

Meeting	Licensing Hearing
Date	10 December 2013
Present	Councillors Boyce, Gillies and Horton

51. Chair

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

52. Introductions**53. 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.

54. Minutes

Resolved: That the minutes of the Licensing Hearings held on 28th August and 4th September be approved and signed by the Chair as a correct record.

55. The Determination of an Application by Byron Hamburgers Ltd for a Premises Licence Section 18(3)(a) in respect of Byron, 11 High Ousegate, York. (CYC-022744)

Members considered an application by Byron Hamburgers Ltd for a premises licence in respect of Byron, 11 High Ousegate, York.

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 at 11 High Ousegate, York. Plans showing the location and floor layouts were tabled. The premise is not located within the special policy area. A number of conditions had been agreed with North Yorkshire Police and the Council's Environmental Protection Unit prior to the hearing. Consultation had been carried out successfully.
3. The applicants Solicitors comments made at the hearing. He advised that the premise would be replacing the existing Danish Kitchen cafe and would have restaurant space on the ground floor and part of the first floor. The concept is that of a restaurant with alcohol being a small part of the overall sales. He advised that until recently, Byron had been part of the Gondola Group which operated chains such as Pizza Express and ASK and as a result had comprehensive policies in place for operating the restaurants.
4. A Local Residents comments made in writing and at the hearing. Concerns were raised about the potential for public nuisance and disturbances caused by restaurant customers being in the area late at night. He stated that the restaurant could act as a magnet and retain people in the area late at night. Concern was also raised about the further addition of another premise selling off-sales in the City Centre as off- sales of alcohol in sealed containers as requested by the Police would not prevent people from drinking in the street.

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.

Members chose Option 2 and agreed to grant the licence with the following conditions as agreed with North Yorkshire Police and the Council's Environmental Protection Unit:

1. Digital colour CCTV will be installed to cover the premises and recorded coverage will include all areas to where public have access to consume alcohol.
2. The CCTV system will be maintained, working and recording at all times when the premises are open.
3. The recordings shall be of sufficient quality to be produced in court or other such hearing.
4. Copies of the recordings will be kept available for any responsible authority for 28 days.
5. Copies of the recordings shall be made available to any responsible authority within 48 hours of request.
6. Copies of the recordings will display the correct time and date of the recording.
7. All off sales shall be made in sealed containers.
8. The only acceptable proof of age identification shall be a current Passport, photocard Driving Licence or identification carrying the PASS logo.
9. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customer's care.
10. Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue.

11. Such records (referred to in condition 10) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.
12. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises
13. Both documents (referred to in condition 12) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.
14. 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.
15. The venue shall partake in the York Nighttime Economy radio scheme.
16. Tables shall be laid out at all times in a manner indicative of dining.
17. Customers shall remain seated whilst consuming alcohol
18. Alcohol shall be provided by waiter/waitress table service only.
19. Noise originating from the premises shall be inaudible at nearby sound sensitive properties.
20. Bottle bins are only to be emptied between the hours of 9am and 10pm Monday to Sunday.
21. No off sales of alcohol shall take place other than with the provision of take-away food.

All relevant mandatory conditions shall apply.

In addition, in response to the concerns raised by the Local Resident, the applicant agreed to amend the application as follows:

Recorded Music (Indoors) Monday to Saturday 11:00am to 12:30am.

Late Night Refreshment (Indoors) Monday to Sunday 11:00am to 12:30am.

Sale of Alcohol (on and off sales) Monday to Saturday 11:00am to 12:00am Sunday 11:00am to 22:30pm.

Opening Times Monday to Saturday 11:00am to 12:30am.

Reason for the Decision:

In reaching their decision to grant the application subject to the above conditions, the Sub-Committee considered both oral and written representations from the Applicant and from the other interested person. The Panel noted that the Police and EPU had made representations in relation to this application but had subsequently withdrawn them after a number of conditions were agreed with the applicant, as detailed in the report. The Sub-Committee considered that given that the Applicant had agreed to the conditions imposed, the application accorded with the licensing objectives. The Sub-Committee considered that there was insufficient evidence to support the view that the opening hours and supply of off-sales would lead to more people being in the area later or that there would be more noise and disturbance as a result.

Accordingly, 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.

Resolved: That Members determined the application in line with Option 2.

Reason: To address representations made.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 11.00 am].