
Licensing Act 2003 Sub Committee

8 August 2024

Report from the Director – Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for Café Frango, The Pavilion at the Cocoa Works, Haxby Road, York, YO31 8TA

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 078059
3. Name of applicant: Café Frango (Haxby Road) 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 newly built pavilion in the grounds of the Cocoa Works.

Proposed Activity	Timings
Supply of Alcohol – on & off the premises	08:00 to 23:00 everyday
Opening hours	08:00 to 23:00 everyday

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 newly constructed glass and steel pavilion in the grounds of the Cocoa Works on Haxby Road. Accommodation is circa 2000 square feet which include the serving area, café and ancillary events space.

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. Will be an inclusive food led venue, so drinking is an additional rather than core offering.
- b. The below measures will be implemented, all staff will require adequate training to ensure the licensing objectives are met.

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

- a. Training given to staff in crime prevention and drug awareness measures.
- b. Plenty of seating to limit vertical drinking.
- c. Agree measures with the police to reduce crime and disorder.
- d. Do not serve anyone who appears drunk or underage.
- e. Effective CCTV

12. **Public Safety**

- a. Provision of CCTV.
- b. Fire evacuation procedures in place.
- c. Free water available.
- d. Premises supervisors to be adequately trained in Health and Safety (and be compliant).

13. **The Prevention of Public Nuisance**

- a. Adequate procedures in place regarding noise, litter, and opening hours.
- b. Not to adversely affect residents.
- c. Wind down period at close of play, reducing noise.
- d. No glass to be emptied in bins after 9pm on an evening.
- e. External doors to be kept shut especially when entertainment is taking place.
- f. Notices to ensure customers leave quietly.

14. The Protection of Children from Harm

- a. Limit hours children can be present, or ensure they are occupied by an adult.
- b. Challenge 21 policy – suitable proof of age policy in place, only accepting ID with PASS logo.
- c. Ensure staff are vigilant and aware of potential risks to children.
- d. Ensure children are in sight and care of their parent.

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 to include the proposed addition conditions to be added to the licence if granted. 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 public nuisance and 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 commitments to make York a healthier, fairer, more accessible place, where everyone feels valued, creating more regional opportunities to help today's residents and benefit future generations. It supports the priority for a fair, thriving, green economy for all.

38. Implications

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions) when setting its Statement of Licensing Policy.
- **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.

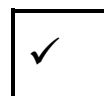
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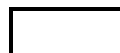
**Report
Approved**



Date 24 July 2024

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

Wards Affected: Guildhall Ward



For further information please contact the author of the report

Background Papers: None.

Annexes:

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 (CONFIDENTIAL)

Annex 5 - Representations

Annex 6 - Map of area

Annex 7 - Mandatory Conditions

Annex 8 - Legislation and Policy