

Report of the Director of Communities and Neighbourhoods

Section 35(3)(a) Application for the variation of a premise licence for Rowntree Park, Terry Avenue, York.

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-011301
3. Name of applicants: City of York Council, Communities and Culture.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows
 - (a) to add 2 additional licensable activities to those already authorised namely (i) the provision of entertainment facilities for making music and (ii) the provision of entertainment facilities for dancing
 - (b) to extend the hours for all licensable activities (including the above). The proposed times are 09:00 to 22:00 every day. Currently the daily times are 10:00 to 21:30.
 - (c) to clarify the licence boundary around Butcher Terrace and the opposite riverbank as shown in the plan at Annex 3
 - (d) to amend Condition 1 in Annex 2 of the licence by adding the words 'civic or military' so the condition now reads " Any events on this land will be civic or military or family based and will reflect as such.
 - (e) to replace conditions 2-5 in Annex 2 of the licence with the following:-

Full risk assessment shall be presented 30 days prior to the event by the Event Organiser as specified in the Event Hire Agreement to the Licence Holder.

Public Liability Certification and Safety Certification will be presented 30 days before the event by the Event Organiser as named in the Event Hire Agreement to the Licence Holder

(f) to replace conditions 6-7 in Annex 2 of the licence with the following

The York Safety Advisory Group will be presented with the full risk assessment, Public Liability Certification and Safety Certification where the expected attendance is above 499 people and /or significant demountable structures or road closures are proposed no later than 28 days before the event.

(g) to replace condition 8 in Annex 2 of the licence with the following:-

Event organisers as named in the Event Hire Document shall submit a completed copy of the form "Notification for Provision of live Amplified Music for Event booked on City of York Council Controlled Land", together with a detailed plan showing exact layout of the site and proposed sound monitoring locations, at least 28 days before the event. A copy shall be sent to the Environmental Protection Unit and also the Licensing Unit. The notification shall include a sample of the leaflet to be sent to comply with the condition below and which addresses will receive the leaflet.

Prior to an event, noise sensitive premises in close proximity shall be leafleted about the event. Information shall include details of the performance times and any sound checks taking place and a contact telephone number of the Named Event Organiser and a CYC representative. In the event of a complaint regarding sound levels, the Named Event Organiser will make an assessment of no less than 5 minutes in close proximity to the complainants address. If the sound level is within category C or D of the sound monitoring log guidance, the specified action shall be taken and the requirements of the Named Event Manager to mitigate be carried out immediately. The Named Event Organiser will contact the complainant and check that they are satisfied with the steps taken. If the complaint cannot be resolved on site the City of York Council

Complaints Procedure, as outlined at www.york.gov.uk will be instigated.

The Events Organiser shall appoint a member of their event team as "Sound Monitor". The Sound Monitor will undertake a documented sound check prior to or at the start of the event to ensure that the sound levels are within category A or B as defined in "Sound Monitoring Log for Events on CYC land". During the event, the Sound Monitor shall carry out documented patrols at least once per hour or for each separate act taking place whichever is the more frequent. The monitoring at each location shall be for a representative period whilst the act is taking place (at least 5 minutes) and the observations shall be recorded on the "Sound Monitoring Log Sheet for Events on CYC land". Actions taken shall be in accordance with those stated on the monitoring log sheet.

(h) to replace condition 9 in Annex 2 of the licence with the following:-

All necessary steps shall be taken to ensure that all supervisory staff in sole charge of children and young people are CRB checked by the named Event Organiser.

Background

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.

Promotion of Licensing Objectives

8. The operating schedule submitted by the applicant features all the proposed conditions listed above.

Special Policy Consideration

9. This premise is not located within the special policy area.

Consultation

10. 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.
11. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

12. There were no representations from Responsible Authorities

Summary of Representations made by Interested Parties

13. Representations have been received from 3 Interested Parties who are listed at Annex 4. These representations are shown in Annex 5.
14. A map showing the general area around the venue from which the representations are focused is attached at Annex 6.
15. 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

16. There are no planning issues relevant to this application.

Options

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

21. Option 4: Reject the application.
22. 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

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

Council Plan

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 priorities to protect vulnerable people, build strong communities, and protect the environment.

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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Chief Officer Responsible for the report:

Steve Waddington
Assistant Director– Housing & Public Protection.

**Report
Approved**



Date 09/01/12

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Micklegate

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of existing premises licence.
- Annex 2** - Copy of application form.
- Annex 3** - Map showing perimeter of licensed area
- Annex 4** - List of representors
- Annex 5** - Representations from Interested Parties
- Annex 6** - Map showing general area from which representations received.
- Annex 6** - Legislation and Policy Considerations.