
Meeting	Licensing/Gambling Hearing
Date	11 July 2022
Present	Councillors Galvin, Looker and Wann

7. Chair

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

8. Introductions

The Chair introduced those present at the hearing: the Sub-Committee Members, the Legal Adviser, the Democratic Services officer, the CYC Licensing Manager Lesley Cooke, the Applicant and the Representors.

9. 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.

10. 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.

11. Minutes

Resolved: That the minutes of the Licensing Hearing held on 13 June 2022 be approved as a correct record, to be signed by the Chair at a later date.

12. The Determination of a Section 18(3)(a) Application by Bad Habits Coffee Bar Limited for a Premises Licence in respect of The Old Butcher's Coffee Shop, 16a York Street, Dunnington, York YO19 5PN (CYC-070776)

Members considered an application by Bad Habits Coffee Bar Limited for a premises licence in respect of The Old Butcher's Coffee Shop, 16a York Street, Dunnington, York YO19 5PN.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objective was relevant to this Hearing:

- 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 and the written representations.
3. The Licensing Manager's report, and her comments at the Hearing.

The Licensing Manager outlined the report and the annexes, noting that the premises were not in the cumulative impact area (CIA) and confirming that the Applicant had carried out the consultation process correctly. She drew attention to the additional conditions agreed with North Yorkshire Police as set out in Annex 3, and the representations from local residents contained in Annex 5. Finally, she advised the Sub Committee of the options open to them in determining the application.

In response to a question from a Representor, the Licensing Manager confirmed that the application had been advertised in the York Press on 28 May, that only one such advertisement was required, and that the blue notices must be placed outside the premises.

4. The representations made by Razvan Pavel on behalf of Bad Habits Coffee Bar Limited (henceforth referred to as the Applicant).

The Applicant stated that the premises consisted of a small café serving breakfasts, brunch and lunch, using local fresh produce. Following feedback from customers, he had decided to apply for a licence to help him provide a dinner service as well. He said that he had displayed the notices correctly and the council had checked them. He pointed out that the law did not prevent customers from leaving the premises at 11pm after consuming alcohol that they had brought with them. However as most of his customers were Dunnington residents he believed they would leave in a quiet and respectful manner. Notices would also be displayed asking guests to be quiet when leaving. A bar or pub service would not be offered; service would be bistro style with guests seated and able to enjoy a glass of beer or wine etc with their meal. He referred to the conditions agreed with the police and said that [the operators] would continue to do their best to protect and respect their neighbours and the other residents of Dunnington.

In response to a question from a Member of the Sub-Committee, the Applicant clarified that the premises currently closed at 4 pm and people did not bring their own alcohol.

5. The representations made by Catherine McClean and Alex McClean, local residents, on behalf of themselves and two other neighbours, who had also made representations.

Catherine McClean stated that she and her family had lived near the premises for 9 years. When they moved in it was a butcher's shop, and they had adapted to changes made when it became a café and then set up an outdoor seating area. They were not 'troublemakers' but had serious concerns about this application. Their daughter was about to start GCSEs and went to bed at 9pm; other members of the family went to bed at 9:30pm and all the bedrooms faced onto York Street. People who had consumed alcohol were not quiet and there would be noise from goodbyes, car doors, taxis etc. This was very disruptive. Most of the residents of the street were elderly.

As there was also a newsagent on the street which opened at 6:30 am, and to have noise both ends of the day would be terrifying. Noise was a cause of public nuisance. A lot of neighbours were not even aware of the application and the other Representors were the only ones who had managed to get their comments in on time. Although she wished the business well, bringing in alcohol was always disruptive, and the street was currently very quiet in the evenings.

Alex McClean added that the nearby Greyhound pub had closed down for lack of business and the Cross Keys and Sports Club were not thriving either; however this was a side issue and their main concern was the noise, along with the operating hours.

On a point of clarification raised by Mrs McClean in her submission, the Applicant confirmed that alcohol would only be served inside and that he would not be running a pub service.

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

Mrs McClean summed up on behalf of herself and Mr McClean, stating that their concerns related to the disruption caused by alcohol and its effect on their children and their education. The family all went to bed early, their daughter needed a lot of sleep, and even with the best of intentions there would be noise from the premises. The effect of this would be worse because of the close proximity of their home, which was right on the street, with no 'buffer' area.

The Applicant stated that he did not wish to add anything to his previous submissions.

Members of the Sub-Committee sought clarification from the Applicant on matters relating to the business, and the Applicant stated that:

- 90% of his customers were from Dunnington; they liked to go out for a walk, enjoy a meal and then walk home.

- If the application was rejected he would still open in the evenings; without a licence he would not have to follow any rules.

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 licensing 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 on the licence as premises supervisor. This option was **rejected**.

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

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

Proposed Activity	Timings
Supply of alcohol – on and of the premises	12:00 to 22:30 every day
Opening hours	09:00 to 23:00 every day

The additional/modified conditions are as follows:

- (i) Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:

- Retail sale of alcohol
- Age verification policy
- Conditions attached to the Premises Licence
- Permitted Licensable activities
- The Licensing objectives and
- The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

- (ii) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.

Such records shall be kept for at least one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]. They will be made available immediately upon a reasonable request from any responsible authority.

- (iii) The premises shall operate the Challenge 25 policy for the sale of alcohol.

The only acceptable proof of age identification shall be a current passport, Photo card Driving Licence 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).

- (iv) The premises shall operate as a coffee house/ bistro not as a bar or vertical drinking establishment providing food and non-alcoholic drinks.
- (v) There shall be a minimum of 20 chairs/seats for customer use inside the premises at all times the venue is open to reduce the need for vertical drinking.
- (vi) All off sales shall be in sealed containers.

No conditions have been removed from the operating schedule submitted by the Applicant.

- 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 carefully considered the concerns raised by the parties who had made representations at the hearing and in writing relating to public nuisance, with regard to concerns about noise disturbance particularly late at night that would impact their quality of life and the proximity of the premises and associated outside space in relation to their homes.
 - (iii) The Sub-Committee also considered the representations made by the Applicant to address concerns raised. It was also noted that Public Protection did not object and that the police had agreed with the applicant additional conditions to be added to the grant of a licence.
 - (iv) Whilst the Sub-Committee acknowledged the concerns expressed by residents, it was felt that as this license relates to a new premises, the concerns that the supply of alcohol would cause a public nuisance were mainly speculative. It also considered the nature of the proposed activities, noting that the establishment was intended to primarily operate as a coffee house/bistro, rather than as a drinking establishment. The Sub-Committee was satisfied overall with the proposed arrangements and responsible attitude of the Applicant and felt that the conditions offered by the Applicant were appropriate and proportionate to deal with the concerns raised. 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.
 - (v) It was 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, therefore allaying the concerns of the local residents.

Cllr J Galvin, Chair

[The meeting started at 10.00 am and finished at 10.40 am].