



Agenda Item

Licensing Act 2003 Sub Committee

9 April 2009

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for St Paul's Lodge, 120 Holgate Road, York, YO24 4BB

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-014775
3. Name of applicant: Julie Dianne Stables.
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The nature of the application is to allow for the supply of alcohol and the provision of regulated entertainment consisting of plays, films, indoor sporting events, live and recorded music, the performance of dance and the provision of entertainment facilities for making music and dancing and entertainment of a similar description. (N.B. see para 18.1)

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) CCTV will be installed. 2) A risk assessment shall be carried out. 3) Staff training shall be provided.
9. The prevention of crime and disorder: 1) A management strategy shall be implemented. 2) The licence holder shall participate in local licensing initiatives.
10. Public safety: 1) External lighting shall be provided.

11. The prevention of public nuisance: 1) Notices for noise reduction and consideration for the neighbours.
12. The protection of children from harm: 1) Signage to prevent the supply of alcohol to under age drinkers. 2) Adoption of the challenge 21 Policy. 3) Children must be accompanied by an adult at all times.

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. A representation was received from North Yorkshire Police on the grounds of crime and disorder which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
 1. The venue shall remain as a Guest House style operation, primarily offering "Bed and Breakfast" facility.
 2. Alcohol will only be served ancillary to a meal except for the following.
 - a) pre-booked functions (of which 48 hours notice will have been given), which may include indoor tournaments and games nights. E.g. darts tournaments
 - b) residents and bona fide guests.
 3. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall 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 7 days.
 4. The only acceptable proof of age identification shall be a current passport photocard driving licence or identification carrying the PASS logo.

5. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers care (save for the outside drinking area to the rear of the premises.)
 6. All off-sales shall be made in sealed containers (except to bona fide residents and guests for the purpose of taking alcohol to a residential room on the premises.
 7. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of door supervisors should the need arise.
 8. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
 9. The “licensable area” shall only apply to the area marked with a red line on the attached map.
 10. A capacity figure of 60 persons shall be imposed so as not to undermine the Licensing objective “Prevention of crime and disorder” used to serve alcohol beyond 23:00 hours on a Friday and Saturday.
17. A representation was received from North Yorkshire Fire and Rescue Service on the grounds of public safety which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
1. The maximum permitted occupancy of the premises shall not exceed 60 persons.
18. A representation was received from the Environmental Protection Unit, City of York Council, on the grounds of public nuisance which was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
1. The regulated entertainments consisting of plays, films, the performance of dance and the provision of entertainment facilities for making music and entertainment of a similar description are to be withdrawn from the application.
 2. No sound reproduction or amplification equipment (mechanical or electrical) shall be installed or used in or adjacent to any part of the building at any time for the purpose of external use.
 3. All doors and windows of the licensed premise to be kept closed after 22:00 hours every night.
 4. The use of the outside patio area to be restricted to 22:00 hours every night except for the provision of smoking only which will cease at midnight.

5. The provision of live and recorded music shall be limited to indoors only and shall be restricted to finish no later than 23:00 hours every night.
6. The provision of late night refreshment for non-residents shall be restricted to midnight Monday to Saturday and until 23:00 hours on a Sunday.
7. The sale of alcohol for non-residents shall be restricted to 10:00 hours until midnight Monday to Saturday and from 10:00 hours to 23:00 hours on a Sunday.
8. The hours the premises are open to the public shall be restricted to 10:00 hours until midnight every day.
9. Noise originating from within the premises shall be inaudible at the nearest noise sensitive premises after 22:00 hours every night.

Summary of Representations made by Interested Parties

19. Representations have been received from the interested parties listed at Annex 2 These representations are attached at Annex 3.
20. The addresses of the interested parties are indicated on the map attached as Annex 4.
21. 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.
22. 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.
23. Attached at Annex 8 is a copy of email correspondence between the applicant and the Licensing Section in relation to the application, in which the applicant responds to the representors concerns.

Planning Issues

24. At the time of putting this report together the Planning Dept. at City of York Council were unable to provide their comments. They will be reported at the hearing by the Licensing Officer.

Options

25. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
26. Option 1: Grant the licence in the terms applied for.

27. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
28. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
29. Option 4: Reject the application.

Analysis

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

Corporate Priorities

35. 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.
36. 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

37.
 - **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

38. 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.
39. 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

40. 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 26 March 2009

Specialist Implications Officer(s)

Quentin Baker
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Wards Affected: Holgate

For further information please contact the author of the report

Background Papers:

Annex 1 - Copy of application form

Annex 2 - List of Interested Parties

Annex 3 - Representations from Interested Parties

Annex 4 - Map showing general area from which representations received

Annex 5 - Mandatory Conditions

Annex 6 - Legislation and Policy Considerations