

Meeting	Licensing/Gambling Hearing
Date	24 July 2023
Present	Councillors Cuthbertson, Nicholls and Widdowson

18. Chair

Resolved: That Cllr Widdowson be elected to act as Chair of the hearing.

19. Introductions

The Chair invited those present to introduce themselves; the Sub-Committee Members, the Legal Adviser and the Solicitor shadowing her, the Democratic Services officer, the Licensing Manager and the Applicant, Mr Arvind Mamgain.

20. 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.

21. 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.

22. The Determination of a Section 18(3)(a) Application by MasalaCraft R&B Ltd. for a Premises Licence in respect of 72 Walmgate, York, YO1 9TL (CYC-073049)

Members considered an application by MasalaCraft R&B Ltd. for a premises licence in respect of 72 Walmgate, York YO1 9TL.

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 the annexes, confirming that the premises were 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 representation made by one other person, at Annex 5, and to the additional information from the Applicant published in the Agenda Supplement. Finally, she advised the sub-committee of the options open to them in determining the application.

In response to a question from the Chair, the Legal Adviser clarified that further additional information from the Applicant had since been circulated to the panel and the

Licensing Manager; this would be published online after the hearing.

In response to questions from the sub-committee, the Licensing Manager stated that:

- The seating and service area was located at the front of the premises.
- Questions on the location of the takeaway area should be directed to the Applicant, as the plan attached to the printed version of the agenda papers was unclear.

4. The representations made by the Applicant.

The Applicant stated that this was the first time he had taken on a premises that did not have a licence. His restaurant Masala Craft on King Street, which he had been running for 8 years, had received an 'excellent' rating from TripAdvisor each year and there had never been any complaints. He had always respected his neighbours and knew from experience that it was important to ensure they were not disturbed. With regard to the plan of the premises, he explained that there were two exit / entrance doors. The one in the kitchen, to the rear of the premises, was a fire door. It opened onto the alleyway and was used for the takeaway delivery drivers. The front door was for customers.

The Applicant went on to say that the restaurant held a maximum of 28 people and would not be encouraging large groups. There were CCTV cameras inside and outside. Alcohol would not be served directly from the bar, but only with a meal. The restaurant on King Street was licensed until 2 am but always closed by 11 pm at the latest. At the Walmgate restaurant there would be a maximum of 4 people per table, and there was a room between the premises and the Representor's address, so he could assure them there would be no noise. There would be light background music only, and he would make sure that bottle recycling would take place in the mornings, not the evenings.

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

- Sale of alcohol had been requested from 10 am to give some flexibility should he decide to open the restaurant at lunchtime.
- Service would be focused on couples and families as the restaurant was limited to 28 people and for staff safety reasons large groups would have to be divided up.

The Applicant declined the opportunity to sum up, as he had nothing further to add.

The Licensing Manager confirmed at this point that the plan was displayed correctly online with the agenda and clearly showed the alleyway referred to by the Applicant, as well as the restaurant area at the front of 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**.

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
Supply of alcohol on the premises	10:00 to 22:00 everyday New Year's Eve until 23:00
Opening hours	10:00 to 22:00 everyday New Year's Eve until 23:00

The conditions agreed between the Applicant and North Yorkshire Police numbered 1 to 8 inclusive set out in Annex 3 of the Agenda shall be added to the licence.

The following condition shall also be added to the licence:

No bottles, glasses or similar items may be disposed of in outside receptacles between 19:00 and 10:00 hours.

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. The Sub-Committee carefully considered the concerns raised by the local resident who had made representations in writing relating to

anti social behaviour and public nuisance with particular regard to concerns about noise disturbance emanating from the premises and from patrons leaving late at night after consuming alcohol.

(iii) 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, had agreed with the applicant a number of 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.

(iv) It noted that there were no representations from any other Responsible Authority.

(v) Whilst the Sub-Committee acknowledged the concerns expressed by the nearby resident, it also considered the nature of the proposed activities, noting that the establishment was intended to primarily operate as a small scale food led establishment with a minimum number of covers and waiter/waitress service only. It also noted the physical relationship of the premises to the local resident's property.

(vii) Overall, the Sub-Committee considered that it had received sufficient assurances from the Applicant in order to be satisfied that the premises would be operated responsibly to avoid noise nuisance and disturbance to local residents. It felt that, based on the evidence before it, the additional conditions the Applicant had agreed with the Police were appropriate and proportionate to promote the licensing objectives, subject to the imposition of an additional condition to prevent disturbance from glass recycling late at night.

Cllr P Widdowson, Chair

[The meeting started at 11.07 am and finished at 11.38 am].