

	
Meeting of Licensing Act 2003 Sub-Committee	22 December 2011
Report from the Assistant Director – Communities & Neighbourhoods	

Section 52(2) Review of Premise Licence for The Jubilee, Balfour Street, York, YO26 4YU

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 The Jubilee, Balfour Street, York, YO26 4YU
2. Name of applicant: Helen Howlett, Senior Environmental Protection Officer, City of York Council Environmental Protection Unit.
3. Summary of Review: The application to review relates to the following licensing objective;
 - The prevention of public nuisance.
4. A copy of the review is attached at Annex 1 and is summarised as follows: The Environmental Protection Unit (EPU) have received complaints about the premises since 2007 relating to noise nuisance emanating from either inside the premises, the first floor function room or the outside area. Statutory noise nuisance has been witnessed by EPU officers on four separate occasions and a potential nuisance on one further occasion. These occurrences were reported to the respective premises managers; however there have been seven different managers during the four year period. This has resulted in the same issues being encountered and similar letters being sent to new managers. Abatement notices have been served on two occasions, however both notices were breached.

5. Investigations by EPU suggest that the first floor function room of the premises is not suitable for certain types of regulated entertainment. EPU tried to address this by way of warning letters and abatement notices but has failed to secure compliance because of the frequent change of staff in control of the premises

6. To address the issue of the unsuitability of the premises for the provision of live music after 11:00pm and the inappropriate use of the first floor room for discos and live music, EPU would ask that the following conditions be attached to the premises licence:
 - 1) To remove regulated entertainment from the first floor of the premises.
 - 2) To restrict the hours that live music is permitted in the remainder of the premises to 23:00 hours on each day of the week; and
 - 3) To place a condition on the licence requiring a submission of a noise policy within 1 month of the date of the review coming into affect and the subsequent implementation of the agreed noise policy, both to the satisfaction of City of York Council.

7. A copy of the premises licence is attached at Annex 2. The premise licence authorises the following licensable activities:

Licensable Activity	Current Days & Hours
Films	Sunday - Wednesday 08:00 - 00:30 Thursday - Saturday 08:00 - 01:30
Indoor Sporting Events	Sunday - Wednesday 08:00 - 00:30 Thursday - Saturday 08:00 - 01:30
Live Music & Recorded Music	Sunday - Wednesday 10:00 - 23:30 Thursday - Saturday 10:00 - 00.00
Activities like Music/Dance	Sunday - Wednesday 08:00 - 00:30 Thursday - Saturday 08:00 - 01.30
Facility for Making Music & Dance	Sunday - Wednesday 08:00 - 00:30 Thursday - Saturday 08:00 - 01.30
Late Night Refreshment	Sunday - Wednesday 23:00 - 00:30 Thursday - Saturday 23:00 - 01.30
Supply of alcohol	Sunday - Wednesday 10:00 - 00:00 Thursday - Saturday 10:00 - 01.00

Opening Hours	Sunday - Wednesday 08:00 - 00:30 Thursday - Saturday 08:00 - 01.30
Non Standard Timings	Bank Holiday Weekends (Friday – Monday), Christmas Eve & Boxing Day: For Films & Indoor Sporting Events ; 08:00 - 01:00 For Live & Recorded Music; 10:00 - 00:00 For Activities like Music/Dance & Facilities for making Music & Dancing; 08:00 - 01:30 For Late Night Refreshment; 23:00 - 01:30 For Supply of Alcohol; 10:00 - 01:00 Opening Hours; 08:00 - 01:30 For all licensable activities & opening hours; From the end of permitted hours New Year’s Eve to the start of permitted hours New Year’s Day.

Background

8. The following is a timetable of events concerning the existing premises licence:

03/10/05	Premises licence granted. Licence holder: Mr A & Mrs A E Brownbridge DPS: Arnold Brownbridge
12/07/06	Premises licence transferred & DPS varied. New licence holder: PBC Leisure Ltd New DPS: Michelle McGowan
17/10/06	DPS varied. New DPS: Mrs S P Callaghan
29/10/08	Licence transferred. New licence holder: Enterprise Inns Ltd
11/09/09	DPS varied. New DPS: Peter Douthwaite

01/12/09	DPS varied. New DPS: Laura Larkin
29/07/10	Meeting took place between Enterprise Inns Area Manager, CYC Licensing & EPU, & Police Licensing to discuss noise issues from premises.
31/07/10	Enforcement visit carried out at premises by CYC Licensing & Police Licensing. Warning letter relating to the visit sent to DPS from CYC Licensing 03/08/10, copy attached at Annex 3
14/10/10	Complaints received from residents concerning operation of the premises and noise issues. Warning letter sent to DPS from CYC Licensing 20/10/10, copy attached at Annex 3.
03/11/10	Transfer of licence & DPS varied. New licence holder: Jubilee (2010) Ltd New DPS: Peter Pendlebury
17/08/11	DPS varied. New DPS: Christopher Scully

9. A map showing the location of The Jubilee is attached at Annex 4.

Consultation

10. Consultation was carried out by the Applicant and the 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 concerns 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. No further representations were received from interested parties or responsible authorities as a result of the consultation. However, North Yorkshire Police make the following observations concerning incidents at the venue

involving the police over the last three months (copy of email received from Police Licensing Officer at Annex 5):

- 1) 2117 hours 18/09/11 report from member of staff of two males refusing to leave and causing damage. Males left prior to police arrival. No complaints of criminal damage reported.
- 2) 0109 hours 08/10/11 report from member of staff of disturbance inside the venue. Female involved left prior to police attendance. No complaint of assault. Two persons ejected.

12. 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.

Other Relevant Information

13. There are no planning implications in relation to this application.

Options

14. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision:
15. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
16. Option 2: To exclude a licensable activity from the scope of the licence.
17. Option 3: To remove the Designated Premises Supervisor.
18. Option 4: To suspend the licence for a period not exceeding three months.
19. Option 5: To revoke the licence.
20. Members are also reminded of the option to issue a 'yellow card', ie a warning as to future conduct which may accompany options 1 to 4.

Analysis

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

Council Priorities

27. 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.
28. The promotion of the licensing objectives will support the Council's priority to protect vulnerable people and create jobs and grow the economy.

Implications

29.
 - **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

30. 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 which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
31. 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

32. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager Ext 1515	Steve Waddington Assistant Director Housing & Public Protection Ext 4016		
	Report Approved	√	Date 02/12/11

Wards Affected: Holgate

Annexes

- Annex 1** - Copy of the application of review
- Annex 2** - Copy of premises licence
- Annex 3** - Copy of warning letters sent from CYC Licensing
- Annex 3** - Map showing location of The Jubilee
- Annex 5** - Copy of observation received from North Yorkshire Police Licensing Officer
- Annex 6** - Legislation and Policy Considerations