

Meeting	Licensing/Gambling Hearing
Date	11 September 2023
Present	Councillors Cuthbertson, Mason and Smalley

1. Chair

Resolved: That Councillor Mason be elected to act as Chair of the hearing.

2. Introductions

The Chair invited those present to introduce themselves; the Sub-Committee Members, the Legal Adviser, the Licensing Manager, the Democratic Services Officers, the applicant: Roxy Leisure Ltd, and the representors: Michael Fieldsend, Jon Horsman, Neil Mackenzie, Rae Mould, Martina Weitsch, and Julia Weston.

3. Declarations of Interest

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. No interests were declared.

4. Exclusion of Press and Public

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.

5. Minutes

Resolved: That the minutes from the Licensing Hearings held on 19 July 2023, 24 July 2023, and 8 August 2023 be signed and approved as an accurate record.

6. The Determination of an Application by Roxy Leisure Ltd for A Premises Licence [Section 18(3) (a)] in respect of Roxy Ballroom, Stonebow House, The Stonebow, York, YO1 7NP (CYC-073339)

Members considered an application by Roxy Leisure Ltd for a premises licence in respect of Stonebow House, York.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to this 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 representations received from local residents.
3. The Licensing Manager's report and her comments made at the Hearing.

The Licensing Manager outlined the report and annexes, and it was noted that there was an ongoing license attributed to part of Stonebow House registered to Try Market Hall York Ltd. This license was still valid and in force but was suspended as the premises never opened. There was a different premises license for the Co-Op supermarket also operating on part of the ground floor.

She also noted that the premises were not situated inside the Cumulative Impact Area (CIA) and that the Applicant had carried out the consultation process correctly. She noted that there were no representations from Responsible Authorities and that amendments and additional conditions had been agreed with North Yorkshire Police, as set out in Annex 3. She also explained that additional conditions agreed with City of York Council's Public Protection team were set out in Annex 4. She also drew attention to the 38 representations made by other parties at Annex 6. Finally, she advised the Sub-Committee of the options open to them in determining the application.

In response to a question from Julia Weston, the Licensing Manager explained that 'vertical drinking' referred to a premise where the majority of customers would be consuming alcohol while standing.

4. The Applicant's representations at the Hearing. The applicant drew attention to Supplement 1 – Additional information from Applicant and provided some history on Roxy Leisure. They added that they operate across 17 sites already, including within other authorities' CIAs and that they had never had a license reviewed or enforcement action taken. They also noted that the premises has been empty for over 5 years and that both the CEO and Managing Director (MD) of the company had their own personal licenses, and both had experience within the industry.

They outlined the plan of the premises and highlighted that the main function was a competitive socialising venue and that all licensable activities authorised by the licence shall be ancillary to this. They then noted that up to 50 per cent of the total revenue was made up from the gaming revenue with a further 8-10 per cent being from food and that a lot of the custom was pre-booked. They noted that Roxy Leisure had a training and culture manager who oversees all training and that managers must attend a 6-week in-house training course with other staff undergoing a minimum two weeks of training.

The Applicant went on to state that they had consulted with the responsible authorities to mitigate concerns and that a site meeting took place in June. They stated that an information poster was also posted alongside the blue notice providing further information on the application to residents. They also liaised with the local residents and the local MP and held meetings where further information was provided.

The Applicant then discussed the application and drew attention to the conditions agreed with responsible authorities and the noise mitigation and management plan. He then addressed some of the concerns raised by the application and their assurances were detailed in the fact sheet contained in Agenda Supplement 1. They concluded by highlighting that there were no representations from responsible authorities, they had liaised with residents and that Roxy Leisure were experienced to ensure the licensing objectives would be promoted.

In response to questions from representors, the Applicant confirmed that:

- Waste would be kept inside the premises.
- Litter patrols would be undertaken around the whole perimeter of the premises.
- On average 2 beer deliveries would be received per week, which would take place only between 8am-8pm.
- Revenue from alcohol accounted for around 40%.
- Fire regulations had not yet taken place to determine the maximum capacity of the premises, but no more than 400 would be expected at one time.
- Training was constantly being updated and when a new employee starts, they were automatically enrolled into their training system. Employees were encouraged to complete certain tasks on the online training tool within a certain amount of time, and one-to-one meetings were used to support this.
- Roxy Leisure had a completely different business plan and attraction to the previous nightclub premise.
- The premises would be sound insulated, and communication would be kept open with residents.

In response to questions from the Sub-Committee, the Applicant confirmed that:

- The Applicant would look to bring in an experienced manager for the venue.
 - The average of a group booking for other venues was 2-4 people. Most games were only for two players with a maximum of 6 on bowling lanes. Any groups of over 15 people would need to go through the sales team for approval. The average time spent at a venue was around 2-3 hours.
 - Visits were driven by availability and walk-ins were rare, if there were no available activities then people would usually leave.
5. The representations made by local residents.

Rae Mould spoke representing the residents of Lady Hewley Cottages and explained that the residence had previous experience of a late-night venue causing sleep deprivation, stress and increasing anti-social behaviour, including property damage. They did not want this to occur again as the residence was offered as a tranquil residence and they would endure problems with sleep again if noise became an issue. In response to questions from the panel, Rae stated that a telephone number of which it must be assured will be answered should be provided. She stated that in regard to previous nightclubs in the area, many residents couldn't get through to the phone number that was provided.

Rae Mould then made a representation on behalf of herself. She stated that there was a row of cottages within yards of Stonebow House which were built primarily for the elderly. Rae commented that she believed this had not been considered by the Applicant. She noted that when she attended the meeting held by Roxy Leisure Ltd for residents in the area, there was confusion of where to enter, and there was a lack of adequate provision for elderly and disabled residents, who had to either stand or leave the premises. The Lady Hewley Trust helps vulnerable people with housing and Rae stated that this could be put in jeopardy with a venue such as Roxy Ballroom in close proximity.

Jon Horsman spoke representing the mental health charity, Mainstay. He highlighted how he had worked with Lady Hewley Cottages during a previous licensing application from Try Markets York Ltd. He noted that he had liaised with the Applicant, and that he was happy with how the Applicant has mediated on some conditions to address public disorder and public nuisance. He asked for some assurance that concerns from residents would be dealt with and not dismissed. He also asked for clarification on the telephone number provided by the Applicant to residents and noted the lack of soundproofing in the premises.

Neil Mackenzie, a Lady Hewley Charity Trustee, noted that the premises was just outside the CIA (Cumulative Impact Area) and so asked that this was considered in deliberations due to the noise pollution that the venue would contribute towards. He added that he had lived next to a pub and has first-hand experience of being affected by noise pollution. He added that he would like glass waste to be crushed inside the premises, that waste be kept inside in locked containers to prevent issues with rodents, and that staff undertake nightly cleaning checks around the venue.

Martina Weitsch commented on behalf of York Green Party regarding the venue's location adjacent to the CIA (Cumulative Impact Area). She highlighted that with it being outside the CIA, the venue would affect the area as it would contribute to traffic into the city. She also spoke on how the premises was advertised and raised concerns about the presence of inebriated individuals near the bus stop located outside the venue, where there were children and elderly people. She noted that there were plenty of drinking halls in York and stated that this venue would make anti-social behaviour in the city worse.

Michael Fieldsend also commented on the potential traffic caused by the venue on residential streets and noted that customers would be smoking outside the venue, near a public bus stop. He also noted that the area had become increasingly residential with many offices being converted into residential properties and that anti-social behaviour would be made worse. He then questioned the applicant

on their employment process; how many young people would be employed, and asked if these would be on zero-hours contracts.

Julia Weston also stated that many offices in the area of Stonebow House had been turned into residential properties, with more expected to be converted. She noted that the residents of St Saviourgate lived in buildings with single glazed windows so the noise from the venue would carry over. She explained that there was already anti-social behaviour in the area and this licence would not help to alleviate issues before explaining that the telephone number solution had never previously worked. She also commented that the language used by Roxy Leisure Ltd in their communication highlighted drinkers as their target audience, using words such as "Booze and balls" in their promotions to attract groups of drinkers before commenting on the lack of sound proofing of the venue.

The Representors and the Applicant were each then given the opportunity to sum up.

Rae Mould declined the opportunity to sum up.

Jon Horsman summed up and asked the Applicant if they would be willing to meet with residents in a few months if the application were to be successful.

In summing up, Neil Mackenzie requested the panel to consider the statements made by the residents of Lady Hewley Cottages.

Martina Weitsch summed up and commented that the proposed venue was the wrong enterprise in the wrong place.

Michael Fieldsend summed up and stated that the venue was being proposed in a largely residential area and the premises would have no control over public nuisance once customers have left the venue.

Julia Weston declined the opportunity to sum up.

The Applicant summed up. They commented that there would be a telephone number and an email address for the premises available and were happy to hold another meeting with residents in 3 months' time. They also noted that the application was well thought out and that it had complied with the additional conditions set out by the Responsible Authorities to ensure that the licensing objectives were met. They explained that Roxy Leisure Ltd have had no previous licence enforcement action taken against them and they have closely liaised with the local residents. They noted that this was a different venue to previous ones in the area, it had a noise management plan with some soundproofing and a noise limitation device condition, and the venue was not prioritising the sale of alcohol. They explained that the main function was a competitive socialising venue and that all licensable activities authorised by the licence shall be ancillary to this before noting that the venue was not in the CIA area. They concluded that the management team was highly experienced, and the operating schedule would meet the licensing objectives.

In response to final points of clarification raised by the Sub-Committee the Applicant stated that the average group booking is for 2 to 4 men and women and that peak times are between 4pm – 9pm mid-week and 3pm to 10pm at weekends.

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**.

Resolved: That Option 2 be approved, and the licence be granted for the following activities and timings with modified/additional conditions imposed by the Sub-Committee as set out below:

Activity	Timings
Films - indoors	10:00 to 23:00 Mon to Wed 10:00 to 00:00 Thurs to Sat 10:00 to 22:30 Sun
Recorded Music - Indoors	10:00 to 23:00 Mon to Wed 10:00 to 00:00 Thurs to Sat 10:00 to 22:30 Sun
Late Night Refreshment - indoors	23:00 to 00:00 Thurs to Sat
Supply of Alcohol - on the premises	10:00 to 23:00 Mon to Wed 10:00 to 00:00 Thurs to Sat 10:00 to 22:30 Sun
Opening Hours	09:00 to 23:30 Mon to Wed 09:00 to 00:30 Thurs to Sat 09:00 to 23:00 Sun
Seasonal variations / non-standard timings	New Year's Eve hours shall be extended from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day. For statutory bank holiday weekend periods (Friday, Saturday, Sunday, and Monday) and for the Thursday before Good Friday and for Christmas Eve, the finish time will be extended by one hour beyond these times.

The conditions agreed between the Applicant and North Yorkshire Police set out in Annexe 3 of the agenda and the conditions agreed between the Applicant and Public Protection numbered 1, 2, 4 and 5 as set out in Annexe 4 of the agenda shall be added to the licence.

The following conditions shall also be added to the licence:

- No bottles, glasses or similar items may be disposed of in outside receptacles between 20:00 and 08:00 hours.
- A direct telephone number for the manager on duty at the premises and an email address for the area manager shall be made available via letter every 6 months to the residents of Lady Hewley Cottages, St Saviourgate and Stonebow House.
- The number of customers permitted in the premises at any one time shall not exceed 400 customers.

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:

- i. 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.
- ii. The Sub-Committee noted that the premises are not located within an area where a cumulative impact policy applies.
- iii. The Sub-Committee noted that this was a new licence application and was very conscious of the premises' location in close proximity to local residences, including housing for elderly and vulnerable people.
- iv. The Sub-Committee carefully considered the representors' objections that the location of the

premises (which have previously operated as a night club) is wholly unsuitable for the proposed licence due to the adverse effects it would have on the surrounding area. In particular, that public nuisance and crime and disorder arising from the operation of the proposed licence would materially reduce the living amenity and environment of residents living in this area.

- v. The Sub-committee noted the evidence put forward by the Applicant as to the style of the proposed operation, its operating schedule, consultation with the Police and Public Protection and engagement with residents.
- vi. The Sub-Committee noted that the Police, who are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, did not consider that the licensing objective of the prevention of crime and disorder would be undermined if agreed conditions are attached to a premises licence. The Sub-Committee considered the fact that the Police did not object to the application carried great weight and it was satisfied that, with the imposition of suitable conditions the prevention of crime and disorder objective would not be undermined.
- vii. The Sub-Committee also noted that Public Protection had agreed proposed conditions with the Applicant to address potential noise issues, including the requirement for a noise management plan, a dispersal policy, and a noise limitation device.
- viii. The Sub-Committee was reassured by the evidence given by the Applicant including details of the style of operation which is different to the nightclub operation that operated previously, the level of experience generally, staff training, its willingness to engage with residents and responsible attitude towards promotion of the licensing objectives.

- ix. Whilst the Sub-Committee acknowledged the concerns expressed by residents, it considered that it did not find any evidence to justify a refusal of the application in order to promote the licensing objectives. The Sub-Committee felt on the basis of the evidence before it that the imposition of suitable additional conditions on the premises licence would be adequate to promote the licensing objectives in this location. The Sub-Committee considered it was appropriate to impose additional restrictions on the disposal of bottles, to limit the capacity of the premises and to condition that telephone contact numbers are regularly made available to local residents in order to prevent crime disorder and prevent public nuisance. In view of the nature of the proposed activities, it considered that these measures were adequate and proportionate to address the concerns raised by residents.
- x. Accordingly, in all of the circumstances of the case the Sub-Committee was satisfied that with the additional conditions it imposed on the licence it would be sufficiently robust to allay the fears of local residents and that it could operate without undermining the licensing objectives.
- xi. It was also noted that the Licensing Act 2003 has a key protection for communities that allows at any stage, following the grant of a premises licence, a Responsible Authority or 'other persons', such as a local resident, to ask the Licensing Authority to review the licence if they consider that one or more of the licensing objectives are being undermined.

Cllr A Mason, Chair

[The meeting started at 5:30pm and finished at 8:35pm].