



Agenda Item

Licensing Act 2003 Sub Committee

18 April 2011

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for 1, Church Street, Copmanthorpe, York, YO23 3SE

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-018096
3. Name of applicant: Caroline Kay Davison.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for the sale of alcohol, off the premises, between 07:00 hours and 23:00 hours daily.

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
 - (a) Staff training and procedures in place including Challenge 21.
 - (b) Management will liaise with local police partnerships and community groups.
9. The prevention of crime and disorder:
 - (a) A refusals log and incident book will be kept and incidents reported.
10. Public safety:
 - (a) Liaise with community groups to maintain public safety.

11. The prevention of public nuisance:
 - (a) Display signs encouraging customers to respect local area and to keep noise down.
 - (b) Provide litterbins.
12. The protection of children from harm:
 - (a) A strict Check 21 policy will be implemented.

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. 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) 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 in Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days and will be made available to any Responsible Authority within 48 hours of a request.
 - (ii) Copies of the recordings will display the correct time and date of the recording.
 - (iii) 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).
 - (iv) All off-sales shall be made in sealed containers.

- (v) Documented staff training will be given regarding the retail sale of alcohol and the conditions attached to the Premises Licence. Such records shall be kept for at least one year and they will be made available upon a reasonable
- (vi) 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.

Summary of Representations made by Interested Parties

- 17. Representations have been received from 21 interested parties listed at Annex 2. Their representations are attached at Annex 3.
- 18. The location of the residential properties owned by the interested parties in relation to the premises subject to this application is shown on the map 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. These premises have planning permission for a mixed retail / cafe use granted in February 2008. Condition 5 of that planning permission (07/02894/FUL) restricts the opening hours to the following: -

Monday	06:00 – 19:00	Friday	06:00 – 19:00
Tuesday	06:00 – 19:00	Saturday	06:00 – 19:30
Wednesday	06:00 – 19:30	Sunday	06:00 – 16:00
Thursday	06:00 – 19:00		

And all staff should vacate the premises within one hour after closing.

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

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

Author:

John Lacy
Licensing Manager

Tel No. 01904 551593

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director– Housing & Public
Protection.

Report Approved Y Date 28 March 2011

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Rural York West

All

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - List of Interested Parties
- Annex 3** - Copy of representations from Interested Parties
- Annex 4** - Map showing general area from which representations received
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations