



Agenda Item

Licensing Act 2003 Sub Committee

17 January 2011

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for The Barbican Centre, Paragon Street, York YO10 4NT

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-017762
3. Name of applicant: SMG Theatres 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
All categories of Regulated Entertainment	Indoors	Monday - Sunday	24 hours
Late Night Refreshment	Indoors	Monday – Sunday	23:00 – 05:00
Sale of Alcohol	On the premises	Monday – Sunday	11:00 – 04:00
Opening Times		Monday – Sunday	24 hours

Background

6. A copy of the application is attached at Annex 1.
7. This venue previously had a premises licence which lapsed in June 2009 when the licence holder at that time was declared insolvent.

8. A summary of that licence is as follows

Licensable Activity	Indoors / outdoors / both	Days	Hours
All categories of Regulated Entertainment	Indoors	Monday - Sunday	10:00 – 02:00
Late Night Refreshment	Indoors	Monday – Sunday	23:00 – 02:15
Sale of Alcohol	On and off the premises	Monday – Sunday	10:00 – 02:00
Opening Times		Monday – Sunday	10:00 – 02:30

Promotion Of Licensing Objectives

9. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

10. General

(a) Each event type will be individually risk assessed and reviewed at the Multi-Agency Planning Meeting held every 3 months (see Licensing Notes).

(b) Appropriate number of SIA Door Supervisors, Events Stewards, Medical and cleaning staff will be on duty for the duration of each event.

(c) Every sale of alcohol will be made or authorised by a Personal Licence Holder in accordance with our Policy Document (see Licensing Notes)

(d) All staff will be suitably trained for their duties and briefed prior to the start of each event on any unusual factors affecting their functional area (see Licensing Notes).

11. The prevention of crime and disorder:

(a) The venue will be fitted with internal and perimeter CCTV and appropriate intruder prevention and detection systems.

(b) Appropriate numbers of Door Supervisors and Event Stewards will be on duty as identified for the event profile.

(c) The Fire Safety Officer, Duty Manager, Senior Steward, Steward Supervisors, Technical Teams and Medical Manager will be in constant contact via hand-held radio with both the Duty Manager's Office and Event Control Radio Operator. (see Licensing Notes).

12. Public safety:
 - (a) SMG will develop a robust system of bespoke operational procedures, policies and risk assessments which will be reviewed with the City of York Council Health and Safety Service.
 - (b) An extensive system of written pre, during and post event checks will be in operation for all events in addition to fully recorded systems for planned/reactive maintenance and staff training. (see Licensing Notes).
13. The prevention of public nuisance:
 - (a) See points 17 to 28 of the Licensing Notes.
14. The protection of children from harm:
 - (a) Performances which include child performers will be risk assessed individually and controls implemented to safeguard children from harm.
 - (b) The venue will be suitable to accommodate children and adequate supervision will be provided.
15. A copy of "The York Barbican Licensing Notes" referred to in the above paragraphs is attached at Annex 2

Special Policy Consideration

16. This premise is not located within the Cumulative Impact Zone.

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. 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 to the premises shall be kept closed during regulated entertainment except for access/egress.
 - (ii) The rear roller shutter door to the loading bay shall be kept closed at all times during regulated entertainment.

- (iii) Loading and unloading of vehicles via the rear access bay shall not be undertaken during regulated entertainment.
- (iv) No music or amplified sound shall be audible at the boundary of the nearest noise sensitive receiver.
- (v) Documented patrols shall be carried out by members of staff at no less than hourly intervals during regulated entertainment. These checks shall be undertaken outside the building to the front, rear and both sides to check for noise from inside the premises and noise from customers outside the venue to ensure compliance with condition (iv).
- (vi) Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years.
- (vii) A direct contact number for the venue shall be made available to residents living in the vicinity of the premises on request.
- (viii) No drinks shall be taken to the external licensed area outside of the hours of 09:00 to 23:00.

Summary of Representations made by Interested Parties

- 20. A representation was received from an interested party on the grounds of public nuisance. A copy of this representation is attached at Annex 3.
- 21. A map showing the general area around the venue from which the representation is focused is attached at Annex 4.
- 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 licence in the terms applied for.
- 26. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
- 27. Option 3: Grant 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.

29. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

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

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Chief Officer Responsible for the report:

Steve Waddington
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Protection.

Report Approved

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Date 5 January 2011

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Fishergate

All

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Licensing Notes accompanying applicant's Operating Schedule
- Annex 3** - Representations from Interested Party
- Annex 4** - Map showing general area from which representations received
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations