

Licensing Act 2003 Sub Committee

18 July 2011

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for Harvester, Stirling Road, Clifton Moor, York, YO30 4XY

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-018328
3. Name of applicant: Mitchells & Butlers Leisure Retail Ltd.
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/Outdoor s	Days	Hours	Non standard timings
Films	Indoors	Mon – Sun	10:00 – 00:00	<p>The end of permitted hours on New Years Eve to start of permitted hours on New Year's Day.</p> <p>One additional hour for Friday, Saturday Sunday and Monday of all bank holiday weekends (including Easter), Christmas Eve, Boxing Day, 27,28,29,30 December, And also on</p>

				St David's Day, St Patrick's Day, St. Andrew's Day, Burns Night, Valentines Night, Halloween
Recorded Music	Indoors	Mon – Sun	10:00 – 00:00	As above
Provision of facilities for making music	Indoors	Mon – Sun	10:00 – 00:00	As above
Late Night Refreshment	Both	Mon – Sun	23:00 – 00:00	As above
Supply of Alcohol	Both	Mon – Sun	10:00 – 00:00	As above
Opening Hours		Mon – Sun	10:00 – 00:30	As above

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 to be trained in the standards required by the relevant legislation and as required by company policy.

(b) The attached document 'Mitchells & Butler – A Guide to our Policies' which although does not form part of the operating schedule demonstrates the company's total commitment to best practice policies, enforced and monitored at this site.

9. The prevention of crime and disorder:

- (a) A digital CCTV system shall be installed at the premises and maintained in good working order and used at all times when the premises are open for licensable activities. Any CCTV footage shall be kept for at least 28 days and shall be available to the Licensing Authority or police on request.

10. The prevention of public nuisance:

- (a) Reasonable steps will be taken to recognise the needs of local residents and/or businesses and to encourage customers to leave the premises quietly.

11. The protection of children from harm:

- (a) The manager and staff shall be trained in the importance of their responsibilities in ensuring customers are over 18.
- (b) The premises will adopt "Challenge 21" and any person wishing to purchase alcohol who appears to be under 21 shall be asked to produce an acceptable form of identification (photographic passport, driving licence, PASS accredited and/or armed forces card)

Special Policy Consideration

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

Consultation

13. 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.
14. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

15. 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) Copies of CCTV recordings will display the correct time and date of the recording.
- (ii) Off sales shall be made in sealed containers (save for those sales specifically for consumption in any outside drinking areas attached to the premises)

Summary of Representations made by Interested Parties

- 16. Representations have been received from 3 interested parties listed at Annex 2. Their representations are attached at Annex 3.
- 17. 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.
- 18. 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

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

Options

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

Analysis

- 25. The following could be the result of any decision made this Sub Committee: -
- 26. Option 1: This decision could be appealed at Magistrates Court by any of the representors.

27. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
28. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
29. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

30. 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.
31. 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

32.
 - **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

33. 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.
34. The report details the options available to the panel in determining the application and recommends that a decision is reached. There are no risks involved with this recommendation.

Recommendations

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

Contact Details

Author:

Lesley Cooke
Licensing Manager

Tel No. 01904 551526

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director– Housing & Public Protection.

**Report
Approved**



Date 24 June
2011

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Rawcliffe/Skelton & Clifton Without

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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