
Licensing Act 2003 Sub Committee

26 June 2008

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for York's Yummy Chicken, 28 Pavement, York, YO1 9UP

Summary

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-010802.
3. Name of applicant: Gokay Timur and Mehmet Timur.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend existing hours for provision of late night refreshment. Sunday to Thursday until 03:30 hours and Friday and Saturday until 04:00 hours.
6. The existing hours for the provision of late night refreshment are Monday to Sunday until 03:00 hours.

Background

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

Promotion Of Licensing Objectives

9. The applicants do not propose any additional measures to promote the licensing objectives in their varied operating schedule other than those stipulated on their existing licence.

Special Policy Consideration

10. The premises are not located within the special policy area.

Consultation

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

Summary of Representations made by Responsible Authorities

13. A representation has been received from the following responsible authority relating to this application. This is attached at Annex 3 and summarised below:
14. City of York Council City Strategy (Planning): Make representations on the grounds of the prevention of public nuisance licensing objective. Planning applications for extended hours were refused in 2005 on the grounds that the extension of hours would be detrimental to the amenity and living conditions of the occupiers of nearby residential properties by significantly increasing the potential for late night noise, nuisance, crime and anti-social behaviour .
15. A representation was received from North Yorkshire Police on the grounds of prevention of crime and disorder and public nuisance. The representation was subsequently withdrawn when the applicants agreed to the following conditions being attached to the licence if the variation is granted;
 - 1) CCTV will be installed to cover the premises. It will be maintained and working at all times that the premises are open. Copies of the recordings will be kept available for any relevant authority for five days.
 - 2) Upon closing the premises at the conclusion of business, staff will undertake a general litter pick-up and tidy of the general area of the premises.

Summary of Representations made by Interested Parties

16. There were no representations received from interested parties.
17. 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

18. Planning applications for extended hours were refused in 2005 when permission was sought to open the premises until 03:00 hours MOndays to

Saturdays. A planning condition stating the premises should be closed by midnight was approved in 2001 (Planning Ref 00/250/FUL)

Options

19. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
20. Option 1: Grant the variation of the licence in the terms applied for.
21. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
22. 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.
23. Option 4: Reject the application.

Analysis

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

Corporate Priorities

29. 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.
30. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

31.

- **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

32. 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.
33. 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

34. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

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Report Approved



Date 10 June 2008

Specialist Implications Officer(s):

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Wards Affected: Guildhall

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 representation from Responsible Authority
- Annex 4** - Mandatory Conditions
- Annex 5** - Legislation and Policy Considerations