
Licensing Act 2003 Sub Committee

7th June 2007

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Kings Staith, York (Lowther).

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-012921.
3. Name of applicant: Shaun Binns.
4. Type of authorisation applied for: Grant of a premises licence.
5. Summary of application: The nature of the application is to permit the supply of alcohol at a pavement café.

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: 1) The area will be staffed at all times. 2) Staff will be in radio contact at all times. 3) All furniture will be removed at the end of each trading day.
9. The prevention of crime and disorder: 1) At busy periods SIA doorstaff will be on duty. 2) Staff will be in radio contact at all times.
10. Public safety: 1) Risk assessments will be undertaken.
11. The prevention of public nuisance: 1) The area will be staffed at all times.
12. The protection of children from harm: 1) Staff will uphold the policy of the premises.

Special Policy Consideration

13. The premises fall within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The special policy was approved by the licensing committee on 1 April 2005 and considered by full council on 12 April 2005, a copy of the special policy statement is attached at Annex 7.

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. A representation was made by North Yorkshire Police but was subsequently withdrawn when the applicant agreed to the following conditions being attached to the premises licence if granted;
 - 1) The area will be covered by CCTV. The system is to be fully maintained and operating at all times when open to the public. Images of which will be recorded and kept for at least 7 days.
 - 2) Continues participation in the Pubwatch Pager scheme.
 - 3) No glass vessels (including bottles) are to be used at the premises.
 - 4) Customers will only be served by way of "table service" and should not be allowed to purchase drinks from inside The Lowther and carry them outside to the premises.
 - 5) Members of staff should be at least 18 years of age.
 - 6) SIA registered doorstaff will be employed on the following occasions:
 - a) on all Bank Holiday weekends that fall between April and August (to cover Fri/Sat/Sun/Mon from 15:00 hours to closing time).
 - b) all race days covering meetings held at York Races.
 - c) all events held on the River Ouse that relate to the area of the River Ouse border by Kings Staith.
 - d) all events held on Kings Staith.

- 7) The premises shall be bordered at all times when open by robust semi-permanent barriers showing a clear demarcation of the premises' footprint (as highlighted on the submitted plan).

Summary of Representations made by Interested Parties

17. A representation has been received from the interested party listed at Annex 2 (confidential). A copy of the representation is attached at Annex 3.
18. The address of the interested party is indicated on the map attached as Annex 4 (confidential). A further map indicating the general area from which the representation was received is attached at Annex 5. The representor is from the Kings Staith area.
19. An "interested party" is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
20. 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

21. A planning application has been submitted for this proposal (ref: 07/00819/FUL) which is yet to be determined.
22. A highway ('pavement café') licence is required but will not be formally considered or processed until the planning application has been approved. There are no highway objections in principle to the planning application.

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.

Contact Details

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Report Approved

Date 15 May 2007

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal & Democratic Legal Services EXT: 1004

Wards Affected: Guildhall East

For further information please contact the author of the report

Background Papers:

Annex 1 - Copy of application form

Annex 2 (Confidential) - Details of Interested Party

Annex 3 - Copy of representation from Interested Party

Annex 4 (Confidential) - Map of area indicating address of Interested Party

Annex 5 - Map showing general area from which representations received

Annex 6 - Mandatory Conditions

Annex 7 - City Centre Special Policy Statement

Annex 8 - Legislation and Policy Considerations