
Licensing Act 2003 Sub Committee

29 January 2009

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for 8 Horizon Court, Audax Close, Clifton Moor, York, YO30 4US

Summary

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-014440
3. Name of applicant: Mr Ahmet Caglar.
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The nature of the application is to allow for the provision of late night refreshment between 23:00 hours and midnight, seven days a week.

Background

6. A copy of the application is attached at Annex 1.
7. Correspondence dated 10 December 2008 from the applicant's agent indicates that the premises will only be used for the preparation, cooking and delivering of food but not for serving on site. A copy of this letter is attached at Annex 2.

Promotion Of Licensing Objectives

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. General: 1) The premises is open to the general public for the purchase of hot and cold food to take away and be consumed off the premises.
10. The prevention of crime and disorder: 1) A CCTV system will be installed within the premises. 2) Any disorderly behaviour will be dealt with by contacting the police. 3) Staff will not serve anyone who is drunk.

11. Public safety: 1) Escape routes shall be kept clean and clear. 2) Flooring within the premises to be kept in good order with non-slippery surfaces.
12. The prevention of public nuisance: 1) Waste from the business premises will be disposed of in an orderly manner. 2) Noxious smells from the kitchen will be kept to a minimum via the use of an extract system with filters.
13. The protection of children from harm: 1) After 23:00 hours any children under the age of 12 years entering the premises shall be accompanied by an adult. 2) Children entering the premises shall be monitored and supervised to prevent any harm.

Special Policy Consideration

14. This premise is not located within the Special Policy area.

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. A representation was received from North Yorkshire Police on the grounds of crime and disorder and public nuisance which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
 1. CCTV will be installed to cover the premises. It will be maintained, working and recording at all times when the premises are open and shall cover all areas where the public have access including the outside entrance area. The recordings should be of sufficient quality to be produced in Court or other such Hearing. Copies of the recordings will be kept available for any responsible authority for 5 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

18. A representation was received from an interested party on the grounds of crime and disorder and public nuisance. A copy of this representation is attached at Annex 3.
19. A map showing the general area around the venue from which the representation is focused is attached at Annex 4.
20. An “interested party” is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
21. 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

22. A planning application for change of use from office accommodation to hot food take away is pending consideration.

Options

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

Analysis

28. The following could be the result of any decision made this Sub Committee:-
29. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
30. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
31. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

32. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

33. 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.
34. 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

- 35.
- **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

36. 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.
37. 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

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

Contact Details

Author:

John Lacy
Licensing Manager
Licensing & Regulation

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1593

Ext: 1814

Report Approved



Date *Xx January 2009*

Specialist Implications Officer(s)

Quentin Baker
Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Rural York West

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of application form
- Annex 2** - Copy of correspondence from applicant/agent
- Annex 3** - Representation from Interested Party
- Annex 4** - Map showing general area from which representation received.
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations.