory Conditions
- Annex 5** - Legislation and Policy Considerations