

Report of the Director of Communities and Neighbourhoods

**Section 18(3)(a) Application for a premise licence for 4 Gerard Avenue, Burnholme, York YO31 0QW**

**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-019853
3. Name of applicant: Ali Gumusler.
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 the hours of 06:00 and 23:00 every 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 shows that the licensing objectives would be met as follows:
8. General
  - (a)The premises will be fitted with 24 hr CCTV.
9. The prevention of crime and disorder:
  - (a)Alcohol will not be sold to persons who have been drinking.

(b) Persons causing problems will be reported to the police.

10. Public safety:

(a) Health and Safety and Fire Safety Regulations will be in place.

11. The prevention of public nuisance:

(a) Nuisance notices will be displayed at the entrance.

12. The protection of children from harm

(a) Where appropriate, staff will undertake ID checks on customers before alcohol and tobacco products are sold.

**Special Policy Consideration**

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

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 to where the public have access.
- ii. It will be maintained, working and recording at all times when the premises are open.
- iii. The recordings should be of sufficient quality to be produced in Court or other such Hearing.

- iv. 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 request.
- v. Copies of the recordings will display the correct time and date of the recording.
- vi. All off-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 vii) shall be kept for at least one year and they will be made available immediately 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 and ejections from the premises.
- x. Both documents (referred to in condition ix) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any Responsible Authority.
- xi. Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

### **Summary of Representations made by Interested Parties**

- 17. Relevant representations have been received from 7 Interested Parties listed at Annex 2. Their representations are attached at Annex 3.
- 18. A map showing the general area around the venue from which the representations are focused is 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 There are no planning issues.

## **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.

## **Council Plan**

31. 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.

32. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

33.

- **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**

34. 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.
35. 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**

36. 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** 08/02/12



**Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Heworth**



**For further information please contact the author of the report**

**Background Papers:**

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