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**Licensing Act 2003 Sub Committee**

**24 April 2014**

Report from the Assistant Director – Housing & Community Safety

**Section 18(3)(a) Application for a premise licence for Carluccio's, Fenwick, 2 St Mary's Square, Coppergate Shopping Centre, York, YO1 9NY.**

**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-023147
3. Name of applicant: Carluccio's Ltd.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The proposal is to allow for:
  - the provision of late night refreshment, Monday to Saturday between 23:00hrs and 23:30hrs
  - the sale of alcohol, both on and off the premises, Monday to Saturday between 09:00hrs and 23:00hrs and on Sunday between 11:00hrs and 22:30hrs

**Background**

6. A copy of the application is attached at Annex 1.
7. The Fenwick store has its own premises licence covering the whole of the store, licence number CYC 009580. This licence allows for the off-sales of alcohol and for on-sales when it is sold or supplied to persons taking table meals and as an ancillary to their meals. A copy of this licence is attached at Annex 2.

## **Promotion of Licensing Objectives**

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. General
  - a) The premises will trade predominantly as a restaurant, and substantial food and non-intoxicating drinks shall be available at all times the premises are trading.
  - b) Off sales of alcohol will primarily be made from the delicatessen area (marked retail upon the plan).
  - c) Tables and chairs will be laid out for customers and there shall be waiter/waitress service. Food and alcohol will be served to customers seated or to those waiting to be seated.
  - d) Management are well aware of all their responsibilities in respect of the current legislation. There is an intensive 10 day training scheme for all staff joining the company before a new unit opens and thereafter there is ongoing regular training. Full and detailed training manuals are available for inspection, which are regularly updated as and when necessary.
  - e) The introductory pack provided to all staff provides summary notes relating to the appropriate and relevant legislation which they have to sign.
10. The prevention of crime and disorder
  - a) Staff training includes details of offences relating to the sale and supply of alcohol to under 18s.
  - b) Crime prevention measures will be instigated following consultation with North Yorkshire Police.
  - c) The taking of alcoholic and other drinks from the premises in open containers shall not be permitted.
11. Public Safety
  - a) The staff training and manuals referred to above include full training in relation to accidents to staff and customers on the premises and requirement to detail and such problems, and also

full food hygiene training which is reinforced by the general introductory notes and safety notes.

- b) Risk assessments are carried out at regular intervals and revised if there is any change in methods used at the unit for both fire safety, general hazards and food safety.

12. The prevention of public nuisance

- a) Only very low background music is played inside the unit and there is never an issue of noise escape.

13. The protection of children from harm

- a) Staff to be trained to ensure that there is no sale of alcohol to persons under 18.
- b) The premises operate a challenge 21 policy and age identification shall be a full UK photo driving licence, passport, military ID card, a recognised proof of age card accredited with the PASS logo, any other form of ID approved by the police.

**Special Policy Consideration**

**Consultation**

- 14. This premise is located within the extended special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.
- 15. 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.
- 16. All procedural aspects of this application have been complied with.

## **Summary of Representations made by Responsible Authorities**

17. North Yorkshire Police have made a representation to the application on the grounds that the licensing objective, the prevention of crime and disorder would be undermined. A copy of their representation is attached at Annex 4.

## **Summary of Representations made by Parties other than Responsible Authorities**

18. There were no representations.
19. A map showing the general area around the venue is attached at Annex 5.

## **Planning Issues**

20. There are no planning issues relevant to this application.

## **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  
Assistant Director  
Housing & Community Safety.

**Report  
Approved**



**Date** 10/04/2014

### **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** - Fenwick's premises licence (CYC 009580)
- Annex 3** - Copy of Special Policy
- Annex 4** - Representation from North Yorkshire Police
- Annex 5** - Map showing location of venue
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations