
Licensing Act 2003 Sub Committee

17 September 2007

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Lowery Newsagents, 77A Bootham, York, YO30 7DQ

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-013306.
3. Name of applicant: Jason Charles Lowery & Lisa Marie Lowery.
4. Type of authorisation applied for: Grant of Premises Licence.
5. Summary of application: The nature of the application is to permit the sale by retail of alcohol, Monday to Sunday 08:00 hours to 20:00 hours daily.

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. The prevention of crime and disorder: 1) The premises are currently fitted with CCTV which will be replaced with a more modern system.
9. The protection of children from harm: 1) Proof of age identification will be required from any customer who appears to be under the age of 18. 2) Currently display posters containing warnings to persons who are considering purchasing lottery tickets and/or tobacco and who may be under age. Similar posters and warnings will be provided in respect of the purchase of alcohol. 3) Full staff training will be given. 4) A record will be kept of all persons who attempt to purchase alcohol who are under age.

Special Policy Consideration

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

Consultation

11. 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.
12. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

13. There were no representations received from any of the responsible authorities.

Summary of Representations made by Interested Parties

14. A representation was received from the interested party listed at Annex 2 (confidential). The representation is attached at Annex 3. The representor, a retailer whose business is located within the vicinity of the premises submitted copies of his 'Challenges and Refusals Sheets' covering a five month period, to support his representation. These sheets have not be presented as part of this report because they identify a number of customers.
15. 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.
16. 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.
17. 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

18. There are no planning issues or restrictions in relation to this premise.

Options

19. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
20. Option 1: Grant the licence in the terms applied for.
21. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
22. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
23. Option 4: Reject the application.

Analysis

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

Corporate Priorities

29. 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.
30. 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

31.
 - **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

32. 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.
33. 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

34. Members determine the application.

Contact Details

Author:

John Lacy
Acting Licence Manager
Licensing & Regulation

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1593

Ext: 1814

Report Approved

Date 06 - 09 - 07

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Clifton

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 representation received
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations and Note to Members