

Report of the Director of Communities and Neighbourhood

**Section 18(3)(a) Application for a premise licence for 38 Huby Court,
York YO1 9UD**

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-017191
3. Name of applicant: Mr Kemal Altin.
4. Type of authorisation applied for: Grant of Premise Licence.
5. Summary of application: The nature of the application is as follows: -
 1. To provide late night refreshment every night between 23:00 hours and 03:00 hours.
 2. To provide for the sale of alcohol, off the premises every day between 06:00 hours and 03:00 hours.

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 licence holder will not serve people causing antisocial behaviour.
9. The prevention of crime and disorder: 1) The licence holder will not serve drunken people. 2) When any persons cause trouble the police will be called.
10. Public safety: 1) CCTV will be fitted with 24 hour recording facility.
11. The prevention of public nuisance: 1) Noise levels within the shop will be kept to a minimum and people will be served as quickly as possible. 2) The licence holder will discourage people from congregating in front of the shop.

12. The protection of children from harm: 1) Age identification will be required for purchases where applicable.

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, the protection of children from harm and the prevention of public nuisance. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted: -

1. The premises shall not operate beyond 23:00 hours.
2. 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 should be of sufficient quality to be produced at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 14 days and will be made available to any Responsible Authority within 48 hours of a request.
3. The only acceptable proof of age identification shall be a current Passport, photocard Driving Licence or identification carrying the PASS logo (until other effective identification technology, e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder).
4. All Off-Sales shall be made in sealed containers.
5. Documented staff training will be given regarding the retail sale of alcohol and such records kept for at least one year.
6. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken people as well as incidents of any anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority and will be kept for at least one year.
7. Staff will undertake a litter pick of the immediate area outside the venue upon the close of business.

Summary of Representations made by Interested Parties

17. Representations have been received from a total of 53 interested parties who are listed at Annex 2. Of these interested parties, those numbered 1 – 9 have submitted individual representations, those numbered 10 – 53 have submitted a copy of letter marked 'Rep 1'. These representations are shown in Annex 3.
18. A map showing the general area around the venue from which the representations are focused is attached at Annex 4.
19. 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

20. There are no planning issues or conditions relevant to this application.

Options

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

Analysis

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

Corporate Priorities

31. 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.
32. 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

33.
 - **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

34. 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.
35. 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

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

Contact Details

Author:

John Lacy
Licensing Manger

Tel No. 01904 551593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Report
Approved



Date 09/08/2010

Specialist Implications Officer(s)

Head of Legal & Democratic Legal Services
Ext: 1004

Wards Affected: Guildhall East

For further information please contact the author of the report

Background Papers:

- Annex 1** - 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