

Meeting	Licensing/Gambling Hearing
Date	4 June 2024
Present	Councillors Cuthbertson (Vice-Chair), Rose and Smalley
In Attendance	Lesley Cooke (Licensing Manager) Jodi Ingram (Senior Lawyer)

7. Chair (3.00pm)

Resolved: That Cllr Cuthbertson be elected to chair the hearing.

8. Introductions (3.01pm)

Introductions were made.

9. Declarations of Interest (3.07pm)

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda if they had not already done so in advance on the Register of Interests. None were declared.

10. Exclusion of Press and Public (3.08pm)

Resolved: That the press and public be excluded from the meeting during the Sub-Committee's deliberations and decision making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

11. Minutes (3.08pm)

It was confirmed that the minutes of the he Licensing Hearing held on 15 April 2024 were approved and signed at the Licensing Hearing on 30 May 2024.

12. The Determination of an Application by Joseph Moore for a Premises Licence (Section 18(3) (a) in respect of 14 Clifford Street, York, YO1 9RD (CYC-077680) (3.08pm)

Members considered an application by Joseph Moore for a Premises Licence (Section 18(3) (a) in respect of 14 Clifford Street, York, YO1 9RD (CYC-077680)I.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The papers before it including the written representation received from a local resident.
3. The Licensing Manager's report and her comments at the Hearing.

The Licensing Manager outlined the report and gave an overview of the application. She noted that the Applicant had removed sports and dance from the application. She advised that the premises was in a basement and noted that annexes to the report. She apologised for an error in the report and confirmed that the premises was located within the cumulative impact assessment area. She noted that the Applicant had agreed conditions with the police and public protection. She detailed the options available to the Sub-Committee in their determination of the application and she highlighted the agenda supplement provided by the Applicant. She was asked if the premises was near residential properties and explained that there are residential properties in Low Friargate, the opposite side of Clifford Street and on King's Staith.

4. The Applicants representation at the hearing. The Applicant explained that the premises was located in a

basement bar predominantly used by the guests of the eleven flats above. The Applicant added that he had two holiday lets in the city centre and would like those guests to use the basement bar. The Applicant explained that the bar would have a maximum capacity of 70-80 people and if the flats were full there would be 72 people in the flats which would predominantly make up the customers using the bar and that they would leave the bar internally. The Applicant noted that although not all of the 72 people would use the bar, the customers staying in the two other city centre flats may use it. On the premises plan the Applicant showed where external guests would leave and the Applicant explained that external guests would not have access to the stairs next to the lift shaft used by the holiday flats.

the Applicant explained that he had experience of holding a premises licence for 20 years and had received no complaints in that time. the Applicant noted that you currently had a premises licence for a café bar and had not had any complaints. the Applicant explained that this licence was for trying to offer alcohol and coffee like a hotel. the Applicant explained that the entrance door for non-guests would not be open to the public and was for guests of the premises and pre booked guests.

Regarding the concerns expressed by RidingLights Theatre Company about noise, the Applicant explained that there was 18m from the bar to outside. the Applicant added that he would install a soundproof door after the toilets to keep noise in the corridor. the Applicant described the building and confirmed that the basement bar has an architect shop and estate agents above. The flats with guests being two floors above the basement. the Applicant noted that the bar would not serve draft beers and would serve bottled beer. the Applicant added that most of the noise would be in the bar area and there would be two soundproof doors. the Applicant confirmed that he had agreed with the Public Protection Officer's recommendations.

The Applicant was then asked a number of questions to which he responded that:

- The bar would not be doing food and he wanted the off sales for guests to take alcohol to their rooms.

- Regarding the measurements on the plan, he did not know if the plan was to scale. Using the plan he showed how big the rooms were.
- Bookings would be managed through the booking app used for the flats, at the time of booking, guests would be offered the facility to use the bar. Bookings could be taken up to 12 months in advance.
- If there was an outside booking this would be a 3 hour booking.
- Lights would be installed down the alley way.
- Children would be allowed in the bar and he would be happy to impose a limit of allowing children in the bar up to 7pm. [At this point the Licensing Manager advised that the law allows children under the age of 18 to remain up to midnight on licensed premises]. The Applicant added that he would be happy to accept a condition of children staying in the accommodation staying in the bar until 7pm.
- There would be signs on the exits asking customers to leave quietly.
- The bar would not work if he could not control who was in the bar and he was trying to keep as little impact as possible on residents.
- The bar probably wouldn't open late all nights and probably only 80% of the time operate on Friday and Saturdays.
- He would be open to lower the time of the sale of late night refreshments.
- Regarding what would happen for guests if the bar was already booked, this would be based on the capacity in the bar.
- He would be happy to have a condition the use of a number counter.
- The people staying in the apartment would have the same booking option as the two other external apartments.
- The number of guests in the apartments was 72 and the capacity of 100 was based on fire safety.
- Regarding hot refreshments there would be coffee and no food.
- He had premises in Stonegate and Blossom Street and for the Blossom Street one may do a package starting in the basement bar.

- Concerning bottles in the bin store, the bin store was 1m x 2m and bottles would be tipped out internally and the bins would be sorted internally.
- The fire officer set the capacity at 100 people and he didn't believe that this would be 100 people and he would be happy to have a capacity at 80 people.
- He was happy for the soundproof door to be a condition and this was on the advice of public protection to have a soundproof door after the toilets. [At this point the Licensing Manager advised that there would need to be an amended plan to show the soundproof door].

In response to a Member questions the Licensing Manager was asked and explained that:

- The site was previously a pizza hut but she was not sure if the basement was used. She added that 14a Clifford St was previously Fiesta Mexicana which had a basement and the basement for 14 Clifford St was not licenced previously.
- Public protection were happy with the bin store and the bins would normally be taken out the day before the bins were collected. The Applicant then noted that he was happy to agree to the door being shut when the bins were being emptied.

5. The representations made by Anthony May. He explained that there should be less stringent public use of the bar and asked if the whole building could be used as a hotel. He noted that he would like CCTV to be kept working. He asked whether it would be reasonable to add door staff. He endorsed the idea of keeping the bottles inside.

Closing points were then made in Anthony May explained that he accepted that the bar was largely for the use of residents would not have an open door. Regarding public disorder, he acknowledged that there was not much the Applicant could do about it and that it was a cumulative effect.

In the Applicant's closing points he noted that he had agreed with the recommendations of the Licensing Authority and Public Protection Officer and had taken into consideration the bin store, which was why it was located internally. the Applicant noted that the majority of people

leaving the premises would be guests going up to the apartments.

In response to a further question the Applicant confirmed that the off sales would be to people on the premises.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for. This option was **rejected**.

Option 2: Grant the licence with modified/additional conditions imposed by the sub-committee. This option was **approved**.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was **rejected**.

Option 4: Refuse to specify a person in the licence as a premises supervisor. This option was **rejected**.

Option 5: Reject the application. This option was **rejected**.

In approving Option 2, the Sub-Committee granted the licence for the following activities and timings as applied for together with modified/additional conditions imposed by the Sub-Committee (Option 2) as set out below:

Activities and Timings

Films – indoors 10:00 to 01:00 everyday

Live Music – indoors 10:00 to 01:00 everyday

Recorded Music - Indoor 10:00 to 01:00 everyday

Late Night Refreshments – 23:00 to 01:00 everyday

Supply of Alcohol – on and off the premises 10:00 to 01:00 everyday
Opening Times 10:00 to 01:30 everyday

Additional Conditions

- A sound proof door to be installed in the corridor between the external entrance leading to the passageway adjacent to the Friargate Theatre and the fire door leading to the lift and stair area. The position of the sound proof door is to be marked on the plan.
- No person under the age of 18 in the licenced premises between the hours of 21:00 – 1:30.
- The external door opposite the internal bin store is to be kept closed when glasses/bottles are being emptied into the internal bin store.
- The additional conditions agreed with North Yorkshire Police as set out in Annex 3 of the agenda.
- The additional condition agreed with Environmental Health as set out in Annex 4 of the agenda.

The conditions contained in the Operating Schedule shall be added to the licence unless contradictory to the above conditions.

The licence is also subject to the mandatory conditions applicable to licensed premises.

Reasons for the decision

The Sub-Committee carefully reviewed all the information presented from all parties in light of the licensing objectives and decided to approve Option 2, to grant the licence with modified/additional conditions imposed by the sub-committee, for the following reasons:

1. The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
2. The Sub-Committee noted that the premises was located within an area where a cumulative impact policy applies. The Sub-Committee had regard to the Cumulative Impact Assessment 2022-2025.

3. The Sub-Committee had regard to the location of the premises and noted its position underneath business and eleven holiday apartments.
4. The Sub-Committee has regard to the applicant's application and representations and noted that the premises was a basement bar primarily intended for use for guests from the holiday apartments above and two other holiday apartments in the city centre. The Sub-Committee were reassured that the premises would not be seeking to invite passing trade from the street, that the entrance/exit for non-residents is in a discreet location and that any non-residents will be subject to an advanced booking procedure. The Sub-Committee were reassured by the applicant's attitude and willingness to engage with the responsible authorities.
5. The Sub-Committee considered the representor's representations. The Sub-committee gave careful consideration to the representations made regarding the public nuisance and the crime and disorder licensing objectives. The Sub-Committee acknowledged the concerns regarding noise nuisance, and the impact on surrounding businesses and residents. On consideration of the representations the Sub-Committee were satisfied that the grant of the licence with the imposition of the additional conditions would not undermine the licensing objectives.
6. The Sub-Committee noted that the Police and Public Protection had withdrawn their representations as additional conditions had been agreed with the applicant. This reassured the Sub-Committee that there would be no impact on the cumulative impact being experienced and that the prevention of crime licensing objective would not be undermined, accordingly they considered that this carried great weight.
7. The Sub-Committee were satisfied, based on the evidence before it, that the grant of the licence with the additional conditions would not have an impact on the cumulative impact being experienced and would not undermine the licensing objectives. Accordingly, it was felt that the decision of the Sub-Committee was justified as being appropriate and proportionate for the promotion of the licensing objectives.

Cllr Cuthbertson, Chair

[The meeting started at 3:00pm and finished at 4:10pm].