

Meeting Licensing Hearing

Date 24 April 2014

Present Councillors Boyce, Funnell and Gillies

80. Chair

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

81. Introductions

82. 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.

83. Minutes

Resolved: That the minutes of the meeting held on 25th March 2014 be approved and signed by the Chair as a correct record.

84. The Determination of an Application by Carluccios Ltd for a Premises Licence Section (18)(3)(a) in respect of Carluccio's, Fenwick, 2 St. Mary's Square, Coppergate Shopping Centre, York, YO1 9NY. (CYC-023147)

Members considered an application by Carluccio's Ltd for a premises licence.

In coming to their decision, Members took into consideration all of the evidence and 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 for Carluccio's to be situated within Fenwicks department store, York. Plans showing the location and floor layouts were tabled. The premise is located within the special policy area as of 27th March 2014 but the licence application had been made before this date. Consultation had been carried out successfully.
3. The applicant's Solicitors representations made at the hearing. She advised that the premise would be trading predominantly as a restaurant, but her client did not wish for alcohol to only be served ancillary to a meal as this would not provide the flexibility for the occasional customer who just wishes to have an alcoholic drink or for customers to have a drink while they wait for a table. Other Carluccio's licences were referred to and it was advised that they do not have the condition and it would be disappointing if the York restaurant was unable to trade in the same way. Sales figures for other restaurants were provided to highlight that food sales are greater than alcohol sales.
4. The representations made in writing and at the hearing by North Yorkshire Police. They raised concerns about the number of licensed premises in the area and the potential for the addition of this licence to add to the existing problems of crime and disorder. Although the Police welcome restaurants in York, and Carluccio's is a reputable business, it was advised that they would prefer alcohol to only be sold ancillary to a meal in restaurants located within the cumulative impact zone, in order to prevent the premises being used as another drinking venue.

The Sub-Committee were presented with the following options:

- Option 1 Grant the Licence in the terms applied for.
- Option 2 Grant the Licence with modified/additional conditions imposed by the Licensing Committee.

Option 3 Grant the Licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.

Option 4 Reject the application.

In coming to their decision, Members chose Option 2 and imposed the following amended operating schedule condition as being appropriate and proportionate to meet the licensing objectives:

Tables and Chairs for a minimum of 100 covers will be laid out and made available to customers at all times and there shall be waiter/waitress service. Food and alcohol will be served to customers seated, or those waiting to be seated.

REASON FOR THE DECISION:

The Sub-Committee concluded that the application was acceptable with the above amended condition 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.

The Sub-Committee were mindful of the fact that the premises were located in an area to which a Special Policy of Cumulative Impact applies, creating a rebuttable presumption against the granting of new licences to sell alcohol in that area. They also took account of the concerns of the Police relating to the possible impact which a licence would have on the prevention of crime and disorder in the area should the premises evolve into a vertical drinking establishment.

From the submissions made by the applicant, the Sub-Committee had a high level of confidence that the premises would be operated responsibly, as a predominantly food-led establishment and that given the nature of the premises, the applicant had on this occasion sufficiently demonstrated that it would not add to the alcohol related problems in the area. The Sub-Committee considered that the amended condition

imposed by the Sub-Committee was adequate to ensure that vertical drinking does not replace seated consumption and or waiter service at a later date.

The Sub-Committee therefore agreed to grant the licence with the additional condition referred to above but reminded the applicant of the necessity of upholding all of the licensing objectives and highlighted the possibility of the licence being reviewed if it was found that the licensing objectives were not being upheld.

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

Reason: To address the representations made in writing and at the hearing.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 11.20 am].