

**Licensing Act 2003 Sub Committee**

**18 June 2012**

Report of the Director of Communities and Neighbourhoods

**Section 18(3)(a) Application for a premise licence for York Marina Cafe, York Marina, Naburn, York YO19 4RW**

**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-020456
3. Name of applicant: Naburn Leisure 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/Outdoors	Days	Hours
Live music	Indoors	Mon – Sun	09:00 – 02:00
Recorded music	Indoors	Mon - Sun	09:00 – 02:00
Provision of facilities for making music	Indoors	Mon – Sun	09:00 – 02:00
Provision of facilities for dancing	Indoors	Mon – Sun	09:00 – 02:00
Late night refreshment	Indoors	Mon – Sun	23:00 – 02:00

Sale of alcohol	On and off the premises	Mon – Sun	09:00 – 02:00
Opening times		Mon – Sun	09:00 – 02:00

## **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 DPS will take full responsibility of ensuring all staff are trained and have full knowledge of all licensing issues concerning them under the Licensing Act 2003 and the Challenge 25 policy.
9. The prevention of crime and disorder:
  - a) Anyone found to be behaving in an unacceptable manner will be requested to leave the premises immediately and any incidents shall be recorded in the incident log book.
10. Public safety:
  - a) The DPS will be responsible for conducting a Fire Risk Assessment and also a Health & Safety Risk Assessment for the licensed premises.
11. The prevention of public nuisance:
  - a) The DPS/Licence Holder will monitor the external premises area in relation to any anti-social behaviour or public nuisance.
  - b) The premises will only accept trade deliveries or rubbish collections during normal working hours.
  - c) The DPS will monitor the exterior of the premises to ensure litter is kept to a minimum.

- d) In the event of any anti-social behaviour both inside and outside of the premises, the DPS will contact the local police immediately.

12. The protection of children from harm

- a) The premises will only accept valid forms of identification such as photo driving licence, passport and Home Office approved ID cards displaying the national proof of age standard scheme (PASS hologram). Accredited proof of age initiative to be operated by all staff.
- b) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
- c) All customers who look under the age of 25 shall be challenged to prove their identity when purchasing alcohol.
- d) The premises will have a Refusals Register, which will be kept at the premises at all times and refusals by any member of staff shall be recorded. The register will be made available to a Responsible Authority on request.

**Special Policy Consideration**

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

**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. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following conditions being included in the licence if granted.
  - i. The venue shall operate wholly as a café style operation. For the purpose of clarity a "café style" would be defined as a small restaurant serving light refreshments and meals.
  - ii. There shall be a maximum capacity of 120 people so as to ensure the Licensing Objective *the prevention of crime and disorder* is not undermined.
  - iii. There shall be a minimum of 40 seated covers available at all times.
  - iv. 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. Both documents will be made available upon a reasonable request from any Responsible Authority and will be kept for at least one year.
  - v. Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue. Such records shall be kept for at least one year and they will be made available upon a reasonable request from any Responsible Authority.
  - vi. Drinking glasses of any type shall not be allowed to enter or leave the premises whilst under the customers care (save for the exemption listed in condition viii below).
  - vii. All OFF sales shall be made in sealed containers (save for the exemption listed in Condition 8 below).
  - viii. The exemption to the above (Conditions vi and vii) shall be for consumption on the riverside directly affronting the venue OR for consumption on any pre-booked sailing vessel associated with the venue.

- ix. 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).
  - x. When the venue operates after 2300hrs for any licensable activity this shall be only for pre-booked functions that have been booked in writing at least 7 days in advance.
17. The Council's Environmental Protection Unit has discussed the application with the applicant. The applicant has agreed to the following conditions being included in the licence if granted.
- i. No windows and doors to be open after 23:00 hours when regulated entertainment or music events are taking place.
  - ii. No outdoor drinking to be allowed on the patio after midnight

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

- 18. Relevant representations have been received from 3 Interested Parties listed at Annex 2. Their representations are attached at Annex 3
- 19. A map showing the general area around the venue from which the representations are focused is attached at Annex 4
- 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. There are no planning issues.

### **Options**

- 22. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
- 23. Option 1: Grant the licence in the terms applied for.
- 24. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.

25. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
26. Option 4: Reject the application.

### **Analysis**

27. The following could be the result of any decision made this Sub Committee:-
28. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
29. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
30. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
31. Option 4: This decision could be appealed at Magistrates Court by the applicant.

### **Council Plan**

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

### **Implications**

34.
  - **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. That 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 &  
Community Safety.

**Report  
Approved**



**Date** 07/06/12



**Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Wheldrake**



**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