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**Licensing Act 2003 Sub Committee****6 February 2020**

Report from the Assistant Director – Planning &amp; Public Protection

**Section 18(3) (a) Application for a premises licence for Secret Square Limited, Unit 4, Stonegate Walk, Hornby Passage, York, YO1 8AT****Summary**

1. This report seeks Members determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-065668
3. Name of applicant: Secret Square Limited
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The proposal is to allow for the provision of the following activities:

<b>Proposed Activity</b>	<b>Timings</b>
Live Music (Indoors)	11:30 – 23:00 everyday An additional hour on bank holiday Sundays and New Year's Eve
Recorded Music, Performance of Dance (Indoors)	Sunday to Thursday 11:30 - 23:30 Friday & Saturday 11:30 – 01:00 An additional hour on bank holiday Sundays and New Year's Eve
Late night refreshment (both indoors & outdoors)	Sunday to Thursday 23:00 – 23:30 Friday & Saturday 23:00 – 01:00

	An additional hour on bank holiday Sundays and New Year's Eve
Sale of alcohol (on & off sales)	Sunday to Thursday 11:30 – 23:00 Friday & Saturday 11:30 – 00:30 An additional hour on bank holiday Sundays and New Year's Eve
Opening times	Sunday to Thursday 11:00 – 23:30 Friday & Saturday 11:00 – 01:00 An additional hour on bank holiday Sundays and New Year's Eve

### **Background**

6. A copy of the application is attached at Annex 1. A copy of the plan of the premises is attached at Annex 2.
7. The premises is described in the application as café bar serving authentic Kurdish cuisine and drinks.

### **Promotion of Licensing Objectives**

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

9. General

The premises is a small café bar with courtyard seating and dining. The premises is food led serving Kurdish food from 1130 to 2300. Full drinks menu with lunch/dinner will be available from 1200 to 2200 Monday, Tuesday, Wednesday, Thursday and Sunday. And from 1200 to 2300 Friday and Saturday.

10. The Prevention of Crime and Disorder

- a. A full colour CCTV system will be installed covering internal and external areas.

- b. One SIA licensed door supervisor will be provided on Friday/Saturday and any race days from 2300 to 0100.
- c. A minimum of 25 covers will be provided.
- d. A refusals register will be available and will document any refusal sales of alcohol or anti-social behaviour.
- e. Documented staff training shall be given regarding staff's responsibilities under the Licensing Act 2003 and ; retail sale of alcohol, age verification policy, any conditions attached to the licence, permitted activities, the licensing objectives and opening times. Such records will be kept for a minimum of one year and will be made available upon request to any responsible authority.

#### 11. Public Safety

- a. A full fire risk assessment will be carried out on completion of all building works. A safe occupancy will be provided in the assessment.

#### 12. The Prevention of Public Nuisance

- a. Clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
- b. The courtyard will not be used by customers after 2300 hrs on Sunday, Monday, Tuesday, Wednesday and Thursday, and after midnight on Friday and Saturday.
- c. Windows and doors will be closed from 2300 when recorded music is playing apart from ingress and egress.

#### 13. The protection of children from harm

- a. Families with children are welcome in the restaurant until 19:00 Monday to Sunday.
- b. The Licence holder will operate a challenge 25 age verification policy.

#### **Special Policy Consideration**

- 14. This premises is located within the cumulative impact assessment area approved by full council on 21 March 2019. The assessment

can be found at Annex 3. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at Annex 4.

### **Consultation**

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

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

17. North Yorkshire Police have made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application.
18. The Police representation is attached at Annex 5.
19. City of York Council Public Protection (Environmental Protection) has made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence was to be granted in the terms applied for. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA.
20. The Public Protection representation is attached at Annex 6.
21. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA especially the Red Zone.

22. The Licensing Authority representation is attached at Annex 7.

### **Summary of Representations made by Other Parties**

23. There have been 15 relevant representations received from other persons. The list of representors can be seen at Annex 9.
24. The representations are based on the grounds of the prevention of public nuisance, prevention of crime and disorder and public safety, they can be seen at Annex 8.
25. A map showing the general area around the venue is attached at Annex 10.

### **Planning Issues**

26. There are no outstanding planning issues.

### **Options**

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

### **Analysis**

32. The following could be the result of any decision made this Sub Committee:-
33. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
34. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

35. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
36. Option 4: This decision could be appealed at Magistrates Court by the applicant.

### **Council Plan**

37. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
38. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

### **Implications**

- 39.
- **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**

40. 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.
41. 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**

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

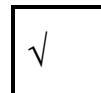
### **Contact Details**

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Mike Slater  
Assistant Director for Planning and Public Protection.

**Report  
Approved**



**28/01/2020**

**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** - Plan of premises
- Annex 3** - Cumulative Impact
- Annex 4** – Licensing Policy Annex
- Annex 5** - North Yorkshire Police Representation

- Annex 6** - EPU Representation
- Annex 7** - Licensing Authority Representation
- Annex 8** - Other Persons Representations
- Annex 9** - List of Representors
- Annex 10** - Map of area
- Annex 11** - Mandatory Conditions
- Annex 12** - Legislation and Policy Considerations