

Licensing Act 2003 Sub Committee

4 July 2011

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for Designer Outlet Coaches & Car Park, York Designer Outlet, St. Nicholas Avenue, Fulford, York YO 19 4TA

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-018431
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 as follows
 - a) The licence shall only operate between November and January every winter.
 - b) The licensable activities are detailed below :-

Licensable Activity	Indoors / outdoors	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 the opening night of each year's operation to finish at 21:00
Recorded Music	Both	Mon - Sun	09:00 – 22:00	
Supply of Alcohol	Both	Mon – Sun	12:00 – 21:00	

Opening Hours		Mon – Sun	09:00 – 22:00 Not open on Christmas Day	Open from 08:30 for skate or hockey school at weekends only.
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Background

6. A copy of the application is attached at Annex 1.
7. A similar licence was granted to the same applicants and for the same site in 2010 but that was for a limited duration and expired in January 2011. A copy of this licence is attached at Annex 2 for information.

Promotion Of Licensing Objectives

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. General
 - (a) Staff will have full branded uniforms. SIA staff will wear their identity cards on their sleeve in a florescent arm band.
 - (b) All staff will be provided with walkie-talkies to communicate with each other throughout the site.
 - (c) All signage will be clear and positioned in suitable places throughout the site.
 - (d) A 'site policy' and admission sign, approved by police, council and security company will be displayed.
 - (e) Staff will be fully trained in all aspects of the licensing law and contents of the guidance manual.
10. The prevention of crime and disorder:
 - (a) Signage will be displayed stating a zero tolerance policy regarding drugs.
 - (b) The whole site will be adequately lit at all times throughout the event to ensure that there are no dark areas on site.
 - (c) No alcohol will be permitted on site unless purchased in the bar and café. Any drinks known to be taken outside and which were purchased within the bar and café will be emptied into plastic glasses. All staff will be made aware of this in staff briefings.
11. Public safety:
 - (a) All emergency procedures and risk assessments will be briefed to all members of staff, with a copy kept on site.

- (b) An easy identifiable first aid cabin is located on site and will provide our point for all emergency services as well as lost children point.
- (c) All managers are fully qualified first-aiders with one of these on site at all times.

12. The prevention of public nuisance:

- (a) Litter in and around the event is cleared daily by ice factor staff. This will be monitored throughout the day to ensure bins are not too full and there is nothing hazardous around the site.
- (b) There shall be no noxious odours emitted from cooking.
- (c) All lights on site are positioned inwards and do not wash the road around the site or onto neighbouring buildings.
- (d) Notices will be displayed asking patrons to leave quietly.

13. The protection of children from harm:

- (a) All managers are fully CRB checked and will be the only people responsible for being with children alone. All other involvement with children will be in public areas.
- (b) A Challenge 21 Policy will be adopted and all staff will be fully briefed to operate this procedure.

Special Policy Consideration

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

Consultation

15. 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.
16. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

17. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following condition being attached to the licence if granted: -

- (i) Off sales shall be in sealed containers.
18. The City of York Council Environmental Protection Unit have met with the applicant to discuss the application. The applicant has agreed to the following condition being attached to the licence if granted: -
- (i) No music or amplified sound shall be audible on the public footpath outside the nearest residential premises on Naburn Lane Fulford.
 - (ii) Documented patrols shall be carried out by members of staff or volunteers once during the morning (between 9am and 1pm) once during the afternoon (between 1pm and 5pm) and twice during the evening (between 5pm and 10pm) 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, Fulford to check for noise coming from the venue. These documents shall be available on request for inspection by authorised officers of City of York Council.
 - (iii) Staff and volunteer training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept and made available on request for inspection by authorised officers of City of York Council.
 - (iv) A direct contact number for the duty manager shall be made available on request to residents living in the vicinity of the premises.
 - (v) A documented procedure for investigating noise complaints received by The Ice Factor shall be submitted to and approved by the City of York Council within two months and once approved it shall be implemented.

Summary of Representations made by Interested Parties

- 19. Representations have been received from 3 interested parties listed at Annex 3. Their representations are attached at Annex 4.
- 20. 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 5.
- 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. Planning currently have an undetermined application for this venue/event.

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 Priorities

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 priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

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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Chief Officer Responsible for the report:

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Report Approved

Date 17 June 2011

Specialist Implications Officer(s)

Head of Legal & Democratic Services
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Wards Affected: Fulford

All

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Copy of premises licence issued in October 2010
- Annex 3** - List of Interested Parties
- Annex 4** - Copy of representations from Interested Parties
- Annex 5** - Map showing general area from which representations received
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations