

Report from the Assistant Director – Housing & Community Safety

Section 18(3)(a) Application for a premise licence for a hot food take-away van, Whip Ma Whop Ma Gate, York.

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-022587
3. Name of applicant: Mr Erdal Ozturkce.
4. Type of authorisation applied for: Grant of Premise Licence.
5. Summary of application: The nature of the application is for the provision of late night refreshment, Monday to Thursday 23:00hrs to 03:30hrs and Friday to Sunday between 23:00hrs and 04:30hrs.

Background

6. A copy of the application is attached at Annex 1. A previous licence for this site was granted in November 2005 but lapsed in February 2013 when the former licensee was declared bankrupt. This is attached at Annex 2.

Promotion of Licensing Objectives

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. Prevention of crime and disorder
 - a) Any disorder to be reported to the police.
9. Public safety
 - a) Fire fighting equipment will be on the unit.

10. The Prevention of public nuisance

a) There will be no audible music on the unit.

11. The protection of children from harm

a) Any unaccompanied children will be reported to the police.

Special Policy Consideration

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

Consultation

13. 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 were notified by way of register.

14. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

15. North Yorkshire Police have met with the applicant who has agreed to a series of 13 proposed conditions being added to the licence if granted and as such there is no representation from the police. These conditions are listed at Annex 3.

Summary of Representations made by Parties other than Responsible Authorities

16. Relevant representations have been received from 2 people who live in the area. These representations are shown at Annex 4.

17. A map showing the general area around the venue is attached at Annex 5.

Planning Issues

18. There are no planning issues.

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.

Council Plan

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 priorities to protect vulnerable people, build strong communities, and protect the environment.

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.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

Lesley Cooke
Licensing Manager

Tel No. 01904 551515

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director
Housing & Community Safety.

**Report
Approved**



Date 21/ 10/13

Specialist Implications Officer(s)

Head of Legal & Democratic 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** - Lapsed licence.
- Annex 3** - Police agreed conditions
- Annex 4** – Copy of Representations.
- Annex 5** - Map showing location of venue
- Annex 6** - Legislation and Policy Considerations