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**Licensing Act 2003 Sub Committee****9 June 2016**

Report from the Assistant Director – Housing & Community Safety

**Section 18(3) (a) Application for Cosy Club, 19-22 Fossgate, York, YO1 9TA****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-055481
3. Name of applicant: Loungers Limited.
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 late night refreshment Sunday to Wednesday 23:00 hours until midnight and Thursday to Saturday 23:00 hours until 00:30 hours, and an extension on New Year's Eve until 01:30.
  - b) The sale of alcohol Sunday to Wednesday 10:00 hours until 23:30 hours and Thursday to Saturday 10:00 hours until midnight, and an extension on New Year's Eve until 01:00 hours.

**Background**

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

**Promotion of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General
  - a) Overcrowding shall not be permitted in any part of the premises.

- b) The premises licence holder, or the person appointed to be in charge of the premises when licensable activity is taking place shall provide or have the unhampered use of a telephone on the premises for use in an emergency.
- c) The premises shall operate primarily as a restaurant, not as a bar or vertical drinking establishment providing food and non-alcoholic drinks.
- d) There will be a minimum of 60 seated covers for diners on the ground floor and a minimum of 60 seated covers for diners on the first floor.
- e) Customers must be permitted to place food orders (full menu) no less than 2 hours before the premises close to the public.

9. The prevention of crime and disorder

- a) Management and staff shall be in attendance in the trading area at all times that alcohol is sold or supplied.
- b) A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.
- c) The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy
- d) CCTV cameras shall be installed to provide adequate cover of all public areas in the premises (excluding toilets)
- e) The CCTV system must be capable of providing quality images of good evidential value. Recordings must be kept for a minimum of 28 days.
- f) North Yorkshire Police or other Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.
- g) It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or other Responsible Authority.
- h) A premises incident book/refusals register shall be kept, (or EPOS till recording system). Such registers will record incidents of staff refusals to under age or drunken people as well as incidents of any alcohol related anti-social behaviour and ejections from the premises. These records shall be kept for a minimum of one year. (For the avoidance of doubt, the one year period relates to each respective entry and runs from the date of that particular entry).
- i) There shall be no off sales of alcohol.

- j) An adequate number of door supervisors (at least one) shall be provided at the venue from 17:00 hours to the close of business on the evenings of race meetings held at York Racecourse (save for the family meeting held in September and the first meeting in May)
- k) When door supervisors are on duty they shall sign in and out of the premises incident book, providing full details of their name and SIA number.

#### 10. Public safety

- a) Fire appliances, suitable to the fire risks at the premises, shall be provided to the satisfaction of the Licensing Authority and such equipment shall be maintained in proper working order and kept available for instant use. Such equipment shall be conspicuously placed and unobstructed at all times.

#### 11. The prevention of public nuisance

- a) Background music shall not be played at a level that will cause unreasonable disturbance to the occupants of any properties in the vicinity.
- b) The applicant shall co-operate with the police or officers of the local authority in the implementation of any initiatives to combat crime, disorder, antisocial behaviour or nuisance in the vicinity.
- c) The premises licence holder shall take appropriate measures to ensure that patrons leave the premises in a quiet and orderly fashion.
- d) The premises licence holder shall ensure that adequate measures are in place to prevent the escape of odours from the premises. These include odours from food preparation and refuse storage.
- e) The premises licence holder shall ensure that adequate measures are in place to remove litter or waste arising from their customers and to prevent such litter from accumulating in the immediate vicinity of their premises.
- f) Doors and windows shall be kept shut after 23:00 hours except for entry to and egress from the premises and in cases of emergency.

#### 12. The protection of children from harm:

- a) The premises shall operate a Challenge 25 policy for the sale of alcohol.
- b) The only acceptable proof of age identification shall be a current passport, photo card driving licence or identification carrying the

PASS logo (until other effective identification technologies e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder).

- c) A documented staff training programme shall be provided to all members of staff at the premises in respect of the:
- Operation of the CCTV system (including the downloading of evidence)
  - Retail sale of alcohol
  - Age verification policy
  - Conditions attached to the licence
  - Permitted licensable activities
  - The licensing objectives and
  - Opening times of the venue
- with such records being kept for a minimum of one year. (For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry).

### **Special Policy Consideration**

13. 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 2.

### **Consultation**

14. 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.
15. All procedural aspects of this application have been complied with.

### **Summary of Representations made by Responsible Authorities**

16. 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 3 and 4 respectively.

### **Summary of Representations made by Parties other than Responsible Authorities**

17. Two relevant representations have been received from the public. These are shown at Annex 5.
18. A map showing the general area around the venue is attached at Annex 6.

### **Planning Issues**

19. There are no planning issues regarding this application.

### **Options**

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

### **Analysis**

25. The following could be the result of any decision made this Sub Committee:-
26. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
27. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
28. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

29. Option 4: This decision could be appealed at Magistrates Court by the applicant.

### **Council Plan**

30. 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.
31. 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**

32.

- **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**

33. 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.

34. 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**

35. Members determine the application.

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

## Contact Details

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**Chief Officer Responsible for the report:**

Steve Waddington  
Assistant Director  
Housing & Community Safety.

**Report  
Approved**

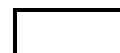


19/05/2016

**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** - Special Policy
- Annex 3** - Police representation
- Annex 4** - Licensing Authority representation.
- Annex 5** - Public representations
- Annex 6** - Map of area
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations