



Agenda Item

Licensing Act 2003 Sub Committee

30 March 2009

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Burger King, Clifton Moor Retail Park, Stirling Road, Clifton Moor, York YO30 4XZ

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-014707
3. Name of applicant: BurgerKing Ltd.
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 from Sunday to Thursday until midnight and on Friday and Saturday until 03:00 hours on the following morning.

Background

6. A copy of the application is attached at Annex 1.

Promotion Of Licensing Objectives

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General: 1) The customer area is easily supervised by staff and has CCTV cameras.
9. The prevention of crime and disorder: 1) CCTV recording - 11 cameras record customer areas, drive thru windows and lane, rear fire exit, kitchen, stock area and manager's office. Images are in colour and clear enough to be used in evidence. 2) Panic buttons are installed at front counter and in the manager's office. 3) Emergency and neighbouring tenants numbers listed in manager's office with telephone. 4) Dining area to be locked at 23:00 hours and then drive-thru only until closing time.

10. Public safety: 1) All fire and safety equipment checked regularly by managers and as required by professional bodies. 2) Regular mopping of floors in sections, in addition to cleans following spillages, with approved chemical balance and using wet floor caution signs. 3) Staff are disability awareness trained. 4) Disabled facilities include wide entrance doors parking space and toilet. 5) Health and Safety and fire safety training is given to all staff on induction and every six months thereafter.
11. The prevention of public nuisance: 1) Deliveries are restricted to between 07:00 and 16:00 daily. 2) Litter patrols in area surrounding restaurant regularly until dark. 3) Groundsman on site between 06:00 hrs to 10:00 hrs Monday to Friday. 4) Restaurant rubbish is collected twice weekly
12. The protection of children from harm: 1) The premises does not serve alcohol nor permit customers of any age to consume or have open alcohol containers on the premises. 2) Toilet facilities are checked regularly for cleanliness and appropriate use.

Special Policy Consideration

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

Consultation

14. 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.
15. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

16. There were no representations received from Responsible Authorities.

Summary of Representations made by Interested Parties

17. A representation was received from an interested party on the grounds of public nuisance. A copy of this representation is attached at Annex 2.
18. A map showing the general area around the venue from which the representation is focused is attached at Annex 3.
19. 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.

20. 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

21. There are no planning restrictions / conditions relevant to this premise.

Options

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

Analysis

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

Corporate Priorities

32. 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.

33. 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

34.

- **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

35. 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.
36. 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

37. 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

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Date 12 March 2009

Specialist Implications Officer(s)

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Wards Affected: Rawcliffe/Skelton and Clifton Without

For further information please contact the author of the report

Background Papers:

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