
Licensing Act 2003 Sub Committee

4 January 2010

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Unit 4, 62-68 Low Petergate, York YO1 7HZ

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-016617
3. Name of applicant:
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 both on and off the premises.

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) There shall be no sale of canned lagers or beers.
9. The prevention of crime and disorder: 1) A CCTV system as agreed with the police to be in place and recordings of licensable activities to be retained for a period of 31 days and to be made available to police on demand. 2) The system must be maintained in working order.
10. Public safety: Nil
11. The prevention of public nuisance: 1) All products containing alcohol must be sold in sealed containers excepting alcohol products for the purpose of

sampling on the premises. 2) All alcohol must be decanted by a member of staff.

12. The protection of children from harm: 1) Notices to be displayed within the premises indicating age restrictions to the purchase of alcohol. 2) Proof of age will be sought before purchase where the person appears to be under the age of 21. 3) If suspicion exists on a person's age and being relative to the alcohol to be purchased where photographic evidence was not produced or if produced was not satisfactory, then no sale shall be made. 4) All training must be based on a robust system and carried out by the holder of a personal licence or person otherwise trained to do so.

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.
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 but this was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted:
 1. On sales shall only take place on pre-booked occasions for the purpose of product tasting evenings.
 2. On sales as per condition 1 shall cease at 22:45 hours to allow a period of 15 minutes drinking up time.
 3. When the premises operate until 23:00 hours patrons will be reminded of the need to leave the area quietly.
 4. Off sales shall be made in sealed containers.
 5. There shall be no sale of canned lagers or beers.
 6. CCTV will be installed to cover the premises and will include all 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 police officers for 31 days.

7. Proof of age identification shall be a current passport, photocard driving licence, identification carrying the PASS logo, any other lawful document evidencing identity.
8. A Refusals Register will be kept to record incidents of staff refusals to under-age or drunken people. The document will be made available upon reasonable request from any Responsible Authority.

Summary of Representations made by Interested Parties

17. Representations have been received from the interested parties listed at Annex 2. These representations are attached at Annex 3.
18. The addresses of the interested parties are indicated on the map attached as Annex 4.
19. Since the application was submitted the applicant has written to local residents, a copy of the letter is attached at Annex 5. We are also aware that the applicant has sent further correspondence to the representors trying to mediate their concerns, this has been in relation to licensing hours. At the time of preparing this report we have not received copies of this correspondence.
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. There are no planning issues or conditions relevant to this application.

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 Strategy

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 strategy to make York a safer city with low crime rates and high opinions of the city's safety record.

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

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Report Approved



Date

16 December 2009

Specialist Implications Officer(s)

Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Guildhall West

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of application form
- Annex 2** - List of Interested Parties – Available on request.
- Annex 3** - Representations from Interested Parties – Available on request.
- Annex 4** - Map showing general area from which representations received
- Annex 5** - Letter to representors from applicant
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations