

Report from the Assistant Director – Housing & Community Safety

**Section 18(3) (a) Application for The Botanist, 15 Stonegate, York,
YO1 8ZW**

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-055340
3. Name of applicant: New World Trading Company.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for:
 - a) The provision of live and recorded music between 10:00hrs and midnight Sunday to Thursday and between 10:00hrs and 01:00hrs Friday and Saturday.
 - b) The provision of late night refreshment between 23:00hrs and 00:30hrs Sunday – Thursday and between 23:00hrs and 01:30 Friday and Saturday.
 - c) The sale of alcohol between 10:00hrs and midnight Sunday to Thursday and between 10:00hrs and 01:00hrs Friday and Saturday.
 - d) Opening times from 10:00hrs to 00:30hrs Sunday to Thursday and from 10:00hrs to 01:30hrs Friday and Saturday.
 - e) Non standard timings relating to the above are from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Background

6. A copy of the application is attached at Annex 1.

Promotion of Licensing Objectives

7. The operating schedule submitted by the applicant showing how the licensing objectives would be met is attached at Annex 2.

Special Policy Consideration

8. This premise is located within the special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.

Consultation

9. 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.
10. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

11. Both the North Yorkshire Police and the council's Licensing Authority have made representations to the application on the grounds that as the venue is located within the city's cumulative impact zone, it is believed that the licensing objectives, the prevention of crime and disorder and public nuisance would be undermined on the granting of this application. Copies of these representations are attached at Annex 4 and 5 respectively.

Summary of Representations made by Parties other than Responsible Authorities

12. One relevant representations has been received from a local resident which is shown at Annex 6.

13. A map showing the general area around the venue is attached at Annex 7.

Planning Issues

14. There are no planning issues regarding this application.

Options

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

Analysis

20. The following could be the result of any decision made this Sub Committee:-
21. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
22. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
23. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
24. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

25. 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.

26. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

27.

- **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

28. 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.
29. 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

30. Members determine the application.

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

Contact Details

Author:

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Chief Officer Responsible for the report:

Steve Waddington
Assistant Director
Housing & Community Safety.

Report
Approved



Date 05/05/2016

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall

For further information please contact the author of the report

Background Papers:

Annex 1 - Application Form

Annex 2 - Operating Schedule

Annex 3 - Special Policy

Annex 4 - Police Representation

Annex 5 - Licensing Authority Representation.

Annex 6 - Local Resident Representation

Annex 7 - Map of Area

Annex 8 - Mandatory Conditions

Annex 9 - Legislation and Policy Considerations