

**Licensing Act 2003 Sub Committee**

**Date 22 June 2023**

Report from the Director – Environment, Transport & Planning

**Section 18(3) (a) Application for a premises licence for 147a  
Bishopthorpe Road, York, YO23 1NZ**

**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 072806
3. Name of applicant: The Dark Horse Espresso Bar 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 new coffee shop/café.

<b>Proposed Activity</b>	<b>Timings</b>
Supply of Alcohol – Both on and off the premises	08:00 – 18:00 Mon to Thurs 08:00 – 23:00 Fri & Sat 08:00 – 21:00 Sun  08:00 start amended from original application
Opening hours	07:30 – 18:00 Mon to Thurs 07:30 – 23:00 Fri & Sat 07:30 – 21:00 Sun

**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 family run coffee shop serving artisan coffee along with a breakfast and lunch menu with sharing plates and homemade and locally made cakes. With inside dining in a café style atmosphere in the main area, we will also have outside seating. The outside will be sectioned off from the pavement with planters and barriers clearly outlining the boundary. The menu will also be available as takeaway.
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**

- a. All staff will be fully trained on the operating schedule and the licensing activities that will take place.
- b. Regular staff training will take place and be conducted by management.
- c. A risk assessment will be included in the operation schedule and will be given to each staff member to read/learn/sign.
- d. A copy of the risk assessment will be held on the premises for staff reference.
- e. Appropriate signage will always be displayed at the point of sale.
- f. No proof, no sale age verification policy.
- g. Challenge 25 verification policy.
- h. Only sales to be made during licensed hours.
- i. We are first and foremost a café that does not want to become a bar we just want to be able to have an alcohol offering alongside our café menu. Our business is marketed as a quality coffee shop that's main focus is great coffee and quality food served in a warm and friendly café environment. The sale of alcohol is simply an additional point of sale to our "main" products which is quality artisan coffee and quality food.

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

- a. Effective management of premises and written procedures for managing incidents.
- b. Keeping an incident book and daily register which lists incidents and actions taken.

- c. Ensuring that staff receive proper training on relevant issues, policies and procedures.
- d. Ensuring that contact numbers are available to staff members for street rangers, security and police so that they can be contacted and co-operated with if incidents of a violent, anti-social or otherwise criminal nature occur.
- e. Ensuring all staff are clear on hours that sales of alcohol are permitted within.
- f. Only serving takeaway wine and beer in an unopened condition.
- g. Liqueur hot and cold takeaways to be only consumed in plastic/paper cups with lids.

## **12. Public Safety**

- a. Risk assessment for the premises and sales of alcohol, up to date and available for staff to access.
- b. Ensuring that the premises both internally and externally are maintained in good, clean and tidy condition at all times.
- c. Only serving takeaway liqueur coffee in plastic or paper cups or beer and wine in unopened/sealed bottles and cans.
- d. Implementing a policy of last consumption time to prevent disorder and overconsumption. Stop serving 30 min before closing time.

## **13. The Prevention of Public Nuisance**

- a. Abiding by hours of licence and only serving during those hours.
- b. Complying with all of the conditions of the licence.
- c. Ensuring that appropriate control measures are in place and staff training is up to date and relevant.
- d. Ensuring adequate supervision of outdoor area.
- e. Participating in communication to resolve any issues that may arise.
- f. Managing the disposal of waste and empty cups.
- g. Serving food for patrons to consume at the same time as alcohol consumption if they wish.

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

- a. Displaying relevant signs at point of sales.
- b. Ensuring vigilance against underage drinking and proxy purchasing.
- c. Strictly enforcing challenge 25 and requiring accredited proof of age cards with photographs, or passports, no proof, no sale, age verification policy.
- d. Training staff to recognise fake ID.

- e. Ensuring comprehensive and up to date staff training.
- f. Ensure that consideration is given to the impact of parental drinking and associated behaviours.
- g. Not displaying alcohol alongside confectionary or other goods likely to be of interest to children.
- h. Ensuring that accompanying adults are able to take responsibility for and supervise the children at all times.

### **Special Policy Consideration**

- 15. This premises are 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 timings for the supply of alcohol. 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 two relevant representations 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 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 (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**

**Author:**  
Lesley Cooke  
Licensing Manager

**Chief Officer Responsible for the report:**  
James Gilchrist  
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report  
Approved**



**Date**

1.6.2023

**Specialist Implications Officer(s)**  
Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Micklegate**



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

### **Background Papers:**

- Annex 1** - Application form and Plan
- Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** – Condition agreed with North Yorkshire Police
- Annex 4** - List of Representors (**Confidential**)
- Annex 5** - Representations
- Annex 6** - Map of area
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and policy