

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for 83b Heworth Road, York YO31 0AA

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-019662
3. Name of applicant: James Morrison.
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 17:00 hours and 03:30 hours every day. This will be by delivery service only.

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) Members of the public will not be allowed on the premises.
9. The prevention of crime and disorder:
 - (a) Security cameras shall be installed. here shall be extra padlocks on the doors and drinks shall be kept in a locked cabinet.

10. The prevention of public nuisance:

(a) Special attention will be enforced to keep noise to a minimum.

(b) A call back scheme will be introduced to keep noise to a minimum.

11. The protection of children from harm

(a) An identification policy will be in place and persons who appear under the age of 25 will be asked for identification (photographic, passports and driving licences)

Special Policy Consideration

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

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 conditions being attached to the licence if granted:-

i. The venue is only to be used for alcohol delivery and members of the public will not be sold alcohol by visiting the premises.

ii. There shall be a documented mandatory photographic ID check for all delivery sales.

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 delivery sales of alcohol shall be undertaken by a member of staff aged over 18 years.
- v. All delivery sales of alcohol shall be to a specified address and not on the street.
- vi. All delivery sales shall be made in sealed containers.
- vii. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and operating times of the venue.
- viii. Such records (re condition 7) shall be kept for at least one year and they will be made available within 48 hours upon a reasonable request from any Responsible Authority.
- ix. 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 that may occur at delivery addresses.
- x. Both documents (referred to in condition ix shall be kept for at least one year and they will be made available within 48 hours upon a reasonable request from any Responsible Authority.

Summary of Representations made by Interested Parties

- 16. Representations have been received from 1 Interested Party. This representation is attached at Annex 2.
- 17. A map showing the general area around the venue from which the representation is focused is attached at Annex 3.
- 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.

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.

Council Plan

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 priorities to protect vulnerable people, build strong communities, and protect the environment.

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 be 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

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Chief Officer Responsible for the report:

Steve Waddington
Assistant Director– Housing & Public Protection.

Report
Approved

Date 09/01/12

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Heworth

All

For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Copy of representation from Interested Party
- Annex 3** - Map of area from which representation received
- Annex 4** - Mandatory Conditions
- Annex 5** - Legislation and Policy Considerations