
Licensing Act 2003 Sub Committee

Date: 24 July 2023

Report from the Director – Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for 72 Walmgate, York, YO1 9TL

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 073049
3. Name of applicant: Masala Craft R&B Ltd
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 restaurant and takeaway

Proposed Activity	Timings
Supply of alcohol – on the premises	10:00 to 22:00 everyday New Year's Eve until 23:00
Opening Hours	10:00 to 22:30 everyday New Year's Eve until 23:30

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 having indoor dining and a take away. The premises has no outdoor seating for food or drinks consumption.

There will be seating for a maximum of 28 people and food and drinks served only at the dining tables not over a bar counter.

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**

We will keep good management control and up to date training of all staff so that they are aware of the licensing requirements to meet all four licensing objectives

11. **The Prevention of Crime and Disorder**

- a. Staff training will incorporate dealing with drunk and aggressive behaviours. An incident book and refusal book will be available on request.
- b. We will never discount or do price promotions on alcohol. CCTV will be in place and all crime incidents will be reported to the police and recorded in an incident book.

12. **Public Safety**

- a. Staff training will include health and safety training, evacuation of the premises during emergency training.
- b. Our dining area will not have any lights obstructing public pathway.
- c. Clear signs of fire exits will be in place.
- d. A first aid kit and accident book will be on site and staff will be trained to use with easy access.
- e. Emergency exit plan will be in place and all staff will be trained.

13. **The Prevention of Public Nuisance**

- a. We will use in-house wireless speakers for background music.
- b. Music will never be raised high in volume, just enough to keep volume inside the premises only.
- c. Signage will be displayed requesting customers to consider local people and leave quietly and not to loiter outside the premises

14. The Protection of Children from Harm

- a. Children will be allowed when accompanied by an adult.
- b. Challenge 25 policy will be in place. Staff will be trained in how to challenge and record in refusal book.

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. 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 has been one relevant representation received from other persons. The list of representors is attached at Annex 4.
20. The representation is predominantly based on the grounds of the prevention of crime and disorder and the prevention of public nuisance objectives. They state that these objective(s) will be undermined if the application is granted.
21. A copy of all the representation is 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 (if they apply) 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**

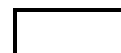


**Date
30.06.2023**

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** – Conditions agreed with North Yorkshire Police
- Annex 3** - List of representor(s)
- Annex 4** - Representations
- Annex 5** - Map of area
- Annex 6** - Mandatory conditions
- Annex 7** - Legislations and policy