

Licensing Act 2003 Sub Committee

21 October 2010

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for Designer Outlet Car Park, York Designer Outlet, St. Nicholas Avenue, Fulford, York

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-017400
3. Name of applicant: Lunchbox Theatrical Productions.
4. Type of authorisation applied for: Grant of Premise Licence.
5. Summary of application: The nature of the application is to allow: -

Licensable Activity	Indoors / outdoors / both	Days	Hours	Non standard timings
Live Music	Outdoors	Saturday Sunday And on weekdays between Christmas and New Year	12:00 – 18:00 12:00 – 18:00 12:00 – 18:00	To include opening night on Friday 12 November to finish by 21:00
Recorded Music	Both	Mon - Sun	09:00 – 22:00	
Supply of Alcohol	Both	Mon – Sun	12:00 – 21:30	
Opening Hours		Mon – Sun	09:00 – 22:00	Not open on Christmas Day

Background

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

Promotion Of Licensing Objectives

7. The operating schedule submitted by the applicant detailing how the licensing objectives would be met is attached at Annex 2.
8. Additional correspondence received from the applicants giving supporting information is attached at Annex 3.

Special Policy Consideration

9. This premise is not located within the special policy area.

Consultation

10. 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.
11. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

12. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following conditions being attached to the licence if granted: -
 - (i) All off-sales shall be made in sealed containers.
13. A representation was received from City of York Council Environmental Protection Unit on the grounds of the prevention of a public nuisance. This was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence if granted: -
 - (i) Documented patrols be carried out by members of staff or volunteers at no less than hourly intervals whilst live or amplified music is being played. These checks shall be undertaken on the public footpath outside the nearest residential premises on Naburn Lane to check for noise coming from the premises. These documents should be available on request for inspection by authorised officers of City of York council.
 - (ii) Direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
 - (iii) A documented procedure for investigating noise complaints received by Ice factor shall be submitted to and approved by the City Council within 2 months, and once approved implemented.
 - (iv) No music or amplified sound shall be audible on the public footpath outside the nearest residential premises on Naburn Lane.

- (v) The playing of recorded music shall be restricted to the hours 09:00 – 21:30 on any day.
- (vi) The playing of live music shall be restricted to the hours of 12:00 – 18:00 on any day other than the opening day on 12 November where the hours shall be restricted to 12:00 – 21:00.

Summary of Representations made by Interested Parties

- 14. Representations have been received from 3 interested parties who are listed at Annex 4. These representations are shown in Annex 5.
- 15. A map showing the general area around the venue from which the representations are focused is attached at Annex 6.
- 16. 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

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

Options

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

Analysis

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

Corporate Priorities

28. 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.
29. 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

30.
 - **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

- 31 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.
32. 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

33. 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 8th Oct 2010

Specialist Implications Officer(s)

Head of Legal & Democratic Legal Services
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Wards Affected: Fulford

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Operating Schedule accompanying the application form.
- Annex 3** - Additional correspondence from the applicant
- Annex 4** - List of Interested Parties
- Annex 5** - Representations from Interested Parties
- Annex 6** - Map showing general area from which representations received
- Annex 7** - Mandatory Conditions
- Annex 8** - Legislation and Policy Considerations