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| Meeting | Licensing/Gambling Hearing           |
| Date    | 6 August 2020                        |
| Present | Councillors Galvin, Mason and Norman |

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## 12. Chair

Resolved: That Cllr Mason be elected to act as Chair of the meeting.

## 13. Introductions

The Chair introduced those participating in the hearing: the Sub-Committee Members, the Applicant, the Applicant's two witnesses and the Representor. The Legal Adviser and Democracy Officer were also present.

## 14. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included in the Register of Interests, or any prejudicial or disclosable pecuniary interests, that they might have in the business on the agenda. No interests were declared.

## 15. Additional Item - Exclusion of Press and Public

The Chair accepted this as an additional item of business on the agenda and it was

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.

**16. The Determination of a Section 18(3) (a) Application by Event Coordin8 Ltd for a Premises Licence in respect of The Salix Yurts, Willow House Caravan Park, Wigginton Road, Wigginton, York, YO32 2RH**

Members considered an application by Event Coordin8 Ltd for a Premises Licence in respect of The Salix Yurts, Willow House Caravan Park, Wigginton Road, Wigginton, York, YO32 2RH.

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

1. The Prevention of Public Nuisance ;
2. The Prevention of Crime and Disorder

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 objective, including:

1. The application form.
2. The papers before it.
3. The Licensing Manager's report and her comments given at the Hearing. The Licensing Manager outlined the report and the annexes, noting the details of the application submitted and the conditions agreed by the Applicant with the North Yorkshire Police and Environmental Protection should the licence be granted. She also noted that the premises were not located within the cumulative impact assessment area and that the site did not have the correct Planning Permission for the intended use. She drew attention to the representations that had been received from local residents, the parish council and ward councillors, as set out in Annex 6, and the Applicant's letter in response to these at Annex 7. She advised the Sub Committee of their options in determining the application.

The Licensing Manager further noted that live and recorded music performed to an audience of less than 500 people was no longer a licensable activity between the hours of 8:00 and 23:00 on licensed premises and so was

not subject to control between those hours. Finally, she drew attention to the additional papers supplied by the Applicant, which had been circulated to all parties and subsequently published online as an Agenda Supplement.

Questions were then put to the Licensing Manager in relation to the capacity sought for the venue and the position on Planning enforcement under Temporary Event Notices (TENs) issued for previous events at the premises, to which she responded that:

- Capacity had not been stipulated in the application;
- A number of events had taken place at the premises under TENs; it would be a matter for Planning to take any enforcement action required.

4. The representations made by Lee Cowell on behalf of the Applicant in writing and at the hearing, including the additional papers in the Agenda Supplement, and the representations made at the hearing by the Applicant's witness, James Gallagher.

Mr Cowell stated that he had run events successfully at the premises since April 2018 under TENs. However, in order to accommodate the number of events that had been postponed due to the coronavirus pandemic, he now had no alternative but to apply for a permanent licence. He was aware of concerns relating to licensed hours, noise, traffic and the location of the premises and in response had made concessions via the conditions agreed with the Police and Environmental Protection. He pointed out that these would require events to finish at 23:00 on Wednesdays and clarified that there was no intention to have regular late night entertainment on a Wednesday. Service of alcohol would cease at 23:30 on Fridays, Saturdays and Bank Holiday Sundays.

With regard to the objections made on the grounds of noise nuisance, Mr Cowell noted that he had enforced noise regulations from day one and, as the premises were located on a camping park, had always aimed to avoid inconvenience to the other guests on the site. He added that he had never received complaints about noise from residents of houses on the site and that the resident of Willow House supported the application. He stated that the yurts had been fitted with enhanced soundproofing, as

shown in the document marked 'Appendix D' in the Agenda Supplement, and each had 2 doors, which were kept closed after 9 pm. During events, there was always an Events Manager present, who carried out checks of the noise levels.

James Gallagher, an Events Manager and Co-ordinator at The Salix Yurts was called as a witness. He stated that he had worked there for 2 years and 2 months and had operated more than 100 licensed bars. He said that he had never had any problems with nuisance or noise. He was required to measure sound levels at the front gate and the entrance to the site and, in the event of excess noise, would ask the band or DJ to turn the sound down. He also met with each wedding couple 6 weeks before their event and discussed the sound monitoring arrangements with them. During the event, at 10 minutes to midnight he would draw the attention of the band or DJ to the time, then at midnight the lights would go up and the music would have to stop.

Mr Cowell then resumed and drew attention to the papers in the Agenda Supplement, including the minor amendments he sought to the conditions agreed with the police, as noted in the document marked Appendix B. He also highlighted the comments under the Press article at Appendix H and the letters in support of the application from Willow House Estates (Appendix G) and Laura Parkin (Appendix K). In relation to Appendix F, the licence held by the nearby Villa Farm, he stated that many of the concerns raised actually related to that venue, which was closer to residential areas and operated on more days than Salix Yurts, and hosted stag and hen parties rather than weddings. He went on to confirm that there were no plans to increase the number of yurts on the premises and that each event attracted 20-30 cars, for which there was adequate parking on site.

Mr Cowell then responded as follows to questions put to him by the Representor and the Sub-Committee, confirming that:

- No regulated entertainment would take place at the premises on Mondays, Tuesdays or Thursdays;
- Noise levels were measured on the Haxby side of the site;

- He would be happy agree a condition to provide advance information of events via leafleting, and a contact phone number in case of problems, to local residents;
  - Salix Yurts was mainly a venue for weddings; other events held there included christenings and children's parties;
  - He would like a capacity of 130 for events;
  - Events on the site were 'policed' by the Event Manager; door staff were not used and there had been no problems with this.
5. Representations made by Cllr Pearson, Ward Member for Haxby & Wigginton, on behalf of his fellow ward members and a number of local residents, in particular those living on the west side of Eastfield Avenue and Green Dike.

Cllr Pearson stated that concerns had been raised in respect of the noise levels, particularly at night, coming from events previously held at the premises under TENs. He noted that Wigginton Parish Council had also made representations and that some local residents had asked for the application to be rejected. However, he also wanted to see local businesses thrive. He was therefore seeking amendments to the conditions; in particular a limit on the volume of noise, and action to ensure that it was not audible to local residents. He would also like to see the number of events curtailed so that it did not exceed the number allowed under the TENs, which was 15 per year. He went on express safety concerns regarding access from the site onto Wigginton Road and requested that the eastern boundary of the site be secured, to prevent access to Sandringham Close.

Cllr Pearson then responded to a question put to him by the Sub-Committee, stating that the evidence of noise nuisance that he had received since the premises started operating was anecdotal and contained in letters from residents and on Facebook.

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

The Representor summed up by stating that, if the application were granted, it should be conditioned to restrict the hours of operation further (to 9pm on weekday nights) and to ensure that noise was kept at a level that did not disturb local residents.

The Applicant summed up by stating that he had been running events on the site for 2 years without any problems, had the support of local residents and was prepared to minimise noise and nuisance. He went on to say that continual improvements had been made to the premises since 2019 in order to limit sound coming from the site, most recently in the past few weeks. He would continue to monitor noise levels but would not wish to make further concessions to the hours or days of operation beyond those already agreed with the Police and Public Protection.

The Sub-Committee went on to discuss potential conditions to be attached to the licence should it be granted. They then went into private session to deliberate and to reach a decision.

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;
- 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; or
- Option 4: Reject the application.

The Sub-Committee rejected Options 1, 3 and 4, and

Resolved: That Option 2 be accepted and the application for a premises licence be granted, with modified/additional conditions imposed by the Sub-Committee, as follows:

| <b>Activity</b>                               | <b>Timings</b>  |
|---|---|
| Live music (indoors and outdoors)             | 23:00 - 00:00 Wednesday, Friday, Saturday and Bank Holiday Sundays      |
| Recorded music (indoors only)                 | 23:00 – 00:00 Wednesday, Friday, Saturday and Bank Holiday Sundays      |
| Late night refreshment (indoors and outdoors) | 23:00 – 01:00 Wednesday, Friday, Saturday, Sunday, Bank Holiday Sundays |
| Sale of alcohol (on sales only)               | 11:00 – 00:30 Wednesday, Friday, Saturday, Sunday, Bank Holiday Sundays |
| Opening times                                 | 08:00 – 01:00 Wednesday, Friday, Saturday, Sunday, Bank Holiday Sundays |

1. The premises shall operate for pre-booked and bona fide private events and weddings only to which members of the public are not admitted (“Events”). Pre-booked is defined as booked in writing not less than 7 clear days in advance by the customer.
2. Events shall be restricted to the following days of the week:

Wednesday, Friday, Saturday, Sunday, Bank Holiday Sundays

3. The hours of regulated entertainment including live music and recorded music shall be restricted to the following hours and days:

Friday, Saturday, Bank Holiday Sundays -23:00 – 00:00 hours.

4. No regulated entertainment, including live and recorded music, shall be played through electronic speakers in the outside licensed area.
5. Within 2 months of the date of grant of the premises a detailed noise management plan shall be submitted in writing to the Local Authority for approval. Once approved, the noise management plan shall be implemented thereafter and adhered to.

6. The Sale of alcohol shall cease 30 minutes prior to the venue closing.
7. An event manager shall be allocated to each Event and consideration shall be given to the need for an event management plan (EMP).
8. Once in every month the licence holder shall inform residents of Sandringham Close, Haxby of proposed Events via leafleting and provide a direct telephone number for the manager of the premises in the event of complaint during an Event.
9. It is the responsibility of the Designated Premises Supervisor /Manager on duty for risk assessing not less than 7 days before the event the need for Door Supervisors at the premises for all events held.
10. 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 training will be refreshed (and documented) every six months and the documented records shall be kept for a minimum of one year.

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

11. 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.



12. A digital colour CCTV system will be installed to cover the premises.
- It will be maintained, working and recording at all times when the premises are open.
  - The recordings should be of good evidential quality to be produced in Court or other such hearing.
  - Copies of the recordings will be kept available for any Responsible Authority for 28 days. (Subject to Data Protection requirements).
  - Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. (Subject to Data Protection requirements).
  - Copies of the recordings will display the correct time and date of the recording.
  - It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.(Subject to Data Protection requirements).
13. The licence holder will operate a Challenge 25 Age Verification Policy.
- 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.

All conditions offered in the operating schedule shall be included in the licence, unless contradictory to the above conditions. The licence is also subject to the mandatory conditions applicable to licensed premises.

- Reasons:
- (i) The Sub-Committee notes that this is a new grant premises licence application and the Applicant's evidence that they have been running events on the site for two years under TENs and have not received any complaints from residents.
  - (ii) They note that the Applicant has agreed to the conditions that the Police have requested be attached to a licence

- (iii) They also note that the Applicant and Environmental Protection have reached a position of compromise for the days and hours of operation and for regulated entertainment. Whilst the agreed conditions that Environmental Protection have requested be imposed are welcomed by the Sub-Committee, they note that some of the conditions relating to the control of regulated entertainment would fall outside the ambit of a premises licence if a licence is granted, due to deregulation of live and recorded music in certain circumstances. They also note that on a review of a premises licence, the licensing authority may add a condition relating to live and recorded music as if they were regulated entertainment.
- (iv) The Sub-Committee note the Applicant's evidence that the premises are well run, particularly with regard to the prevention of noise nuisance and it is felt that the Applicant has provided enough evidence to convince the Sub-Committee that the noise levels at the proposed events could, with the imposition of conditions, be sufficiently managed without undermining the licensing objectives.
- (v) The Sub-Committee note the concerns of the Representor in attendance and the written representations from residents with regard to public nuisance and have imposed modified/additional conditions including to control the type and days/timings of events. This is considered to be appropriate to ensure that the events proposed would be held without causing noise nuisance to nearby residents.
- (vi) The Sub-Committee believe the premises are sufficiently conditioned to ensure that the events proposed could be held without causing public nuisance to nearby residents and to promote the licensing objectives.

The Sub-Committee has made this decision taking into consideration the written and verbal representations, the Agenda pack, all the papers before them, 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.

Cllr A Mason, Chair

[The meeting started at 10.00 am and finished at 11.25 am].