



Agenda Item

Licensing Act 2003 Sub Committee

26 April 2018

Report of the Director of Economy and Place

Section 35(3) (a) Application for the variation of a premise licence for Budgens, 16-18 Barley Rise, Strensall, York, YO32 5AA

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009501
3. Name of applicant: SGN Limited
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend the hours for the sale of alcohol as follows:

Licensable Activities	Existing Hours	Proposed Hours
Sale of Alcohol (Off the premises)	Monday - Saturday 08:00 – 23:00 Sunday 10:00 – 22:30 Christmas Day 12:00 – 15:00 & 19:00 – 22:30 Good Friday 08:00 – 22:30	Monday to Sunday 07:00 – 23:00
Opening Hours	No restrictions	Monday to Sunday 07:00 – 23:00

Background

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.

Promotion of Licensing Objectives

8. The applicant states that they seek to promote the licensing objectives as follows –

General

1. The store operates to a high standard, and will continue to do so should this variation be granted in terms of the sale of alcohol. All staff are fully trained in their responsibilities with regard to the sale of alcohol, and will be retrained every six months, with recorded training records kept for inspection.

Prevention of Crime and Disorder

1. CCTV is in operation. The cameras will –
 - provide a linked record of the date, time and place of any image;
 - provide good quality images;
 - operate within existing light levels within and outside the premises;
 - have the recording device located in a secure area or locked cabinet;
 - have a monitor to review images and record picture quality;
 - be regularly maintained to ensure continuous quality of image capture and retention.
2. Have signage displayed in the customer area to advise that CCTV is in operation.
3. Digital images must be kept for 31 days.
4. Police or local authority employees will have access to images at any reasonable time.
5. Copies of recordings must be made available to Police of authorised local authority employees on request.

Public Safety

1. Staff will be trained to be alert to any potential danger to customers and react accordingly. If they are unable to quickly defuse the

situation without risk to customer or staff, then they are instructed to call the police. All relevant fire procedures are in place for a store of this size.

Prevention of Public Nuisance

1. Youths will be encouraged to move from the entrance to the store to prevent the potential of causing nuisance to customers, either in requesting they purchase alcohol on their behalf, or general intimidating behaviour.
2. The entrance to the store is visible from the till point area, and so can be monitored by staff. CCTV cameras will pick up any disturbance in this area.
3. Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the needs of local residents and leave the premises and area quietly. The notices shall be positioned at eye level and in a location where those leaving the premises can read them.

[Reference is made in this section of the application to the premises being a forecourt site. This is not the case, there is no petrol station located at this site.]

Protection of Children from Harm

1. Only photographic ID is accepted (passport, driving licence, proof of age card with PASS hologram). Anyone who appears to be under the age of 25 is challenged to provide ID. If the customer is unable to provide identification then no sale is made.
2. Any staff member who may be under the age of 18 must call a senior staff member to take over the sale and complete the transaction.
3. If it is known that a customer intends to purchase alcohol to provide to minors then that sale will be refused.
4. A written record of refused sales shall be made available to Police and / or the Local Authority upon request and shall be kept for a least one year from the date of the last entry.

Special Policy Consideration

9. The premises is not located within the special policy area.

Consultation

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

Summary of Representations made by Responsible Authorities

12. There were no representations to the application from responsible authorities.

Summary of Representations made by other persons

13. There were 13 representations received from other persons mainly on the grounds the prevention of public nuisance licensing objective will be undermined if the variation is granted. A list of the representors is attached at Annex 3. Copies of their representations are attached at Annex 4.
14. A map showing the general area around the venue is attached at Annex 5.
15. Members are reminded that representations are only “relevant” if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Planning Issues

16. There are no planning issues in relation to this application.

Options

17. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-
18. Option 1: Grant the variation of the licence in the terms applied for.

19. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
20. Option 3: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
21. Option 4: Reject the application.
22. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

Analysis

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

Council Plan

28. 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.
29. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

Implications

30.

- **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

31. 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.
32. 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

33. 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:

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**Report
Approved**



Date 13/04/2018

Specialist Implications Officer(s):

Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Strensall

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application form
- Annex 3** - List of representors
- Annex 4** - Copy of representations
- Annex 5** - Map of area
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations