

Meeting	Licensing/Gambling Hearing
Date	15 April 2024
Present	Councillors Melly, Hook, and Wells
Officers in attendance	Lesley Cooke - Licensing Manager Sandra Branigan - Legal Advisor

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**1. Chair (10:05am)**

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

**2. Introductions (10:06am)**

Introductions were made.

**3. Declarations of Interest (10:07am)**

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. Councillor Hook declared that she was an acquaintance of the Applicant for the application in question.

**4. Exclusion of Press and Public (10:07am)**

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 (10:08am)**

Resolved: That the minutes from the Licensing Hearing held on 12 February 2024 be signed and approved as an accurate record subject to the following amendments of Minute 24(5):

- Minute 24(5), paragraph 3: Amend “Budget” to “Bridget”;
- Minute 24(5), paragraph 4: Amend “Your” to “her”;
- Minute 24(5), paragraph 4: Delete: “You were not”;
- Minute 24(5), paragraph 5: Delete: “There would never be more than 18 covers inside the meeting and 8 covers outside the meeting” and add “There would never be more than 18 covers inside the premises and 8 covers outside the premises”;
- Minute 24(5), paragraph 5: Delete: “You would be willing” and add “She would be willing”.

**6. The Determination of an Application by Karl Smith for a Premises Licence [Section 18(3)] in respect of St Lawrence Church and Community Hall (CYC-077499). (10:11am)**

Members considered an application by Karl Smith for a Premises Licence [Section 18(3)(a)] in respect of St Lawrence Church and Community Hal, York.

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 representations received from local residents and the additional information submitted by the Applicant.

### 3. The Licensing Manager's report and her comments at the Hearing.

The Licensing Manager outlined the report and the annexes, noting the opening and operating hours of the event, and that it was an application for a beer festival once a year in September, for four-years.

She explained that the plan of the premises was detailed in annex 1, and provided a larger printout of this to those in attendance at the hearing.

She explained that the premises was not in the Cumulative Impact Area 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 the police, as set out in Annex 3.

She drew attention to the representations made by two other people at Annex 5, and the additional information submitted by the Applicant in the agenda supplement. She then advised the sub-committee of the options open to them in determining the application.

In response to questions from members, the Licensing Officer confirmed:

- Although there was a requirement for the Applicant to have a policy on age-verification, it was up to the Applicant to determine the policy to be used.

### 4. The Applicant's representation at the hearing.

Karl Smith (the Applicant) explained that he had been York CAMRA's organiser in previous years, and that the event had been held at various events in the past, such as: Priory Street, York; York Racecourse, and St Lawrence Church, York.

The Applicant highlighted that in the event's most popular years they received a peak of 10,000 visitors over the festival's open period, but in recent years they had only received around 3,000 visitors over the same period.

He noted that the event has a good relationship with North Yorkshire Police, that there was an ambulance on site on standby for if needed, and that they have never had any incidents of note and the ambulance has not been needed.

He drew attention to the additional information provided within the agenda supplement, and noted that the Health and Safety information, amongst other documents, were available there for members.

In response to questions from members, the Applicant stated that:

- Once last orders were called at 10:45pm, staff encouraged customers to finish their drinks and leave the premises, and they would usually be empty by 11:30pm.
- The event would never exceed their fire-safety attendance limits, and crowd-management tactics would be used if necessary, such as counting people on arrival, and operating a one-out one-in policy.
- Customers would be encouraged to leave quietly, and security was on site, although it was expected that there would only be a small amount of people there for last orders, with most leaving beforehand.
- The Church, driveway, and buildings were owned by the Church, and was paid for and hired by CAMRA along with the Ellen and Dorothy Wilson Almshouse Charity (EDWAC) land.

The Chair asked the Applicant if they would be able to change their policy of only accepting UK-issued identification, to which the Applicant stated he was not able to answer. The Licensing Officer confirmed that as it was stated within the agreed conditions with North Yorkshire Police (annex 3) that acceptable proof of age identification shall be a current Passport, photo card Driving Licence, Military ID card, or identification carrying the PASS logo, this agreement would supersede their policy.

##### 5. The representations made by Sue Richardson.

Sue Richardson explained that although the event was held at St Lawrence Church last year, she didn't object to its' licence as she wasn't aware it would be happening. She highlighted to the Sub-Committee that many residents of Ellen Wilson Cottages were elderly, and some had ill health.

She noted that there was currently no boundary separating residents' land and the land to be used by the event due to the fence falling down and not yet being repaired or replaced, this had led to a lack of privacy for Sue and residents. Sue highlighted the impact the event would have on residents' quality of life, and noted how during last year's event residents were unable to access their car park.

In response to a question from the Applicant, Sue Richardson confirmed that EDWAC owned the fence that separated her property from the event's premises.

In response to questions from members, Sue Richardson confirmed that:

- Residents had approached EDWAC to rebuild the fence and this was still ongoing, the fence acted as a barrier to noise.
- During last year's event she could hear music and voices over a speaker at 10pm, and this level of noise was not experienced with church events.
- The carpark was usually used for visitors or church events.

Sue Richardson was then given the opportunity to sum-up her case and this opportunity was refused.

The Applicant was given the opportunity to sum-up his case and explained that consultations had been made with EDWAC prior to the organisation of the event. He told the Sub-Committee that the existing Public Address (PA) system used at the church was a sound reinforcement system for those who were hard of hearing, during the event, this would be used for calling for last orders, public announcements, and for emergency evacuations. There would be no live music, and any recorded music would be played inside the marquee at a low volume until 11pm.

Karl Smith then told the Sub-Committee that staff who would be sleeping in caravans on site would just be wanting rest and therefore would not be making noise at night. He also commented that the fence separating Ellen Wilson Cottages from the event's premises was to be replaced by EDWAC with an improved wall, and was scheduled to be replaced before the event. He also mentioned that the marquee would be positioned in an agreed place with the church, and would not be covering graves, and dogs would only be permitted on leads.

He also commented that during the event there would be continuous access for emergency vehicles through Lawrence Street, York, and vehicles could be walked through the premises if necessary. He then stated that they had agreed with EDWAC that 6 spaces in the carpark would be left for the use of residents, and visitors would be encouraged to walk, cycle, or to use public transport.

Finally, Karl highlighted that the premises and Ellen Wilson Cottages were situated within an urban environment which was surrounded by university student housing and was busy at all times and that the holding of this event would not impact upon this.

In response to questions from members, Karl Smith confirmed that:

- He would agree to extra conditions to the licence indicating a tighter control on noise, and making it clear that off-sales were not permitted.

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:

- The conditions numbered 1 to 7 (inclusive) agreed between the Applicant and North Yorkshire Police set out in Annex 3 of the agenda shall be added to the licence as modified as follows:
  - i. Condition 1 shall be modified to read:  
The premises licence holder will only permit 1 four-day event per calendar year which will be a beer/cider festival.
  - ii. Condition 5 shall be modified to read:  
The only acceptable proof of age identification shall be a current passport, photo card driving licence, Military ID card or identification carrying the PASS logo (until other effective identification technology, e.g., thumb print or pupil recognition, is adopted by the premises licence holder as first approved in writing by the Licensing Authority).

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**

1. 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:
2. 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.
3. The Sub-Committee noted that the premises are not located within an area where a cumulative impact policy applies.
4. The Sub-Committee noted that although the festival has been held previously in York at Priory Street, York Racecourse and St Lawrence Church, this was an application for a new premises licence.
5. The Sub Committee carefully considered the representations made by nearby residents (both in writing and at the hearing) relating to public nuisance, with particular regard to concerns about noise disturbance due to the close proximity of the premises to their homes.
6. The Sub-Committee also considered the representations made by the Applicant in response to the concerns raised and noted the additional information provided within the agenda supplement. It was 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, had agreed with the Applicant additional conditions to be added to the grant of a licence. The Sub-Committee considered the fact that the Police did not object to the application (subject to the imposition of agreed conditions) carried great weight and reassured the Sub-Committee that the prevention of crime licensing objective would be unlikely to be undermined.
7. The Sub-Committee noted that there were no representations from any other Responsible Authority.



8. Whilst the Sub-Committee acknowledged the concerns expressed by the nearby residents, it did not consider that the representations about potential noise, traffic, access issues, disturbance and anti-social behaviour could justify the refusal of the application on the ground that granting the application would undermine the licensing objectives.
9. Having very carefully considered all of the evidence before it, the Sub-Committee considered that it had received sufficient assurances from the Applicant in order to be satisfied that the festival would be operated responsibly and felt that, based on the evidence before it, the additional conditions the Applicant had agreed with the Police (as modified by the Sub-Committee) were appropriate and proportionate to promote the licensing objectives. The Sub-Committee did not find any evidence to justify a refusal of the application and it was felt that further conditions would not be necessary in order to promote the licensing objectives on the basis of the evidence before the Sub-Committee
10. 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.
11. Accordingly, in all of the circumstances of the case 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 Melly, Chair

[The meeting started at 10.05 am and finished at 11.10 am].