

Licensing Act 2003 Sub Committee

14 June 2021

Report from the Director – Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for 7 Castlegate, York, YO1 9RN

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 - 68419
3. Name of applicant: Hardey Ltd
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 at a 7 Castlegate as follows:

Proposed Activity	Timings
Recorded Music – indoors	1000 to 0100 everyday New year's eve 1000 to 0200 British summer time – an extra hour when clocks go forward
Late night refreshment – indoors	2300 to 0100 New year's eve 2300 to 0200 British summer time – an extra hour when clocks go forward
Supply of alcohol – on & off the premises	1100 to 0100 New year's eve 1000 to 0200 British summer time – an extra hour when clocks go forward

	On race days or other locally or nationally significant events start time may commence at 1000
Opening hours	1100 to 0100 New year's eve 1000 to 0200 British summer time – an extra hour when clocks go forward On race days or other locally or nationally significant events start time may commence at 1000

Background

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. The premises is described in the application as ground floor café/bar specialising in natural and organic wines, beers and spirits alongside a food menu. The site also comprises of two external areas to the front and rear.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 2**.

Promotion of Licensing Objectives

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

10. General

Annual staff training will be conducted enforcing the premises licence regulations.

Yearly records of this training will be kept on site for each employee.

11. The Prevention of Crime and Disorder

- Operational CCTV will be installed.
- DPS will assess the need for doorstaff
- DPS will build links with the local community/watch dog.

- All off sales will be in sealed containers
- All staff will discourage irresponsible drinking and behaviour.

12. Public Safety

- Incident book will be kept on site and up to date.
- Operational CCTV
- All exit signs will be illuminated
- Fire safety regulations will be in place
- Staff will be first aid trained

13. The Prevention of Public Nuisance

- DPS will close all doors and windows at 2300 to reduce noise
- Prominent signs will be placed at exits requesting guests to respect local residents and leave quietly

14. The Protection of Children from Harm

- The premises will operate a Challenge 25 policy, the only accepted proof of age being that stated in Licensing Regulations

Special Policy Consideration

15. This premises is located within the cumulative impact assessment area which was 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

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

Summary of Representations made by Responsible Authorities

18. North Yorkshire Police made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule, operating times, plans and have added several conditions. The agreed conditions can be found at **Annex 5**. Therefore North Yorkshire Police have withdrawn their representation.
19. Further to mediation taking place with North Yorkshire Police the applicant has now amended the times applied for as follows:
 - Opening hours 1100 to 2300 Monday to Sundays and 1100 to 0100 Friday and Sat. The sale of alcohol will cease 30 minutes prior to these timings.
 - They have also agreed to amend the plan to remove the external areas from being part of the licensed area – this does not however prevent customers being served in those areas or consuming food and drink including alcohol.
20. The City of York Council's Public Protection Team have made representation on the prevention of public nuisance, however they have mediated with the applicant who has agreed to amend their operating schedule and have added extra conditions. The agreed conditions can be found at **Annex 6**. Therefore Public Protection have withdrawn their representation.

Summary of Representations made by Other Parties

21. There have been 6 relevant representations received from other persons. The list of representors is attached at **Annex 7**.
22. The representations are predominantly based on the grounds of the prevention of crime and disorder and the prevention of public nuisance objectives. They state that this objective(s) will be undermined if the application is granted.
23. A copy of all the representations are attached at **Annex 8**.
24. A map showing the general area around the venue is attached at **Annex 9**.
25. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at **Annex 10**. The Legislation and Policy considerations can be found at **Annex 11**.

Options

26. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
27. Option 1: Grant the licence in the terms applied for.
28. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
29. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
30. Option 4: Refuse to specify a person on the licence as premises supervisor.
31. Option 5: 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.
37. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

38. 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.
39. 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

40.

- **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

41. 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.
42. 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

43. Members determine the application.

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

Contact Details

Author:

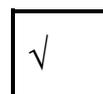
Lesley Cooke
Licensing Manager

Chief Officer Responsible for the report:

James Gilchrist
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report
Approved**



Date
20/05/2021

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 & plans
- Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** - Cumulative Impact
- Annex 4** - Licensing Policy Annex
- Annex 5** - Conditions agreed with North Yorkshire Police
- Annex 6** - Conditions agreed with Public Protection
- Annex 7** - List of representors (**CONFIDENTIAL**)
- Annex 8** - Copy of representations from other persons
- Annex 9** - Map of area
- Annex 10** - Mandatory Conditions
- Annex 11** - Legislation and Policy Considerations