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**Licensing Act 2003 Sub Committee**

**23 June 2014**

Report of the Director of Communities and Neighbourhoods

**Section 35(3) (a) Application for the variation of a premise licence for Jorvik Cafe, Unit 4 & 5 Stonebow House, Stonebow, York, YO1 7NP.**

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-013040
3. Name of applicants: Mr Barbaros Ayata
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows:
  - i) To extend the opening hours.
  - ii) To provide regulated entertainment consisting of live and recorded music and performance of dance.

**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.
8. The following schedule shows the licensable activities and timings currently authorised and the proposed activities and timings:

<b>Licensable Activity</b>	<b>Current timings</b>	<b>Proposed timings</b>	<b>Proposed non standard timings</b>
Live Music (Indoors)	Not authorised	Mon – Sat 07:00 – 02:30 Sun 09:30 – 02:30	An additional finishing hour on UK Bank Holiday Sundays, Bank Holidays, Christmas Eve and New Year's Eve and start of British Summer Time
Recorded Music (Indoors)	As above	As above	As above
Performance of Dance (Indoors)	As above	As above	As above
Anything of similar description to above (Indoors)	As above	As above	As above
Late Night Refreshment (Indoors & Outdoors)	As above	Mon – Sun 23:00 – 02:30	As above
Supply of Alcohol	Mon - Sun 11:00 - 00:00 (On sales only)	Mon – Sat 07:00 – 02:30 Sun 09:30 – 02:30 (Both on & off sales)	As above
Opening Hours	Mon - Sun 07:00 - 00:00	Mon – Sat 07:00 – 02:30 Sun 09:30 – 02:30	As above

## **Promotion of Licensing Objectives**

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

10. General

The availability of food will cease at 23:00 hours.

11. Prevention of Crime and Disorder

a) CCTV is to be installed. The system will cover all areas including the outside dining area. This information will be stored on a hard drive system and will be available for police and other agencies.

b) Staff and management will monitor excessive alcohol consumption. Staff will all be trained to refuse service to any person who appears intoxicated by drink or drugs, and they will be asked to leave the premises.

c) The premises operate a strict proof of age scheme. The only forms of identification that will be accepted by our trained staff will be either photo driving licence, passport or (PASS) proof of age card.

d) The premises will take part in the radio linked scheme which advises of any potential problems which may affect the operation of the business.

e) Door staff will be employed. The door staff will be SIA registered, and internal training with each member will be carried out to ensure they are fully aware of their responsibilities and licensing objectives. Any queuing from customers will be monitored and controlled by the door staff. Dispersal of customers from the premises will be carried out by door staff, and waiting staff, who will start gradually informing customers from the final hour of operation. Signage indicating operating hours and drinking up times will be visible so people are clearly informed.

f) The outdoor area will be for seated customers only.

g) There is a total zero tolerance to drugs. Regular checks will be made in the toilet areas by staff. Anyone found to be in possession or distributing drugs will be reported to the police.

h) Strengthened glassware is currently used.

## 12. Public Safety

- a) A fire risk assessment has been carried out on the premises. The assessment covers: means of escape, fire detection, emergency lighting, fire fighting equipment, fire instruction and notices and occupancy.

## 13. Prevention of Public Nuisance

- a) In order to prevent public nuisance, management and staff will ensure that notices asking customers to leave quietly are positioned in a prominent place. Doorstaff will also inform customers to leave quietly and direct them away from the premises. Customers who regularly leave in a noisy fashion will be banned from the premises. The premises are situated close to a main bus stop and taxi rank. Customers will be encouraged and directed to these locations for transport in order to ensure people leave as soon as possible.
- b) It is proposed that no live music will be played outside and no live music will take place after 02:30 hours inside the premises. Recorded music will be played inside, at a level so that it does not disturb any residents. No licensable activities will take place outside after 02:30 hours.
- c) No recorded music to be played outside.
- d) A container used to discard smoking material is provided.
- e) Customers will be requested to be seated whilst consuming food or alcohol in the outside area.

## 14. Protection of Children from Harm

The premises welcome families with children up to 21:00 hours Monday to Sunday.

### **Special Policy Consideration**

- 15. These premises are not located within the special policy area.

### **Consultation**

- 16. 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.

17. All procedural aspects of this application have been complied with.

### **Summary of Representations made by Responsible Authorities**

18. Both North Yorkshire Police and the council's Environmental Protection Unit have been in consultation with the applicant and proposed some amendments and additions to the applicants' proposed conditions which have been agreed and will be added to the licence if granted. Copies of these proposals are attached at Annex 3 and Annex 4.

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

19. Two relevant representations have been received from local residents and these are attached at Annex 5.
20. A map showing the general area around the venue is attached at Annex 6.
21. 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**

22. A planning application has been received for change of use and is currently under consideration.

### **Options**

23. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
24. Option 1: Grant the variation of the licence in the terms applied for.
25. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.

26. 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.
27. Option 4: Reject the application.
28. 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**

29. The following could be the result of any decision made this Sub Committee:-
30. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
31. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
32. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 4: This decision could be appealed at Magistrates Court by the applicant.

### **Council Plan**

34. 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.
35. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

36.
  - **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**

37. 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.
38. 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**

39. 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** 09/06/14

**Specialist Implications Officer(s):**

Head of Legal & Democratic Legal Services Ext: 1004

**Wards Affected:** Guildhall West

**For further information please contact the author of the report**

**Background Papers:**

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application
- Annex 3** - Copy of police proposed conditions
- Annex 4** - Copy of EPU proposed conditions
- Annex 5** - Copy of representations
- Annex 6** - Map of area
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations