

Licensing Act 2003 Sub Committee

27 October 2022

Report of the Director – Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for The Liquor Store, The Chocolate Works, Bishopthorpe Road, York, YO23 1DE

Summary

1. This report seeks Members' determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC 071326
3. Name of applicant: Ebor Holdings Limited
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a new lower ground floor café bar, deli and restaurant.

Proposed Activity	Timings
Live music - indoors	1200 – 2300 Mon to Fri 1000 – 2300 Sat & Sun REMOVED
Recorded music – indoors	0900 – 2300 Sun to Thurs 0900 – 0000 Fri & Sat New Years Eve until 0100 REMOVED
Supply of Alcohol – Off the premises	0900 to 2300 Sun to Thurs 0900 to 0000 Fri & Sat New Years Eve until 0100 Between 9000 and 1100 each day, only off sales of alcohol

	will be sold for consumption away from the premises
Opening Hours	0900 to 2330 Sun to Thurs 0900 to 0030 Fri & Sat

Following negotiations with the responsible authorities the applicant has removed the request for live and recorded music and agreed to only selling alcohol for consumption off the premises between the hours of 0900 and 1100.

Background

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. The premises is described in the application as a self-contained building in the lower ground floor, it will be a café/deli/wine bar/restaurant with on and off sale of alcohol, mainly for use by local residents.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 2**.

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 licensee shall ensure that at all times when the premises are open for activity that there are sufficient, competent staff on duty for the purpose of fulfilling the terms and conditions of the licence and preventing crime and disorder.

11. The Prevention of Crime and Disorder

Any incidents of a criminal nature on the premises will be reported to the police. Where service is refused to a customer an incident log will be completed. CCTV will be installed in High Definition, covering entry/exit and customer areas. Recording for 31 days with availability to police upon request.

12. **Public Safety**

Appropriate fire safety procedures will be in place including fire extinguishers, fire blanket, illuminated fire exit signs, smoke/heat detectors. Fire doors and exits to be kept free from obstruction. Disabled lifts, ramps and exit in place.

13. **The Prevention of Public Nuisance**

All customers to be asked to leave quietly, signs at exits will be prominently displayed. Outside exit pathways to be lit during dark hours. Premises is not in town and not part of an established route so reduced chance of drunk persons arriving. Customers will predominantly be estate residents.

14. **The Protection of Children from Harm**

All staff to be trained in underage sales prevention. The licensee and staff will ask persons appearing to be under 25 for photo ID. Acceptable ID will be passport, photo driving licence or HM Services card etc. A refusals register will be kept.

Special Policy Consideration

15. This premises is not located within the cumulative impact 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. In addition the relevant ward councillors and/or parish council were notified by way of register.
17. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

18. North Yorkshire Police made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule and have added several conditions. The agreed conditions can be found at **Annex 3**.

Therefore, North Yorkshire Police have withdrawn their representation.

Summary of Representations made by Other Parties

19. There have been 41 relevant representations received from other persons. The list of representors is attached at **Annex 4**. Of the total number of representations received 30 are objecting to the application, 11 are in support of the application. One of the objection letters is a petition signed by 52 named residents.
20. The representations from those who object are predominantly based on the grounds of the prevention of crime and disorder and prevention of public nuisance objectives. They state that these objectives will be undermined if the application is granted.
21. A copy of all the representations are attached at **Annex 5**.
22. A map showing the general area around the venue is attached at **Annex 6**.
23. The mandatory conditions that will be attached to this licence if granted can be found at **Annex 7**. The Legislation and Policy considerations can be found at **Annex 8**.

Options

24. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
25. Option 1: Grant the licence in the terms applied for.
26. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
27. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
28. Option 4: Refuse to specify a person on the licence as premises supervisor.
29. Option 5: Reject the application.

Analysis

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

31. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
32. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 4: This decision could be appealed at Magistrates Court by the applicant.
35. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

36. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
37. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

38.
 - **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

39. 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.
40. 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

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

Contact Details

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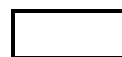
**Report
Approved**



05.10.2022

Specialist Implications Officer(s)
Head of Legal & Democratic Services
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Wards Affected: Micklegate Ward



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form & Plan(s)
- Annex 2** - Overview of circumstances in which entertainment activities are not licensable
- Annex 3** - Conditions agreed with North Yorkshire Police
- Annex 4** - List of representors (other persons)
- Annex 5** - Representations from other persons
- Annex 6** - Map of area
- Annex 7** - Mandatory conditions
- Annex 8** - Legislation & Policy