

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for Secret Square Limited, Unit 4, Stonegate Walk, Hornby Passage, York, YO1 8AT

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-066152
3. Name of applicant: Secret Square Limited
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:

Proposed Activity	Timings
Sale of alcohol (on & off sales)	Monday to Sunday 10:00 – 23:00 An additional hour at Christmas, New Year’s Eve and Bank Holiday Sundays
Opening times	Monday to Sunday 10:00 – 23:30 An additional hour at Christmas, New Year’s Eve and Bank Holiday Sundays

Background

6. A copy of the application is attached at Annex 1.
7. The premises is described in the application as café/restaurant serving Kurdish cuisine.
8. A previous application made by the same applicant, but requesting different licensable activities at different times was refused by a licensing sub-committee on 27 February 2020.

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 premises is a small café bar with courtyard seating and dining. The premises is food led serving Kurdish food from 11:30 to 23:00. Full drinks menu with lunch/dinner will be available from 12:00 to 22:00 Monday, Tuesday, Wednesday, Thursday and Sunday. And from 12:00 to 23:00 Friday and Saturday.

11. The Prevention of Crime and Disorder

- a. A full colour CCTV system will be installed covering internal and external areas.
- b. One SIA licensed door supervisor will be provided on Friday/Saturday and any race days from 23:00 to 01:00.
- c. A minimum of 25 covers will be provided.
- d. A refusals register will be available and will document any refusal sales of alcohol or anti-social behaviour.
- e. Documented staff training shall be given regarding staff's responsibilities under the Licensing Act 2003 and ; retail sale of alcohol, age verification policy, any conditions attached to the licence, permitted activities, the licensing objectives and opening times. Such records will be kept for a minimum of one year and will be made available upon request to any responsible authority.

12. Public Safety

- a. A full fire risk assessment will be carried out on completion of all building works. A safe occupancy will be provided in the assessment.

13. The Prevention of Public Nuisance

- a. Clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
- b. The courtyard will not be used by customers after 23:00 hrs on Sunday, Monday, Tuesday, Wednesday and Thursday, and after midnight on Friday and Saturday.
- c. Windows and doors will be closed from 23:00 when recorded music is playing apart from ingress and egress.

14. The protection of children from harm

- a. Families with children are welcome in the restaurant until 19:00 Monday to Sunday.
- b. The Licence holder will operate a challenge 25 age verification policy.

Special Policy Consideration

15. This premises is located within the cumulative impact assessment area approved by full council on 21 March 2019. The assessment can be found at Annex 2. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at Annex 3.

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 have made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application.

19. The Police representation is attached at Annex 4.

20. City of York Council Public Protection (Environmental Protection) has made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence was to be granted in the terms applied for. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA.

21. The Public Protection representation is attached at Annex 5.

22. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA especially the Red Zone.

23. The Licensing Authority representation is attached at Annex 6.

Summary of Representations made by Other Parties

24. There have been 13 relevant representations received from other persons. One of the representations is made on behalf of 24 residents of Stonegate Court who live within 13 properties. A representation has also been received from the Ward Councillor on behalf of nearby residents. The list of representors can be seen at Annex 7.

25. The representations are based on the grounds of the prevention of public nuisance, prevention of crime and disorder and public safety, they can be seen at Annex 8.

26. A map showing the general area around the venue is attached at Annex 11.

Planning Issues

27. There are no outstanding planning issues.

Options

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

Analysis

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

Council Plan

38. 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.

39. 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

40.

- **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

41. 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.
42. 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

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

Contact Details

Author:

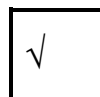
Lesley Cooke
Licensing Manager

Tel No. 01904 551515

Chief Officer Responsible for the report:

Mike Slater
Assistant Director for Planning and Public Protection.

**Report
Approved**

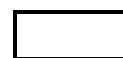


**14 April
2020**

Specialist Implications Officer(s)

Head of Democratic & Civic Services
Ext: 1030

Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Cumulative Impact
- Annex 3** – Licensing Policy Annex
- Annex 4** - North Yorkshire Police Representation
- Annex 5** - EPU Representation
- Annex 6** - Licensing Authority Representation
- Annex 7** - List of representors – **Confidential**
- Annex 8** – Other Persons representations
- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation and Policy Considerations
- Annex 11** - Map of area