
Meeting	Licensing/Gambling Hearing
Date	7 February 2019
Present	Councillors Funnell, Boyce and Mason

5. Chair

Resolved: That Councillor Boyce be appointed to Chair the meeting.

6. Introductions

7. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

8. Minutes

Resolved: That the minutes of Licensing Hearings held on 11 October 2018 and 10 January 2019 be approved and then signed by the chair as a correct record.

9. The Determination of an Application by Tyrone O'Dwyer for a Premises Licence [Section 18(3)(a)] in respect of Stone Roses Bar, 4 King Street, York, YO1 9SP (CYC-063009)

Members considered an application by Tyrone O'Dwyer for a Premises Licence [Section 18(3)(a)] in respect of Stone Roses Bar, 4 King Street, York, YO1 9SP.

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 Licensing Manager's report and her comments given at the Hearing. The Licensing Manager outlined the report noting the operating hours applied for and the information contained within the annexes to the report. She gave an overview of previous licence applications for the premises and the reason for the licence lapse. She advised that additional information had been submitted by the Solicitor on behalf of the applicant, which had been circulated around all parties prior to the Hearing. She advised that the premises was located in the Cumulative Impact Zone (CIZ) and that consultation had been carried out correctly. She explained that representations had been received from North Yorkshire Police, from City of York Licensing Authority and from City of York Council Public Protection (Environmental Protection), and she added that there had been no relevant representations received from other interested parties. She noted that there were no planning issues in relation to the application. She ended by outlining the 4 options available to the Sub-Committee.

The Licensing Manager clarified that:

- The reference to late night refreshments included in the proposed activities included hot drinks such as tea and coffee.
- The application was to be treated as a new grant.
- There had been no representations in relation to the 2014 application from North Yorkshire Police.

Leo Charalambides, Barrister on behalf of the Applicant, made submissions that there were contained in the Report relating to Licensing Policy. Specifically, he referred to:

- Paragraph 19 and 21 of the Licensing Manager's report.

- Point 4 (under heading 'Effects of the Special Policy') in the City Centre Special Policy Statement (Annex 3 of the Licensing Manager's report).
- The final paragraph of the section of the Grounds for Relevant Representation in the North Yorkshire Police Notice of Relevant Representation for a Premises License under the Licensing Act 2003 (Annex 4 of the Licensing Manager's report).
- Point 8 of the Statement of Police Inspector Godfrey, North Yorkshire Police (Appendix 1 of the additional information provided by North Yorkshire Police)

Mr Charalambides asserted that the understanding of the Licensing Policy was being advanced on the wrong footing and he asked that the factual context be taken into account, as outlined in the additional information that had been submitted by the Solicitor on behalf of the applicant.

Following consideration of the points put forward by Mr Charalambides, the City of York Council Senior Solicitor clarified that the Sub-Committee would consider the application in line with the following criterion (as detailed in point 4 (under heading 'Effects of the Special Policy') in the City Centre Special Policy Statement (Annex 3 of the Licensing Manager's report:

'Applications for the grant of a new premises licence or club premises certificate or provisional statement:

Where relevant representations are received there will be a presumption against the grant of such a licence or certificate unless the applicant can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives.'

3. Mr Charalambides then proceeded to make detailed submissions on behalf of the Applicant.
4. Representations made by Sgt Jackie Booth (Licensing Manager, North Yorkshire Police), in writing and at the Hearing.
5. Representations made by Nigel Woodhead (Licensing Enforcement Officer, City of York Council (CYC) Environmental Protection Unit (EPU), on behalf of CYC Licensing Authority in writing and at the Hearing.

6. Representations made by Michael Golightly (Technical Officer, CYC Public Protection), in writing and at the Hearing.

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 members of the Sub-Committee considered the steps which were available to them to take under Section 18(4) 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.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly.

Option 4: Reject the application.

In coming to their decision to choose Option 2 above to grant the licence with the modified/additional conditions agreed with CYC Licensing Authority (set out at Annex 5 of the Agenda) and the proposed conditions put forward by the Solicitor for the Applicant (Proposed conditions from Solicitor for the Applicant (contained in Annex 1 of Outline Submissions, circulated to all parties on 6 February 2019) and imposed by the Licensing Committee. The Sub-Committee then imposed the following additional conditions:

1. Operating hours

Proposed Activity	Timings
Live Music (indoors)	Monday to Saturday 11:00 – 00:00 Sunday 11:00 to 23:00
Recorded Music (indoors)	Monday to Sunday 11:00 to 01:00
Late Night Refreshment (indoors)	Monday to Sunday 23:00 to 01:00
Sale of alcohol (on & off	Monday to Sunday

sales)	11:00 to 01:00
Opening times	Monday to Sunday 11:00 to 01:30
Non-Standard Timings for all licensable activities	New years eve Sale of alcohol / Late night refreshment 11:00 to 02:30 Opening Hours 11:00 to 03:00

2. The Licensing Authority to be notified on a monthly basis of drinks promotions
3. Prior to the commencement of student nights, the higher education institutions in York to be contacted regarding student welfare issues with the potential attendance of a student welfare officer at the student nights.
4. The licence to be transferred to Daniel Thwaites Plc prior to the premises commencing operation.

All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

The Sub-Committee concluded that the application was acceptable with the above mandatory and additional conditions attached, which addressed the representation made in writing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representation, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

The Sub-Committee only took into account matters relevant to the licensing regime and to the promotion of the licensing objectives. The Sub-Committee noted that the history of these premises shows that it had held a licence for a number of years and that the Licensing Authority have not received any complaints about noise disturbance.

Whilst the Sub-Committee took careful account of the objections raised by North Yorkshire Police, the Licensing Authority (CYC)

and CYC Public Protection, it considered that it had received sufficient assurances from the Barrister of the applicant in order to be satisfied that the premises would be operated responsibly under the new operating schedule. Accordingly it approved the application subject to the imposition of the above-mentioned additional conditions which were appropriate, proportionate and necessary in the circumstances to promote the licensing objectives.

Cllr B Boyce, Chair

[The meeting started at 10.00 am and finished at 1.30 pm].