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Meeting	Licensing/Gambling Hearing
Date	30 May 2024
Present	Councillors Hook, Knight and Nicholls
Officers in attendance	Helen Sefton – Senior Licensing Officer Jodi Ingram – Legal Advisor

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**1. Chair (10:03am)**

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

**2. Introductions (10:04am)**

Introductions were made.

**3. Declarations of Interest (10:06am)**

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.

**4. Exclusion of Press and Public (10:06am)**

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 (10:06am)**

Resolved: That the minutes from the Licensing Hearing held on 15 April 2024 be signed and approved as an accurate record.

**6. The Determination of an Application by York Racecourse Committee for the Variation of a Premises Licence [Section 35(3)(a)] in respect of York Racecourse, Knavesmire Road, York, YO23 1EX. (CYC-009168) (10:06am)**

Members considered an application by York Racecourse Committee for a Variation of Premises Licence (Section 35(3)(a)) in respect of York Racecourse, Knavesmire Road, York, YO23 1EX (CYC-009168).

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.
3. The Senior Licensing Officer's report and her comments at the Hearing.

The Senior Licensing Officer outlined the report and the annexes, noting the opening and operating times of the premises, and outlined that the Applicant had held a licence since September 2005, and that the variation of the licence was a result of a new development at the southern end of the premises, she reported that the overall capacity of the premises would remain unchanged.

The Senior Licensing Officer reported that the Applicant had made changes and removed some licensable activities from the original application, these were:

- 4 Indoor boxing/wrestling events from 10:00-00:00 per calendar year.
- Outdoor late night refreshments to be capped at 12 days per calendar year.
- A maximum of 4 Music showcase days per calendar year
- The withdrawal of the outdoor showing of films, dance, and live and recorded music.

The Senior Licencing Officer explained that the premises was not in the Cumulative Impact Area (CIA) and that the Applicant had carried out the consultation process correctly. She noted that amendments and additional conditions had been agreed with the police, as set out in Annex 4, and that Public Protection had withdrawn their representation (as seen in the update to Annex 5 in the agenda supplement), and there was therefore no remaining representations from Responsible Authorities.

She drew attention to the representations made by 43 other people at Annex 7, 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.

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

The Applicant's solicitor, Jonathan Smith, stated that they had removed outdoor entertainment from their application, and they were looking to stage four indoor wrestling events between 10:00-00:00 and hold 4 showcase events per calendar year. It was noted that these events had been held previously via TENS (Temporary Event Notices).

Jonathan reported that York Racecourse had invested to redevelop land at the south of the premises, removing 4-5 alcohol sale outlets, and replacing them with a pavilion, he noted that this area was already licenced to serve alcohol until 3am and that one objection had been made regarding this development. It was also noted that a canopy was being built over Bustardthorpe and that this had not received any objections.

Jonathan highlighted that they legally had to maintain a noise management plan due to the events that they have held previously and continue to hold, noise monitoring points around the premises were checked periodically during events alongside an officer from Public Protection. Jonathan stated that they had received one noise complaint in 2023 in which they found that they were within their recommended noise limits.

Jonathan concluded by saying that York Racecourse had consulted with the resident associations regarding the amendments to their application, and that this application was not in regard to extending their licenced hours of the sale of alcohol, but was concerning the sale of late night refreshments, hot food and hot non-alcoholic drinks for up to 12 occasions a calendar year. He then stated that the boxing and wrestling events would likely receive a lower attendance than their racing events and it would therefore result in an easier dispersal for guests, it was mentioned that the use of geofencing meant that Uber taxis were not able to collect guests from residential areas near the Racecourse.

In response to questions from Representors, the Applicant stated:

- One boxing/wrestling event did go on until 00:00 hours, but as detailed on page 27 of the agenda supplement, most went up to 23:30 hours, they could provide other events up until 04:00 but currently do not do this. The approval of this variation would result in them needing to rely less on TENS, so would provide more flexibility.
- Noise management plans were in place for all events, and they had to do sound checks as part of noise mitigation measures.
- Residents were informed when sound checks were scheduled.
- The Summer Ball was an indoor event that was limited by the provisions of entertainment licence, and was not subject to the variations applied for.
- Only four boxing/wrestling events were scheduled to be held, but late night refreshment of up to 12 per calendar year had been applied for to provide leeway in holding extra events if needed, such as for University of York's Students' Union.

- The Racecourse had a responsibility to inform Public Health and the Local Authority of events being held, but not residents. Jonathan suggested that they could liaise with resident associations when future wrestling and boxing events were held.
- The new Roberto Village Building had 12 four-tap beer dispensers and 24 terminals, which was a reduction from that in the original bar.

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

- Showcase events ended at 22:30 hours at the latest and bars would shut at 22:00 hours, they closed bars before the end of acts when the dispersal plan would come into effect.
- Recorded music was needed to be played on the morning of an event day to proceed with sound checks.
- The extra hour of late night refreshment as applied for would aid with dispersal.
- They had nine monitoring points around the premises, and they did a 15 minute test, if after 5 minutes it looked like the noise limit was being exceeded then they had 10 minutes to investigate it and conclude the test.

5. The representations made by local residents.

Peter Lees stated that the Chocolate Works area encompassed over 300 properties and 600 residents, including a care home and brain injuries hospital. He noted that the area had changed over recent years and was now more densely populated. He noted that the Racecourse's plans to build a new bar and increase alcohol consumption meant that more noise would be made and there was no evidence that public nuisance would be reduced.

Steve Davenport noted that Chocolate Works was a quiet development and the Racecourse had previously sent letters alerting residents of potential noise, which showed that this could happen. He stated that noise was an issue with guests leaving the Racecourse, and with vehicle noise from taxis.

Norma Rees spoke on how the area had changed over the years with new developments having been built. She stated that the application showed an unacceptable level of public nuisance, and that the Racecourse was turning the south bank into a late-night venue. She commented that provisions of busses and taxis were inadequate, and people used anywhere possible to park, sometimes in residents own parking spaces. She described how taxis blocked up roads and how those who attended events and then waited for taxis caused nuisance. Norma concluded by stating that York Outer and York Centre's police statistics show the area to the east of the Racecourse saw a threefold offence-increase during the five month period in which events were held at the Racecourse compared to the months in which events do not occur.

Tony Howard referred the Sub-Committee to his written representation in the agenda and noted that his thoughts had already been stated by previous representors.

Peter Lees was then given the opportunity to sum-up his case and explained that the Racecourse was looking at longer hours which would cause more noise, and increase levels of public nuisance.

Norma Rees was then given the opportunity to sum-up her case and stated that public nuisance had not been mitigated in the application, and the Racecourse could not manage people once they disperse the premises.

Steve Davenport was then given the opportunity to sum-up his case and this opportunity was refused.

Tony Howard was then given the opportunity to sum-up his case and this opportunity was refused.

The Applicant was then given the opportunity to sum-up their case and Jonathan explained that they had regular meetings with residents which included the attendance of three local Councillors. He then described how bus shuttles, parking marshals, and geofencing for Uber taxis were provided during events, as well as a noise management plan being in place to mitigate public nuisance.

Jonathan stated how the Racecourse already had permission to serve alcohol to 03:00 hours but that they did not use this, and that the area of which was being built upon was already used to serve alcohol.

He confirmed that there was no police objection to their application, late night refreshments would aid dispersal, and that all suggested events matched their noise management plan. He confirmed that there was a police presence on the premises to aid crime and disorder, and that consultation had been made with Environmental Health and their representation had been withdrawn.

Jonathan concluded by stating that they were not looking to extend their sale of alcohol hours, only to extend the hours of which they could sell hot food and non-alcoholic hot drinks.

In respect of the proposed licence, the Sub-Committee had to determine whether the variations applied for would 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 35(4) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Modify the conditions of the licence.

Option 2: Reject the whole or part of the application and for this purpose, the conditions of the licence are modified if any of them is altered or omitted, or any new condition is added.

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

- The Plans attached to the Premises Licence be amended as requested in the application.
- Provision for the staging of up to 4 indoor boxing/wrestling events between 10:00 and 00:00 be held per calendar year.
- Provision of late night refreshment outdoors between 23:00 and 00:00 up to 12 days per calendar year.
- The additional conditions agreed with North Yorkshire Police as set out in Annex 4 of the agenda.

- The additional condition agreed with Environmental Health and set out in the updated Annex 5 of the agenda, in the agenda supplement.

Save as varied above, the existing conditions on the licence shall apply in all respects.

The varied 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 having regard to the S182 Guidance and the Statement of Licensing policy varied the licence with modified/additional conditions imposed by the Sub-Committee, for the following reasons:

1. The Sub-Committee noted the scope of the variation and that it was only the impact of the proposed variations to the premises licence which could be considered.
2. The Sub-Committee had regard to the s182 guidance and noted that the police are their main source of advice on matters relating to crime and disorder. The Sub-Committee considered that the lack of objection to the proposed variation by the police carried great weight.
3. The Sub-Committee gave great weight to the fact that the Environmental Health officer had withdrawn their objection. The Sub-Committee had regard to the s182 guidance and noted that the responsible authorities are the expert in their field.
4. The Sub-Committee considered the representations regarding crime and disorder and public nuisance. The Sub-Committee sympathise with the issues that the residents experience but acknowledged that they are limited to considering the impact of the proposed variations on the licencing objectives. The Sub-Committee also noted the limitations of the licensing authority and the license holder to control the area beyond the immediate area surrounding their premises and noted



that people are personally responsible for their own actions under the law.

5. The Sub-Committee were reassured by the measures that were in place to mitigate public nuisance including the extensive noise management plan, additional toilets, litter picking, additional marshals and the uber geo fencing and additional signage. The Sub-Committee were reassured by the fact that the boxing events that had already taken place under the Temporary Event Notice had not given rise to any complaints. The Sub-Committee considered the provision of late night refreshment would not undermine the licensing objectives.
6. The Sub-Committee are sympathetic to the concerns expressed by the residents, 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 variations now sought by the Applicant and set out at the committee in addition to the additional conditions agreed with the Police and Environmental Health Officer 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.
7. 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.
8. The Sub-Committee wished to note that they encouraged the Applicant to notify the residents via the Residents' Associations of upcoming events in order to continue to foster good neighbourly relations.

Cllr Hook, Chair

[The meeting started at 10.03 am and finished at 1.00 pm].