
Licensing Act 2003 Sub Committee

5 September 2011

Report of the Director of Communities & Neighbourhoods

Section 52(2) review of premise licence for Gray's Court, Chapter House Street, York YO1 7JH

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 Grays Court, Chapter House Street, York.
2. Name of applicant: Kevin Mohan.
3. Summary of review: This application to review relates to the following licensing objectives;
 - Public Safety
 - The prevention of Public Nuisance
4. A copy of the review is attached at Annex 1 and is summarised as follows: The applicant, whose residential property abuts Grays Court, alleges that Grays Court is not being run in accordance with the premises licence conditions.
5. A copy of the premises licence is attached at Annex 2.

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 3.
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. The existing premises licence was granted on 19 August 2010 after the application was determined at hearing by a licensing sub-committee.

Consultation

10. 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 and Parish Councillors were informed by way of register.
11. As a result of the consultation 2 representations were received from interested parties, their details are attached at Annex 4 and copies of the representations are attached at Annex 5.
12. A plan showing the addresses of the representors in relation to Grays Court is attached at Annex 6.
13. There were no representations received from responsible authorities, however reports have been received from the Environmental Protection Unit and the Planning Section, copies of the reports are attached at Annex 7 and Annex 8 respectively.
14. Seven letters supporting the premise licence holders and their operation of Grays Court were received; copies of these are attached at Annex 9.
15. Since the granting of the premises licence two warning letters relating to noise issues have been sent to the premise licence holders from the Licensing Section as a result of complaints received. The letters were dated 20 September 2010 and 27 May 2011 respectively. Copies of these letters are attached at Annex 10.

Options

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

Analysis

22. The following could be the result of any decision made this Sub Committee:-
23. Option 1: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
24. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
25. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder, the review applicant or any of the representors.
26. Option 4: This decision could be appealed by the premises licence holder.
27. Option 5: This decision could be appealed by the premises licence holder.

Corporate Priorities

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 priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

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 23 August 2011

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Guildhall East

All ☐

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of review application
- Annex 2** - Copy of existing premises licence
- Annex 3** - Map of area indicating address of applicant in relation to Grays Court
- Annex 4** - List of Interested Parties making representation
- Annex 5** - Copies of representations from Interested Parties
- Annex 6** - Plan showing addresses of representors in relation to Grays Court
- Annex 7** - Report from Environmental Protection Unit
- Annex 8** - Report from Planning Section
- Annex 9** - Copies of letters of support for premise licence holders
- Annex 10** - Copies of warning letters sent to premise licence holders
- Annex 11** - Legislation and Policy Considerations