

Licensing Act 2003 Sub Committee

9 May 2013

Report from the Assistant Director – Housing & Community Safety

Section 18(3)(a) Application for a premise licence for Morrisons, 5 Spurriergate, York, YO1 9QR

Summary

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-021821
3. Name of applicant: Wm Morrison Supermarkets PLC
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for the sale of alcohol, off the premises, every day between 07:00 hours and 23:00 hours.

Background

6. A copy of the application is attached at Annex 1.

Promotion of Licensing Objectives

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General
 - a) The premises will be constructed in accordance with drawing no. YOR/SK3/BWSL/001 as served with the application or in the case of alteration to those plans any further plans served on the responsible authorities and licensing authority prior to completion of the premises.

- b) All staff engaged in the sale of alcohol will be trained in accordance with the premises licence holder's training procedures.
- c) The company is mindful of the local authority's policy document and in this regard would refer to the overview document attached which details the company's processes and procedures for promoting the licensing objectives. (The overview document is attached at Annex 2).

9. The prevention of crime and disorder

- a) All staff will receive suitable training (including refresher training) in relation to the proof of age "Challenge 25" scheme to be applied on the premises. The following forms of identification are acceptable; photo driving licence, passport, Proof of Age Standards Scheme (PASS) card and any other locally or nationally approved form of identification.
- b) CCTV shall be provided on the premises and shall be kept in good working order.
- c) All checkout operators will operate a refusal log.

10. Public safety

- a) The premises licence holder undertakes ongoing risk assessments in order to comply with health and safety legislation.

11. The prevention of public nuisance

- a) The premises are responsibly managed and supervised. No additional measures are believed necessary.

12. The protection of children from harm:

- a) All staff will receive suitable training (including refresher training) in relation to the proof of age "Challenge 25" scheme to be applied on the premises. The following forms of identification are acceptable; photo driving licence, passport, Proof of Age Standards Scheme (PASS) card and any other locally or nationally approved form of identification.
- b) Till prompts are in use at the store.

Special Policy Consideration

13. This premise 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 approved by full council on 7th January 2011. A copy of the special Policy Statement is attached at Annex 3. A map showing the location of the premises is attached at Annex 4.

Consultation

14. 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. In addition the relevant ward councillors and/or parish council were notified by way of register.
15. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

16. 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 5.
17. The nature of the representation is as follows. The proposed location of the premises is situated in the City of York Council's Cumulative Impact Zone (CIZ) which creates a rebuttable presumption that applications for new premises licences will normally be refused if relevant representations to that effect are received. The Police believe their representation is relevant due to the following facts –

- City centre stores of this type do generate crime;
- Street drinkers in the city do attempt to obtain their alcohol from stores of this type (both legally and illegally) which contributes to anti-social behaviour in the city;
- Late night revellers are often seen purchasing alcohol from stores of this type and attempting to 'smuggle' this alcohol into neighbouring city centre venues where consumption goes unchecked.

Summary of Representations made by Parties other than Responsible Authorities

18. There were no representations received from other parties.

Planning Issues

19. These premises are bound by the restrictions imposed by Planning permission 03/00558/FUL for the redevelopment of a number of shops on Spurriergate. Condition 13 of that permission reads as follows:
20. The A1 retail units shall be closed and vacated to customers beyond the hours of 0900 to 2100 hours Mondays to Saturdays and 1000 to 1800 hours on Sundays, unless an extension of these hours on specified dates is first agreed in writing by the Local Planning Authority.
21. Reason: in the interests of the amenities of the hereby approved flats'.

Options

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

26. Option 4: Reject the application.

Analysis

27. The following could be the result of any decision made this Sub Committee:-

28. Option 1: This decision could be appealed at Magistrates Court by any of the representors.

29. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

30. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

31. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

32. 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.

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

Implications

34.

- **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

35. 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.
36. 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

37. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

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Housing & Community Safety.

**Report
Approved**



Date 24/04/13

Specialist Implications Officer(s)

Head of Legal & Democratic Services
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Wards Affected: Guildhall East



For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of application form
- Annex 2** - Copy of overview document
- Annex 3** - Copy of special policy document
- Annex 4** - Plan showing premise location
- Annex 5** - Copy of police representation
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations