
Meeting	Licensing/Gambling Hearing
Date	12 October 2021
Present	Councillors Galvin, Hook and Hunter

19. Chair

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

20. Introductions

The Chair introduced those present at the hearing; the members of the Sub-Committee, the Applicant (Matt Jones and Chris Sleaford of Roxy Leisure Ltd.), the Applicant's Solicitor, the Representor, the Licensing Manager presenting the report, the Legal Adviser, the Senior Legal Officer shadowing the Legal Adviser, and the Democratic Services officer.

21. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, that they might have in the business on the agenda. None were declared.

22. 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.

23. The Determination of a Section 18(3) (a) an Application by Roxy Leisure Ltd for a Premises Licence at Roxy Lanes, 3 St Mary's Square, Coppergate, York, YO1 9NY (CYC-069217)

Members considered an application by Roxy Leisure Ltd. for a premises licence in respect of 3 St Mary's Square, Coppergate, York YO1 9NY.

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 Crime and Disorder
2. Public Safety
3. The Prevention of Public Nuisance
4. The Protection of Children from Harm

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.
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 in the Cumulative Impact Assessment (CIA) area and confirming that the Applicant had carried out the consultation process correctly. She highlighted the amendments to the operating hours agreed by the Applicant with North Yorkshire Police (NYP), as set out in paragraphs 5 and 18 of the report, and noted that NYP had withdrawn their objections as a result of these amendments. She drew attention to the representations received from and on behalf of local residents, as set out in Annex 6. Finally, she advised the Sub Committee of the options open to them in determining the application.

In response to a question from a member of the Sub-Committee, the Licensing Manager clarified that the opening hours were from 9:00 am each day and not from 10:00 am.

4. The representations made by the Applicant's solicitor, Mr Rees-Gay, on behalf of the Applicant.

Mr Rees-Gay confirmed the revised hours of the application and referred to the brochure circulated to all parties before the hearing, stating that the Applicant had been established since 2015 and operated premises on 10 sites, including premises in Liverpool and Leeds which were located within CIA areas and against which no enforcement action had ever been taken. The premises were to be used mainly for competitive socialising activities, including a bowling alley. There would be no dance floor or live music and half of all revenue would come from gaming. 75% of customers would be pre-booked, and of these 50% would be from corporate trade.

He went on to state that there had been a misconception arising from reports in the York Press that activities on the premises would be 'family oriented'. In fact, the evening activities would be adult oriented. He added that the Applicant had liaised with the responsible authorities long before submitting the application and had first contacted NYP three years ago. The hours applied for had been reduced after lengthy discussions with PC Hollis. Discussions had also taken place with Michael Golightly in Environmental Protection regarding noise. Mr Golightly was satisfied that the application would not result in public nuisance, since the ground floor would not be in use, there would be an acoustic partition (as indicated on the plan) and the main entrance would be on St Mary's Square, not on Piccadilly.

Mr Rees-Gay submitted that the operation would add to the culture, economy and vitality of the city, in accordance with Paragraph 6.1 of York's Statement of Licensing Policy. He said that none of the Applicant's other premises had such restricted hours as proposed here, and the fact that there were no representations from responsible authorities illustrated the authorities' confidence in the operation. With regard to the representations, his clients would be happy to walk round the venue with the Representors and to provide them with contact details. There was no evidence from the operation of the other Roxy venues to support the representations relating to drunken behaviour or the site attracting teenagers. Relevant conditions were offered regarding under-age sales and noise / vibration. The nature of the operation meant that noise and queueing would not be an issue; neither would litter, as late night

refreshment would be offered outside the premises. The premises would welcome families during the day but would be for adults only at night. The concept of 'need' for a new licensed premises was a matter for Planning, Licensing under the Section 182 guidance.

He stated, in summary, that Roxy Leisure was a premium operator, there was no evidence to link the operation to the representations made, and he believed that, due to the focus on competitive gaming and pre-booking, no problems would arise. There were powers to review the licence if any breaches occurred and the Sub-Committee must make a decision based on the actual evidence before them.

In response to questions from the Representor and the Panel, Mr Rees-Gay, along with Matt Jones and Chris Sleaford (Chief Executive and COO respectively of Roxy Leisure) confirmed that:

- The premises would operate under the Roxy Lanes brand, which in contrast to the Roxy Ballroom brand was focused on games and included a family element during the day; the application included a condition to retain a 4-lane bowling alley in situ. Roxy Leisure had no control over the gate to the Coppergate Centre, but could request the Coppergate Management company to close the gate after 6pm to prevent guests exiting that way; Roxy Lanes might also be able to keep an eye on this area, where there were currently no controls, to help deter drinking and anti-social behaviour there.
- The cut-off time for allowing children on the premises was normally 7pm; this would be subject to risk assessment and so could be earlier - for example, on a very busy day; it had not been an issue for Roxy's other operations.

In response to a question from the Legal Adviser, Mr Rees-Gay confirmed that the condition to retain a bowling alley was mentioned at paragraph 10 of the Licensing Manager's report.

5. The representations made by Andras Sztrokay, a local resident.

Mr Sztrokay stated that the main motivation behind the representations made by himself and other residents was their aim for a quieter Piccadilly area. He noted that Piccadilly was

part of the Castle Gateway project, which was intended to rehabilitate the area and make it a gateway to the historic city centre. Coppergate was an unfortunate development in an area dominated by the Merchant Adventurer's Hall. Piccadilly was a busy transport hub during the day, and at night became a hub for people leaving the city centre after drinking. Despite efforts by the council and York Bid to establish better security, there was still a lot of anti-social behaviour in the area.

Mr Sztrokay submitted that today's decision would be key as to whether development of the area's historic aspects would continue, or whether it would be transformed into a playground for drinking and anti-social behaviour. He appreciated that the application was not aimed at drinking, but doubted whether the figures from Roxy's other venues could show that there would be no impact on alcohol sales. If alcohol was to be served in a place that was open for longer than other businesses in the area, it would lead to more drinking and anti-social behaviour. The area by the River Foss was already subject to constant anti-social behaviour and loitering, which was not being addressed, and the fear was that opening this venue would contribute to the problem. Although the venue was not intended as a 'party place', he queried what the policy would be on stag and hen parties.

Finally, he stated that he would like to see conditions attached to the licence to ensure sufficient soundproofing of the venue, require entry to be from St Mary's Square only, and restrict the closing hours to 10 pm, as at other premises in the area.

Both parties were then given the opportunity to sum up.

Mr Sztrokay summed up, clarifying that he was not against family-friendly venues, nor was he against the use of an empty premises by a business for new activities. However, he said the council should think hard about the types of activities to be allowed and the limits to be placed on activities that involved drinking.

Mr Rees-Gay summed up, noting that two venues in Piccadilly – Spark York and the Red Lion pub – closed later than 10 pm and were only 100 yards from the Merchant Adventurers' Hall, and a third where sale of alcohol was permitted until 1 am. He said stag parties were normally planned events, which fitted with Roxy Lanes' prior booking model, but pointed out that it was

difficult to take part in competitive socialising while drunk and that this aspect would be strictly controlled. He re-iterated that the ‘family friendly’ label had been pushed by the York Press; that children would only be allowed on the premises until 7pm; that Roxy was a premium operator and that there was no evidence to link it with the issues raised in the representations. He confirmed that all those who had submitted representations would be invited to walk around the premises and exchange contact details with the Applicant. He again stated that the premises would operate as Roxy Lanes, not Roxy Ballroom, with pre-booking and no live music. Finally, he drew attention to the powers available to review the licence if any problems arose, and to the lack of representations from responsible authorities, and asked Members to make their decision by assessing the evidence submitted.

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 application be granted with modified/additional conditions imposed by the Sub-Committee, as follows:

Activity	Timings
Films – indoors	1000 to 2300 Monday to Thursday

	1000 to 0000 Friday & Saturday 10000 to 2230 Sunday
Recorded music- indoors	1000 to 2300 Monday to Thursday 1000 to 0000 Friday & Saturday 10000 to 2230 Sunday
Late night refreshment	2300 to 0000 Friday & Saturday
Supply of alcohol on the premises	1000 to 2300 Monday to Thursday 1000 to 0000 Friday & Saturday 10000 to 2230 Sunday
Opening hours	0900 to 2330 Monday to Thursday 0900 to 0030 Friday & Saturday 0900 to 2300 Sunday
Non standard timings	Finish time extended by 1 extra hour on a Sunday preceding a bank holiday

1. The premises shall not operate as a bar or vertical drinking establishment or nightclub and all licensable activities authorised by this licence shall be ancillary to the main function as a bowling alley/competitive socialising venue with a minimum of 4 bowling lanes.
2. A direct telephone number for the manager of the premises shall be publicly available at all times the premises are open. This telephone number is to be made available to residents in the vicinity.

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 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 premises are located within an area where a Cumulative Impact Policy applies. The Statement of Licensing Policy sets out that this special policy will create a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused following receipt of representations, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact of premises.

(iii) The Sub-Committee noted that that the premises being in the cumulative impact area (CIA) did not act as an absolute prohibition on granting new licences within that area. Each application must be considered on its own merit and it is possible for an applicant to rebut the above presumption if they can demonstrate that their application for a premises licence would not add to the cumulative impact already being experienced in the CIA. Representations had been received from seven members of the public.

(iv) The Sub-Committee considered that the onus lay upon the Applicant to evidence to the Sub-Committee (to the civil standard) that the operation of the premises, if licensed, would not add to the cumulative effect of having more licensed premises in the CIA, with regard to the licensing objectives.

(v) The Sub-Committee noted that the Applicant had amended the application following mediation with the Police to reduce the timings for licensable activities. It also noted that there were no representations from the Police or any of the other Responsible Authorities.

(vi) The Sub-Committee noted the concerns raised by a local resident who attended the hearing and the representations received in writing from interested parties. The Sub-Committee noted in particular the

concerns raised as to the potential impact of the licensed premises with regard to nuisance, crime and disorder and anti-social behaviour from users of the premises and noise escape from the premises.

(vii) The Sub-committee noted the evidence put forward at the hearing by the Applicant as to the character of the style of venue and its operating schedule and was satisfied that the applicant was a responsible organisation that would make every effort to promote the four licensing objectives.

(viii) Having taken into account all the evidence (with consideration being given to the representations received from local residents) the Sub-Committee considered that the proposed operating schedule, together with the additional amended conditions imposed by the Sb-Committee would be sufficiently robust to allay the fears of local residents and to prevent crime and disorder and public safety and public nuisance. It was satisfied that granting the licence would not increase the pressures the CIA currently faces and that it would promote the four licensing objectives.

(ix) Therefore it concluded that that the presumption against granting a licence for a new premises situated in the CIA was rebutted in this particular case and was satisfied that all four licensing objectives would be met in granting the application with the mandatory and the above conditions.

(x) The Sub-Committee therefore agreed to grant the licence with the additional/modified conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

Cllr J Galvin, Chair

[The meeting started at 4.30 pm and finished at 5.25 pm].