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**Licensing Act 2003 Sub Committee**

**15th MAY 2014**

Report of the Director of Communities and Neighbourhoods

**Section 35(3) (a) Application for the variation of a premise licence for 44, Shambles, York YO1 7LX.**

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-022106
3. Name of applicants: 22/44 The Shambles Ltd.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows:
  - i) To remove conditions 1 and 2 from Annex 2 of the premises licence. Condition 1 reads “The retail sale of alcohol shall be ancillary to the provision of food”. Condition 2 reads “Customers shall remain seated whilst consuming alcohol”.
  - ii) To replace condition 7 at Annex 2 which states “Children must be accompanied by an adult at all times in the cafe area” with the following, “Children at the premises must be accompanied by an adult at all times”

**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 applicant does not propose any additional measures to those already stipulated on their existing licence.

## **Special Policy Consideration**

9. This premise is located within the extended special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.

## **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. North Yorkshire Police made representation to the application on the grounds that it is believed that the licensing objective, the prevention of crime and disorder, would be undermined on the granting of this application. A copy of the representation is attached at Annex 4.

## **Summary of Representations made by other persons**

13. There were no other representations.
14. A map showing the general area around the venue is attached at Annex 5.
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 regarding 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  
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**Report  
Approved**



**Date** 01/05/2014

**Specialist Implications Officer(s):**

Head of Legal & Democratic Legal Services Ext: 1004

**Wards Affected:** Guildhall East

**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

Extra Information submitted by Applicant

**Annex 3** - Special Policy

**Annex 4** - Copy of police representation

**Annex 5** - Map of area

**Annex 6** - Mandatory Conditions

**Annex 7** - Legislation and Policy Considerations