
Licensing Act 2003 Sub Committee

Date 19 July 2023

Report from the Director – Environment, Transport & Planning

Section 18(3)(a) Application for a premises licence for 75 Balmoral Terrace, York YO23 1HR

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 073025
3. Name of applicant: Sara Winlow & Robert Darbyshire
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 coffee shop and florist.

Proposed Activity	Timings
Supply of alcohol – on & off the premises	12 noon until 22:30 everyday
Opening hours	08:30 until 22:30

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 a coffee shop and florists. The coffee shop aspect is ancillary to the business with limited seating.

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 coffee area is a small ancillary are of the business, limited numbers will prevent large groups. The objective is for a relaxed environment for small numbers of local residents away from larger pubs and venues.

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

CCTV monitoring on site and strict challenge 25 policy.

12. **Public Safety**

Small capacity prevents large numbers of groups. Visible and easily accessible fire prevention equipment on site.

13. **The Prevention of Public Nuisance**

Limited capacity seating area for light refreshment, so no large numbers. CCTV on site to prevent public nuisance.

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

Premises will operate a challenge 25 policy as well as CCTV on site to ensure safety.

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 representations are predominantly based on the grounds of the prevention of public nuisance and the prevention of crime and disorder objectives. They state that this objective(s) will be undermined if the application is granted.
21. A copy of 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
26.06.2023

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



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 4** - List of representors
- Annex 5** - Representation(s)
- Annex 6** - Map of area
- Annex 7** - Mandatory conditions
- Annex 8** - Legislation and policy