

Licensing Act 2003 Sub Committee

14th February 2013

Report of the Director of Communities and Neighbourhoods

Section 18(3)(a) Application for a premise licence for 41 Heslington Road, York YO10 5AR

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-021531
3. Name of applicant: Mrs Bijal Patel
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, every day between 08:00hrs and 23:00hrs.

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 operate with the benefit and experience gained since operating their current business (Heslington Road Newsagents) which has been licensed for some time.

9. The prevention of crime and disorder:
 - a) The applicant and staff will not serve customers who appear intoxicated with alcohol.
10. Public safety:
 - a) Experienced staff using a CCTV system.
11. The prevention of public nuisance:
 - a) CCTV system maintained and working. Records kept for a minimum of 7 days and a refusals book kept on the premises for inspection.
 - b) Signage will be displayed highlighting the premises are in a residential area and asking customers to respect this when leaving the property.
12. The protection of children from harm
 - a) I.D. signage will be prominently displayed and staff instructed to only accept passports or photo ID, driving licences as a form of identification.

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. CCTV will be installed to cover the premises and will include all areas to where 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 7 days and will be made available to any Responsible Authority within 48hrs 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 the Opening Times of the venue.
 - viii. Such records (referred to in Condition 7) 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 9) 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.
 - xii. 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).

Summary of Representations made by Local Residents

17. Relevant representations have been received from 4 local residents 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
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**Report
Approved**

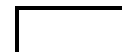


Date 04/02/2013

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Fishergate



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