

Licensing Act 2003 Sub Committee

10 January 2019

Report of the Corporate Director of Economy and Place

Section 35(3) (a) Application for the variation of a premises licence for Penny Petroleum, 605 Strensall Road, York, YO32 5TB

1. This report seeks Members determination of an application for the variation of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009569
3. Name of applicant: Penny Petroleum Partnership 2
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application as follows:
 - Permit the sale of alcohol to from 06:00 until 23:00
 - Remove embedded restrictions

Licensable Activities	Existing Hours	Proposed Hours
Sale of Alcohol (Off the premises)	08:00 until 23:00 Mon to Sat 10:00 until 22.30 Sunday	06:00 until 23:00 Mon to Sun
Opening Hours	unrestricted	06:00 until 23:00 Mon to Sun

Background

6. A copy of the existing premises 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 –

Licensing Objectives:

General

The prevention of crime and disorder

A CCTV system will be in operation at the premises and recorded images shall be retained for a period of 31 days. CCTV images will be provided to the police and other Responsible authorities as soon as practicable and in any case within 48 hours of a request for such images, subject of the provisions of the DPA.

A register of refusals of alcohol will be maintained at the premises. The register shall be examined on a regular basis by the duty manager/DPS and the date and time of each examination will be endorsed in the register. The register will be made available for inspection by the police and other authorised officers of the Council upon reasonable request.

Public Safety

An incident register will be maintained at the premises and made available to the authorities on request.

The prevention of public nuisance

A notice will be on display asking that the customers leave the area quietly and respect the local residents

The protection of children from harm

The premises will adopt 25 Challenge policy. Posters will be on display re challenge 25. Acceptable forms of ID will be Passport, UK photo-card driving licences and cards bearing the PASS hologram.

Special Policy Consideration

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

Consultation

10. Consultation has been 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. This concerns 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. We received representation from North Yorkshire Police on the grounds that the prevention of crime and disorder licensing objective would be undermined if the licence was granted under the terms applied for. However the representation has been withdrawn as the police and applicants have agreed to additional conditions. The conditions can be seen at Annex 3.

Summary of Representations made by other persons

13. There was one representation received from 'other persons' mainly on the grounds that the 'prevention of public nuisance' licensing objective will be undermined if the variation is granted. The representor's details are attached at Annex 4. A copy of their representation is attached at Annex 5.
14. A map showing the general area around the venue is attached at Annex 6.
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 02/01/2019

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** - Copy of agreed conditions from North Yorkshire Police
- Annex 4** - List of representors
- Annex 5** - Copy of representations
- Annex 6** - Map of area
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations