

Report of the Director of Communities and Neighbourhoods

Section 35(3) (a) Application for the variation of a premise licence for Footstreet Area of York City Centre including Exhibition Square

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-010893
3. Name of applicant: City of York Council
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows: to extend the terminal hour for all licensable activities to 23:00 hours each and every day.

Background

6. A copy of the existing premise licence is attached at Annex 1. A copy of the plans showing the extent of the area covered by the premises licence is attached at Annex 2.
7. A copy of the application to vary the licence is attached at Annex 3.
8. The following schedule lists the existing and proposed licensable activities and hours;

LICENSABLE ACTIVITIES	CURRENT HOURS	PROPOSED HOURS
Plays	Monday to Sunday 09:00 – 20:00	Monday to Sunday 09:00 – 23:00
Films, Live Music, Recorded Music and Performance of Dance	Monday to Saturday 09:00 – 21:00 Sunday 12:00 – 21:00	Monday to Saturday 09:00 - 23:00 Sunday 12:00 -23:00
Supply of Alcohol	Monday to Sunday 09:00 – 21:00	Monday to Sunday 10:00 – 23:00
Opening Hours	24 Hours	24 hours

Promotion of Licensing Objectives

9. The applicant did not propose any further steps in the application in relation to the promotion of the licensing objectives other than those conditions already attached to the existing premises licence.

Special Policy Consideration

10. Most of the area covered by the premises licence falls within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The Special Policy was initially approved for this area by full council on 7th January 2011 and an extension to the policy area was approved by full council on 27 March 2014. A copy of the special Policy Statement is attached at Annex 4.

Consultation

11. 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.

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

Summary of Representations made by Responsible Authorities

13. A representation was received from CYC Licensing Authority in its role as a responsible authority on the grounds the public safety licensing objective could be undermined. This representation was subsequently withdrawn when the applicant agreed to the following condition being attached to the premises licence:

“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.”

14. A further representation was received from CYC Public Protection (Environmental Protection Unit), on the grounds that the prevention of public nuisance licensing objective, could be undermined if the variation application was granted. However this representation was withdrawn when the applicant agreed to the following conditions being attached to the premises licence if granted:
 - i. For the duration of the Yorkshire Fringe Festival, timings shall be 09:00 to 23:00. Otherwise, live and recorded music shall be restricted to Monday to Thursday 09:00 to 21:00; Fridays, Saturdays (and Sundays preceding a bank holiday) 09:00 to 23:00, and Sundays otherwise 12:00 to 21:00.
 - ii. Event organisers as named in the Event Hire Document shall submit a completed copy of the Event Information Questionnaire extracted from the Council’s Code of Practice and Guidance Notes on Control of Noise for Concerts and Outdoor Events, 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 Public Protection 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.

- iii. 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.
- iv. 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.

Summary of Representations made by other persons

15. Three relevant representations have been received; one from a Ward Councillor and two from residents of York. Details of the representors are attached at Annex 5. A copy of their representations is shown at Annex 6.
16. 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

17. There are no planning issues regarding this application.

Options

18. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-
19. Option 1: Grant the variation of the licence in the terms applied for.
20. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
21. 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.
22. Option 4: Reject the application.
23. 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

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

Council Plan

29. 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.

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

Implications

31.

- **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

32. 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.
33. 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

34. That 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 25/03/15

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 plans showing licensed area
- Annex 3** - Copy of application form
- Annex 4** - Copy of CYC Special Policy Statement
- Annex 5** - List of representors
- Annex 6** - Copies of representations
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations