

Licensing Hearing

To: Councillors Boyce, Funnell and Gillies

Date: Thursday, 24 April 2014

Time: 10.00 am

Venue: The Craven Room - Ground Floor, West Offices (G048)

A G E N D A

1. Chair

To elect a Member to act as Chair of the meeting.

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- Any personal interests not included on the Register of Interests
- Any prejudicial interests
- Any disclosable pecuniary interests

which they may have in respect of business on this agenda.

4. Minutes

To approve and sign the minutes of Licensing Hearing held on 25th March 2014.

5. The Determination of an Application by Carluccio's Ltd for a Premises Licence Section (18)(3)(a) in respect of Carluccio's, Fenwick, 2 St. Mary's Square, Coppergate Shopping Centre, York, YO1 9NY. (CYC-023147)

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-Mail – laura.bootland@york.gov.uk

For more information on any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

Distribution:

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

Press, Library.



LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS

Introduction

The procedure outlined below will be followed at all Licensing Hearings.

As Licensing Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. Members of the Licensing Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant licensing issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, the Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

Representations at Licensing Hearings

The Applicant, Ward Councillors, and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At

any hearing of an application, the Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

The Sub-Committee may take into account any documentary evidence or other information in support of the application, representations or notice, either before the hearing or, with the consent of all other parties, at the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection and hear and consider any evidence and argument in relation to it put forward by the Applicant. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may extend or expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be repeated or made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in the written submission. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

Any person behaving in a disruptive manner will be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally.

Procedure prior to the Hearing

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor (*if present*). Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*], welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.

7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case [*maximum 15 minutes*].
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses [*maximum 5 minutes each party*]
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.
12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case [*maximum 15 minutes each party*]
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation [*maximum 5 minutes per Representor*].
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.

15. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
16. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
17. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor *(if present)* on law and jurisdiction.
18. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

Procedure after the Hearing

19. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
20. If possible, and for all hearings under:-
 - section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37)
 - section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
 - section 105(2)(a) (counter notice following police objection to temporary event notice)
 - section 167(5)(a) (review of premises licence following closure order)

- paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
- paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
- paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

21. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant and Representors within 3 working days of the hearing. There can be no further questions or statements.
22. For all other hearings not listed above, if the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

City of York Council

Committee Minutes

Meeting	Licensing/Gambling Hearing
Date	25 March 2014
Present	Councillors Gillies, McIlveen and Richardson
In attendance	Councillors Ayre and Boyce

66. Chair

Resolved: That Councillor Gillies be elected as Chair of the meeting.

67. Introductions**68. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. Councillor McIlveen declared a personal interest as some of the representors were known to him.

69. Minutes

Resolved: That the minutes of the Licensing Hearings held on 4 November 2013 and 10 December 2013 be approved and signed as a correct record.

70. The Determination of an Application by City of York Council for a Premises Licence Section 18(3)(a) in respect of Monk Stray, Malton Road, York. (CYC-023066)

Members considered an application by City of York Council for a premises licence in respect of Monk Stray, Heworth, York.

Members took into consideration all of the evidence and submissions that were presented to them and determined their

relevance to the issues raised and the licensing objectives. The following were taken into account:

1. The application form, in particular the existing licence conditions and the additional steps agreed to be taken by the applicant to promote the four licensing objectives.
2. The Licensing Officer's report and her comments made at the Hearing. She advised that the application was for a premises licence for Monk Stray and was for a maximum of 14 days per year. The application for late night refreshment had now been withdrawn. The proposed licensable area was shown on maps that had been tabled at the hearing. North Yorkshire Police had met with the applicant who had agreed to some amendments to the application and a number of extra conditions being included in the licence if granted. Consultation had been carried out correctly.
3. The Applicant's representations at the Hearing, including:
 - Details of the consultation had taken place with the Police, Ambulance Service and residents
 - The application for late night refreshments had been withdrawn
 - The licensable area had now been amended
 - The activities would be in accordance with the City of York Council Events Protocol
 - The Council currently held licences for similar areas in the city and the licensing of Monk Stray would bring the stray in line with these
 - If the licence were granted for 14 days a year it would eliminate the costs incurred in applying for a licence should it be decided to hold events in the future. No such events were currently under consideration but a 14 day licence would provide a level of flexibility.
 - The stray would only be used to host family orientated events
 - Arrangements would be in place regarding traffic management and parking
 - The stewarding arrangements that would be in place
 - The action that would be taken to clear the site following the event and to put right any damage caused.

- The measures that had been put in place regarding safety and to provide safe access to the stray
4. The representations made in writing by 286 people, as detailed in Annex 4 of the report. The Sub-Committee considered the written representation to be relevant to the issues raised and the licensing objectives listed above.
 5. The representations made by at the hearing by Councillor Ayre, Councillor Boyce and Mr Julian Sturdy MP and by local residents. Issues raised included:
 - Concerns regarding public safety and crowd management
 - Traffic management and parking and access for emergency vehicles
 - Nuisance for residents in the area, including noise, litter and anti-social behaviour
 - Concerns that a 14 day licence could result in events being held regularly through the summer months
 - Concerns regarding the consultation on the application
 - Difficulties in enforcing conditions because of the open nature of the stray

In respect of the proposed licence, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 35(4) that it considered necessary for the promotion of the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for and including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003. This option was rejected as the Sub-Committee considered that it was necessary to add or modify conditions to meet the Licensing Objectives.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003 as amended. This option was approved as

the Sub-Committee considered there to be reason to modify or add any conditions to meet the Licensing Objectives.

Option 3: Grant the licence to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions of the Licensing Act 2003 as amended. This option was rejected as the Sub-Committee considered there was no reason to exclude any of the licensable activities, based on the representations, the Licensing Objectives and City of York Council Licensing Policy.

Option 4: Reject the application. This option was rejected as the Sub-Committee saw no reason to reject the application based on the Licensing Objectives and City of York Council Licensing Policy.

In coming to their decision of approving the above Option 2 the Sub-Committee then imposed the following conditions:

The licence was granted for Sunday 6 July 2014 only (a licence is not required for setting up and closing down the event).

Plays, films, live music, performance of dance and anything similar licensed from 9:00am to 11:00pm.

Recorded music licensed from 8:00am to 11:00pm.

Sale of alcohol licensed from 12:00 noon to 8:00pm

- (a) Event organisers shall submit a completed copy of the form "Notification for Provision of Live Amplified Music for Event booked on City of York Council Controlled Land", together with a detailed plan showing exact layout of the site and proposed sound monitoring locations at least 28 days before the event. A copy shall be sent to the Environmental Protection Unit and also the Licensing Unit. The notification shall include a sample of the leaflet to be sent to comply with the condition below and which addresses will receive the leaflet.
- (b) Prior to an event, noise sensitive premises in close proximity shall be leafleted about the event, information shall include details of the performance times and any sound checks taking place. Contact telephone numbers for a representative of the organiser shall be provided in

any leaflets/letters distributed to premises in the vicinity. On receipt of complaints, the event organiser shall ensure that all complaints are dealt with in accordance with the Complaints Procedure Document.

- (c) The event organiser shall appoint a responsible person who will undertake regular monitoring of the noise from the event. This person will undertake a documented sound check prior to or at the start of the event to ensure that the sound levels are acceptable. The documented patrols shall be undertaken at least once per hour, or for each separate act taking place, whichever is the more frequent. The monitoring at each location shall be for a representative period whilst the act is taking place (at least 5 minutes) and the observations shall be recorded on the Sound Monitoring Log Sheet. The actions taken shall be dependent on the observations made by the designated responsible person and shall be in accordance with the actions stated on the monitoring log sheet.
- (d) For all events at which alcohol is to be sold a 28 day notification shall be given to the police. The police will have the right to veto such sales upon submission of written, reasonable and justified grounds served within 14 days of the event. The date of notification and the date of the commencement of the event shall not form part of the 14 or 28 day notification period.
- (e) For all events where alcohol is to be sold Front Line Door Supervisors shall be deployed at all entrance points leading to where alcohol is available for sale and consumption.
- (f) The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the number of Door Supervisors depending on the style of the event.
- (g) On-sales of alcohol shall be in open non glass vessels and containers only, which will include the decanting of alcohol where necessary.
- (h) On-sales of alcohol shall be ancillary to the event i.e. there shall be no events (civil, military, family events as

per the Operating Schedule) that are based on the sale of alcohol.

- (i) Off-sales shall be made in sealed containers.
- (j) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken people as well as incidents of anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority and will be kept for a period of at least 3 months from the end of the event.
- (k) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
- (l) Signage advertising the above condition shall be displayed at all points where alcohol is offered for sale.
- (m) There shall, be a litter pick of the premises and its immediate vicinity upon the conclusion of the event or daily conclusion should the event be held over a number of days, with particular emphasis on any glass items that have been brought onto the site by customers.

The Sub-Committee then imposed the following additional conditions as agreed with the applicant and North Yorkshire Police and amended by the Sub-Committee:

1. There shall be no camping style vehicles allowed on the licensable area.
2. The provision of alcohol shall be ancillary to the provision of any other licensable activity (for the purpose of clarity the broadcast of a live televised event is not a licensable activity).
3. There shall be no off sales.
4. The provision of alcohol shall be in a clearly defined bar area. The footprint of this area shall be bordered at all times by a semi-permanent barrier.
5. The clearly defined bar area and main toilet area shall be positioned to the south end of the licensable area (for the purpose of clarity this being the area of the licensable area

- bounded by Stockton Lane and Malton Road).
6. For all events where alcohol is sold Front Line Door Supervisors shall be deployed at all entrance points leading to this clearly defined area where alcohol is available for sale and consumption.
 7. All sales of alcohol shall be in open non-glass vessels and containers, which will include the decanting of alcohol where necessary.
 8. Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue.
 9. Such records shall be kept for at least three months and they will be made available immediately upon a reasonable request from any responsible authority.
 10. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the licensed area.
 11. Both documents (referred to in the above condition) shall be kept for at least three months and they will be made available immediately upon a reasonable request from any responsible authority.
 12. The only acceptable proof of age identification shall be a current Passport, photocard Driving Licence or identification carrying the PASS logo.
 13. Signage advertising the above condition shall be displayed at all points alcohol is offered for sale.
 14. An Event Management Plan shall be submitted to the Police, Environmental Protection Unit and the local Safety Advisory Group at least 6 full weeks (42 days) prior to the event. For the purpose of clarity the day of submission and day of the event does not count towards the 42 day period.
 15. The Event Management Plan shall include the following:-
 - Proposals for staff deployment/defined duties and responsibilities/numbers of staff working the event
 - Details of the licensable activities undertaken
 - Numbers and identification (if available) of Stewards/SIA Door Supervisors
 - Demographics of proposed attendees
 - Details of the reporting procedure for any issues
 - A plan to prevent noise nuisance for nearby residents
 - A site plan showing all features of the event layout
 - A traffic management plan

- Details of the medical/first aid procedures
 - Details of the Safety Officer and how he/she will:-
 - Assist emergency services in the event of a full scale evacuation
 - Monitor crowd control
 - Co-ordinate the initial response to any emergency
 - Liaise with emergency services
16. An Incident Log shall be kept documenting all incidents/issues dealt with on the day of the event.
 17. A two way radio system between the Event Organiser, Stewards and Door Supervisors shall be in operation at all times the event is in operation.
 18. There shall be a pre-nominated Event Management Team who shall be contactable on a staffed mobile phone number at all times the event is in operation.
 19. A representative of the premises licence holder shall attend a Safety Advisory Group meeting which will be held after the Event Management Plan has been submitted.

The following conditions shall apply to customers' own consumption of alcohol whilst on the licensable area:-

20. There shall be compulsory decanting of all drinks into plastic vessels (including any wine bottles and cans)
21. There shall be no excessive amounts of alcohol to be brought on site (i.e. more than for personal consumption only).
22. Signage to indicate the compulsory decanting and no excessive amounts of alcohol shall be placed at all recognised entrances.
23. There shall be SIA Door Supervisors (at least one) specifically deployed to monitor patron's own consumption of alcohol with particular regard to drunkenness and underage drinking.
24. Patrons will not be allowed to bring their own alcohol into the clearly defined bar area.
25. There shall be a challenge 25 policy applied to young people who are consuming their own alcohol.
26. There shall be mandatory confiscation of alcohol and eviction from the site for any person who cannot prove they are over the age of 18 years (suitable ID being as listed in condition 13)

All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises

licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

The Sub-Committee concluded that the application was acceptable with the above mandatory and additional conditions attached, which addressed representations made both in writing and at the hearing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

These conditions come into effect immediately.

Reason for the Decision:

The Sub-Committee considered carefully the application for the grant of a premises licence and gave due regard to the Licensing Act 2003, the licensing objectives, statutory guidance, the Council's statement of Licensing Policy, Human Rights legislation and representations, both written and given orally by the applicant and all representors.

The Sub-Committee noted that the premises are situated close to residential properties. They accepted the representations of the residents who gave evidence at the hearing and in writing that the licensable activities would be likely to give rise to parking problems, noise nuisance and crime and disorder. The Sub-Committee was concerned that there was not adequate access for emergency vehicles. It was also very concerned that it did not have sufficient information about the sort of family events that were likely to take place at the premises, other than the Tour de France event planned for 6 July 2014.

The Sub-Committee noted the applicant's desire for a licence that permitted 14 days of licensable activities per year in order to bring the licence into line with the Council's other licensed public open spaces and the wish to avoid the costs of a further application. However this was not a matter of any weight with regard to the promotion of the licensing objectives.

The Sub-Committee took into account the efforts made by the applicant in the operating schedule and the additional conditions agreed with the Police to control crime and disorder and

disturbance to local residents. However, the Sub-Committee considered that despite the applicant's best efforts to minimise disturbance to residents, it was necessary to limit the duration of the licence to the planned Tour de France event on 6 July 2014 only, in order to protect the amenity of local residents. This is because it was considered that conditions would not be sufficient to address the residents' concerns in respect of a licence of unlimited duration that would permit 14 days of licensable activities per year.

The Sub-Committee imposed the above-mentioned conditions in respect of the Tour de France event planned for 6 July 2014 as being proportionate and appropriate to meet the licensing objectives:

Resolved: That Members determined the application in line with Option 2.

Reason: To address the representations made.

Cllr Boyce, Chair

[The meeting started at 10.00 am and finished at 1.45 pm].



Licensing Act 2003 Sub Committee**24 April 2014**

Report from the Assistant Director – Housing & Community Safety

Section 18(3)(a) Application for a premise licence for Carluccio's, Fenwick, 2 St Mary's Square, Coppergate Shopping Centre, York, YO1 9NY.

Summary

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-023147
3. Name of applicant: Carluccio's Ltd.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The proposal is to allow for:
 - the provision of late night refreshment, Monday to Saturday between 23:00hrs and 23:30hrs
 - the sale of alcohol, both on and off the premises, Monday to Saturday between 09:00hrs and 23:00hrs and on Sunday between 11:00hrs and 22:30hrs

Background

6. A copy of the application is attached at Annex 1.
7. The Fenwick store has its own premises licence covering the whole of the store, licence number CYC 009580. This licence allows for the off-sales of alcohol and for on-sales when it is sold or supplied to persons taking table meals and as an ancillary to their meals. A copy of this licence is attached at Annex 2.

Promotion of Licensing Objectives

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. General
 - a) The premises will trade predominantly as a restaurant, and substantial food and non-intoxicating drinks shall be available at all times the premises are trading.
 - b) Off sales of alcohol will primarily be made from the delicatessen area (marked retail upon the plan).
 - c) Tables and chairs will be laid out for customers and there shall be waiter/waitress service. Food and alcohol will be served to customers seated or to those waiting to be seated.
 - d) Management are well aware of all their responsibilities in respect of the current legislation. There is an intensive 10 day training scheme for all staff joining the company before a new unit opens and thereafter there is ongoing regular training. Full and detailed training manuals are available for inspection, which are regularly updated as and when necessary.
 - e) The introductory pack provided to all staff provides summary notes relating to the appropriate and relevant legislation which they have to sign.
10. The prevention of crime and disorder
 - a) Staff training includes details of offences relating to the sale and supply of alcohol to under 18s.
 - b) Crime prevention measures will be instigated following consultation with North Yorkshire Police.
 - c) The taking of alcoholic and other drinks from the premises in open containers shall not be permitted.
11. Public Safety
 - a) The staff training and manuals referred to above include full training in relation to accidents to staff and customers on the premises and requirement to detail and such problems, and also

full food hygiene training which is reinforced by the general introductory notes and safety notes.

- b) Risk assessments are carried out at regular intervals and revised if there is any change in methods used at the unit for both fire safety, general hazards and food safety.

12. The prevention of public nuisance

- a) Only very low background music is played inside the unit and there is never an issue of noise escape.

13. The protection of children from harm

- a) Staff to be trained to ensure that there is no sale of alcohol to persons under 18.
- b) The premises operate a challenge 21 policy and age identification shall be a full UK photo driving licence, passport, military ID card, a recognised proof of age card accredited with the PASS logo, any other form of ID approved by the police.

Special Policy Consideration

Consultation

- 14. This premise is located within the extended special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.
- 15. 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.
- 16. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

17. North Yorkshire Police have made a representation to the application on the grounds that the licensing objective, the prevention of crime and disorder would be undermined. A copy of their representation is attached at Annex 4.

Summary of Representations made by Parties other than Responsible Authorities

18. There were no representations.
19. A map showing the general area around the venue is attached at Annex 5.

Planning Issues

20. There are no planning issues relevant to this application.

Options

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

Analysis

26. The following could be the result of any decision made this Sub Committee:-
27. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
28. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

29. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
30. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

31. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
32. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

33.
 - **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

34. 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.
35. 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

36. 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:

Steve Waddington
Assistant Director
Housing & Community Safety.

**Report
Approved**



Date 10/04/2014

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall East

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of application form
- Annex 2** - Fenwick's premises licence (CYC 009580)
- Annex 3** - Copy of Special Policy
- Annex 4** - Representation from North Yorkshire Police
- Annex 5** - Map showing location of venue
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations

This page is intentionally left blank