

Licensing Act 2003 Sub Committee

8 August 2023

Report from the Director – Environment, Transport & Planning

**Section 18(3) (a) Application for a Premises Licence for 46
Walmgate, York, YO1**

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 073136
3. Name of applicant: Mr Joseph Moore
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 café/wine bar:

Proposed Activity	Timings
Live Music – indoors	10:00 to 23:00 everyday
Recorded Music – indoors	10:00 to 23:00 everyday
Late Night Refreshment – indoors and outdoors	23:00 to 01:00 everyday
Supply of alcohol – on and off the premises	10:00 to 23:30 Sunday to Thursday 10:00 to 00:30 Friday & Saturday
Opening Hours	10:00 to Midnight Sunday to Thursday 10:00 to 01:00 Friday & Saturday

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 small ground floor café and wine bar.
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. The premises is a small ground floor café and wine bar, serving food and drink from 12 noon, last orders for food will be 22:00 hours.

11. The Prevention of Crime and Disorder

- a. The premises is small and cannot accommodate large groups.
- b. All patrons will be seated either at bar or tables.
- c. Food and drink will be table service only.

12. Public Safety

- a. A full fire risk assessment will be carried out upon completion of building works.
- b. Advice on occupancy will be obtained by a fire safety professional.
- c. All staff will be trained in fire safety procedures.

13. The Prevention of Public Nuisance

- a. All doors will be closed from 23:00 hours except for ingress and egress.
- b. All windows will be closed from 23:00 hours.
- c. Signage will be positioned asking patrons to leave quietly.

14. The Protection of Children from Harm

- a. Children are welcome with families.

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 and reduce the hours for some of the licensable activities (sale of alcohol and opening hours). The agreed conditions can be found at Annex 3. Therefore, North Yorkshire Police have withdrawn their representation.
19. City of York Council's Public Protection Team made representation on the prevention of public nuisance; however, they have mediated with the applicant who has agreed to amend their operating schedule and cease all regulated entertainment at 23:00 (as regulated entertainment is not licensable until 23:00 this effectively removes the need for entertainment from the application). Therefore, Public Protection have withdrawn their representation.

Summary of Representations made by Other Parties

20. There has been one relevant representation received from other persons. The list of representor(s) is attached at Annex 4.
21. The representation is predominantly based on the grounds of the prevention of crime and disorder and the prevention of public nuisance objectives. They state that these objective(s) will be undermined if the application is granted.

22. A copy of all the representations is attached at Annex 5.
23. A map showing the general area around the venue is attached at Annex 6.
24. 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

25. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
26. Option 1: Grant the licence in the terms applied for.
27. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
28. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
29. Option 4: Refuse to specify a person on the licence as premises supervisor.
30. Option 5: Reject the application.

Analysis

31. The following could be the result of any decision made this Sub Committee:-
32. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
33. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 4: This decision could be appealed at Magistrates Court by the applicant.
36. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

37. 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.
38. 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

39.

- **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

40. 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.

41. 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

42. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

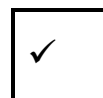
Contact Details

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**Report
Approved**



Date: 14.07.2023

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

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 3** - List of representor(s)
- Annex 4** - Representation(s)
- Annex 5** - Map of area
- Annex 6** - Mandatory conditions
- Annex 7** - Legislations and policy