

Meeting Licensing Hearing

Date 21 August 2014

Present Councillors Alexander, Crisp and McIlveen

15. Chair

Resolved: That Councillor McIlveen be elected as Chair of the meeting.

16. Introductions

17. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda. None were declared.

18. Minutes

Resolved: That the minutes of the Licensing Hearing held on 19th May 2014 be approved and signed by the Chair as a correct record.

19. The Determination of an Application by Mrs A D Kose for a Premises Licence Section 18(3)(a) in respect of Ali G's Pizza House, 11A Tower Street, York, YO1 9SA. (CYC-023674)

Members considered an application by Mrs Kose for a premises licence in respect of Ali G's Pizza House, 11A Tower Street, York.

In coming to their decision, Members took into consideration all of the evidence and the submissions that were presented to them and determined their relevance to the issues raised and the Licensing objectives. The following were taken into account:

1. The Application Form
2. The Licensing Managers report and her comments made at the hearing. She advised that the application was for a premises licence at 11A Tower Street, York. The application was for the provision of alcohol and late night refreshment to 03:30 Monday to Saturday and until midnight on Sundays. Currently the premises are licensed only for late night refreshment. The premise is located within the special policy area. A number of conditions had been agreed with North Yorkshire Police prior to the hearing. Consultation had been carried out successfully.
3. The applicants representatives comments made at the meeting. He advised that the business was family run and had been operating in York for the past 12 years without cause for concern to the responsible authorities. The new licence had been applied for in order to enhance income as a recent episode of flooding had seen the business close for a quarter of a year. Amendments had been made to the application following consultation with North Yorkshire Police and as a result, the application was significantly different to originally intended as the application now only related to the sale of alcohol off-sales by delivery.
4. The representations made in writing and at the hearing by a local resident who raised concerns about the potential for public nuisance caused by customers being in the area late at night, particularly as the premises is located within the special policy zone. He also raised concerns about alcohol being available for delivery to other areas of the city and the possible problems that may be encountered if customers did not have the correct proof of age identification.

In coming to their decision the Sub-Committee considered the following options:

- Option 1 Grant the licence variation in the terms applied for.
- Option 2 Grant the licence variation with modified/additional conditions imposed by the Sub-Committee.

Option 3 Grant the licence variation to exclude any of the licensable activities to which the application relates.

Option 4 Reject the application.

Members chose Option 2 and agreed to grant the licence with the following additional conditions:

Conditions imposed by the Licensing Sub Committee

1. Late Night refreshment shall be carried out between 23:00 and 03:00 Monday to Saturday and until midnight on Sundays.
2. Sale of Alcohol (off sales only) shall be carried out between 23:00 and 03:00 Monday to Saturday and until midnight on Sundays.
3. Opening times shall be 16:00 to 03:00 Monday to Saturday and 16:00 to midnight on Sundays.
4. A litter pick shall be carried out in the immediate vicinity at the close of business on each and every day.

North Yorkshire Police Conditions

1. Upon the granting of this premises licence the current premises licence for the venue (licence no – CYC 010581) shall be surrendered.
2. The retail sale of alcohol shall be ancillary to the provision of takeaway food.
3. There shall be no retail sale of alcohol undertaken to customers at the premises. All sales of alcohol shall be via delivery service only.
4. Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access.
5. CCTV will be maintained, working and recording at all times when the premises are open.
6. The recordings will be of evidential quality in all lighting conditions and will be of sufficient quality to be produced in court or other such hearing.
7. Copies of the recordings will be kept available for any responsible authority for 28 days.
8. Copies of the recordings will be made available to any responsible authority within 48hrs of request.

9. Copies of the recordings will display the correct time and date of the recording.
10. All images downloaded from the CCTV system must be provided in a format that can be viewed on readily available equipment without the need for specialist software.
11. Clear notices shall be prominently displayed requesting customers to leave the premises and the area in a quiet and orderly manner.
12. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
13. All off sales shall be made in sealed containers.
14. Documented staff training (to all staff including delivery drivers) will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue.
15. The documented records (referred to in condition 14) shall be kept for at least one year and they will be made available upon request from any responsible authority.
16. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to underage or drunk people upon the delivery of alcohol.
17. Both the above documents (referred to in condition 16) will be made available upon request from any responsible authority and will be kept for at least one year.
18. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
19. All delivery sales of alcohol shall be undertaken by a member of staff aged over 18yrs.
20. All delivery sales of alcohol shall be to a specified address and not on the street.
21. All delivery sales of alcohol will be ancillary to the provision of takeaway food.
22. There shall be a mandatory ID check for all delivery sales.
23. The venue shall partake in the York Nighttime Economy radio system.

All relevant mandatory conditions shall apply.

REASON FOR THE DECISION:

The Sub-Committee concluded that the application was acceptable with the above additional conditions as it addressed representations made both in writing and at the hearing, and it

met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003. As the application was for a new premises licence within the Cumulative Impact Zone, the Sub-Committee considered the application on the basis that there was a presumption against granting unless the applicant could rebut the presumption that a grant would undermine the licensing objectives.

The Sub-Committee noted the local residents' concerns. They also noted that there had been no objection to the application from the Responsible Authorities and that the Police had agreed a number of proposed conditions with the applicant to address potential crime and disorder and public nuisance issues. The Sub-Committee considered that it had received sufficient assurances from the applicant in order to be satisfied that the premises would be operated responsibly to avoid noise nuisance to local residents. However, it considered that a closing time of 3.00am would be more consistent with other similar take-away premises licensed to deliver alcohol in the area, and that 3.30am could give rise to potential for noise and disturbance to local residents too late into the night. It also took into account that there would be no on-sales, and that alcohol would only be sold by delivery.

The Sub-Committee therefore agreed to grant the licence with the additional conditions referred to above.

Resolved: That in line with option 2, the licence be granted.

Reason: To address the issues raised.

Councillor McIlveen, Chair
[The meeting started at 10.00 am and finished at 11.00 am].