

## Licensing Act 2003 Sub Committee

10 December 2013

Report from the Assistant Director – Housing & Community Safety

### **Section 18(3)(a) Application for a premise licence for Byron, 11 High Ousegate, York YO1 8RZ**

#### **Summary**

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-022744
3. Name of applicant: Byron Hamburgers Ltd.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for the following:

Licensable Activity	Indoors/Outdoors	Days	Hours
Recorded music	Indoors	Mon – Sat	11:00 – 01:30
		Sun	11:00 – 23:00
Late night refreshment	Indoors	Mon – Sun	23:00 – 01:30
Sale of alcohol	On and Off sales	Mon – Sat	11:00 – 01:00
		Sun	11:00 – 22:30
Opening times		Mon – Sat	11:00 – 01:30
		Sun	11:00 – 23:00

## **Background**

6. A copy of the application is attached at Annex 1.

## **Promotion of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General

- a) The vast majority of patrons will be eating.
- b) All staff working within the premises will be subject to the company's comprehensive training package incorporating licensing law including a Challenge 21 policy.

## **Special Policy Consideration**

9. This premise is not located within the special policy area.

## **Consultation**

10. 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.
11. All procedural aspects of this application have been complied with.

## **Summary of Representations made by Responsible Authorities**

12. City of York Council's Environmental Protection Unit proposed the following 2 conditions, relating to the prevention of public nuisance, which have been accepted by the applicants and these will be included in the licence if granted.
  - a) Noise originating from within the premises shall be inaudible at nearby sound sensitive properties.

- b) Bottle bins are only to be emptied between the hours of 9am and 10pm Monday to Sunday.
13. The North Yorkshire Police proposed a list of 18 conditions which have been accepted by the applicants and these will be included in the licence if granted. These conditions are listed at Annex 2.

### **Summary of Representations made by Parties other than Responsible Authorities**

14. One relevant representation has been received and this is attached at Annex 3
15. A map showing the general area around the venue from which the representation is focused is attached at Annex 4.

### **Planning Issues**

16. There are no planning issues or conditions relevant to this application.

### **Options**

17. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
18. Option 1: Grant the licence in the terms applied for.
19. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
20. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
21. Option 4: Reject the application.

### **Analysis**

22. The following could be the result of any decision made this Sub Committee:-
23. Option 1: This decision could be appealed at Magistrates Court by any of the representors.

24. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
25. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
26. Option 4: This decision could be appealed at Magistrates Court by the applicant.

### **Council Plan**

27. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
28. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

29.
  - **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**

30. 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.
31. 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**

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

## **Contact Details**

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### **Chief Officer Responsible for the report:**

Steve Waddington  
Assistant Director  
Housing & Community Safety.

**Report  
Approved**

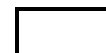


**Date** 02/12/2013

### **Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Guildhall West**



**For further information please contact the author of the report**

**Background Papers:**

**Annex 1** - Copy of application form

**Annex 2** - Copy of conditions agreed between police and applicant.

**Annex 3** - Copy of the relevant representation.

**Annex 4** - Map showing location of venue

**Annex 5** - Mandatory Conditions

**Annex 6** - Legislation and Policy Considerations