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Meeting	Licensing/Gambling Hearing
Date	8 August 2023
Present	Councillors Cuthbertson, Hook and Mason

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**23. Chair (13:34)**

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

**24. Introductions (13:35)**

The Chair invited those present to introduce themselves; the Sub-Committee Members, the Legal Adviser, the Democratic Services Officers, the Licensing Manager, the Applicant, Mr Moore, and the Representor, Mr Rozelle.

**25. Declarations of Interest (13:34)**

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.

**26. Exclusion of Press and Public (13:37)**

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.

**27. Minutes (13:38)**

Resolved: That the minutes from the Licensing Hearings held on 19 July and 24 July 2023 be brought to the next hearing.

**28. The Determination of a Section 18(3)(a) Application by Mr Joseph Moore for a Premises Licence in respect of 46 Walmgate, York, YO1 9TJ (CYC-073136) (13:40)**

Members considered an application by Mr Joseph Moore for a premises licence in respect of 46 Walmgate, York YO1 9TJ.

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. 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 one written representation received from local residents.
3. The Licensing Manager's report and her comments made at the Hearing.

The Senior Licensing Officer outlined the report and corrected the supply of alcohol timings listed to 10:00 to 23:00 Sunday to Thursday before summarising the annexes. She then confirmed 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 North Yorkshire Police, as set out in Annex 3. She then stated that the representation from the Public Protection team had been mediated following agreement from the applicant to amend their opening schedule and cease all regulated entertainment at 23:00. She also drew attention to the representations made by other parties at Annex 5. Finally, she advised the sub-committee of the options open to them in determining the application.

4. The Applicant's representations at the Hearing. The Applicant stated explained that the new premises would be a small café/wine bar seating around 30 customers. The venue was aimed at couples and local residents rather than groups of drinkers and all customers would be seated with table service being provided.

The Applicant went on to state that he had complied with the responsible authorities and mediated concerns to ensure the licensing objectives were met. He also noted that the venue was in line with similar venues in the area and disagreed that it was within a primarily residential area.

In response to questions from Mr Rozelle (Representor), the Applicant confirmed that there were no plans to expand the venue.

In response to questions from the sub-committee, the Applicant confirmed that:

- There would not be any additional seating at the bar. The venue would have around 25-30 seats for customers and there would be no vertical drinking.
- The venue was made up of a storage area at the back and there was a residential space upstairs.
- He had around 20 years' experience of running licensable premises with venues ranging in sizes and service level.
- The menu would be comprised of small tapas-style dishes.

5. The representations made by Keith Rozelle and Tracy Walters, local residents.

Mr Rozelle was in attendance to present the representation stating that he lived around 25 meters from the premises and that the area had a wonderful sense of community, which he wished to preserve. He explained that there were few ordinary shops for residents in the immediate vicinity and the large number of bars, restaurants and pubs were popular with visitors, tourists, and students, but not the local residents.

He went on to explain that Walmgate was becoming oversaturated with restaurants and bars which were destroying the community as the area needed to reflect the needs of the local residents. He spoke on the noise levels from The Watergate Inn and explained that this late license application would further negatively impact the area due to increased noise levels and other issues arising from excessive drinking. He welcomed the restaurant conditions on the application but noted that this would not stop excessive drinking, especially due to the late licence and that the regulated music would also disturb the residents. He mentioned another late night bar in Stonegate owned by a local resident where drinking was contained before concluding that the primary concern of the representation was the late night aspect of the license and asked the sub-committee to reject the application.

In response to questions from the Applicant, Mr Rozelle explained that he was unaware of the capacity of the bar in Stonegate and of how many licenced pubs were currently in operation in Walmgate but commented that he did not want the area to turn into streets similar to Rougier Street or Micklegate and hoped to preserve the community. He also explained that he has lived in Walmgate for 10 years and has noticed gentrification in the area and that there should be a balance between jobs and businesses and the community aspect.

In response to questions from the sub-committee, he explained that police resources were already stretched and dealing with the effect of increased late night licences would be difficult.

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

Mr Rozelle summed up, stating that he appreciated that the plans for this venue will be similar to The Wright Place as he liked the format but explained that he was more concerned about the late night aspect of this application as opposed to the actual alcohol licence.

The Applicant summed up, stating that he had complied with the conditions set out by the Responsible Authorities to ensure that the licensing objectives were met and noted that this was a very small venue.

The Sub-Committee sought clarification from the Licensing Manager on the details of the alcohol licence at The Wright Place, but this information was not available at the meeting.

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:

<b>Activity</b>	<b>Timings</b>
Live Music - indoors	10:00 to 23:00 everyday
Recorded Music - indoors	10:00 to 23:00 everyday
Late night refreshment – indoors and outdoors	23:00 to 01:00 everyday
Supply of alcohol - on and off the premises	10:00 to 23:00 Sunday to Thursday 10:00 to 00:30 Friday and Saturday
Opening hours	10:00 to Midnight Sunday to Thursday 10:00 to 01:00 Friday and Saturday

The conditions contained in the Operating Schedule and the additional conditions agreed between the Applicants and North Yorkshire Police numbered 1 to 9 inclusive set out in Annex 3 of the Agenda shall be added to the licence.

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 and was conscious that the premises' location is in proximity to some local residences. The Sub-Committee carefully considered the submissions of the Representors and the concerns raised by them relating to the impact the premises would have on the licensing objectives, in particular concerns about crime and disorder (particularly in relation to anti-social behaviour) and public nuisance in the form of noise emanating from the premises.
- iv. 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.
- v. The Sub-Committee noted that Public Protection had withdrawn their representation as they had agreed with the applicant to a reduction in the timings of live and recorded music to cease at 23:00 which effectively removed the need for entertainment from the application.
- vi. It noted that there were no representations from any other Responsible Authority.
- vii. Whilst the Sub-Committee acknowledged the concerns expressed by the Representor, it also considered the nature of the proposed activities, noting that the establishment was intended to operate as a small-scale café/wine bar for couples and local residents with customers to be seated at tables with table service only. The Sub-Committee was reassured by the evidence given by the Applicants and their responsible attitude towards the promotion of the licensing objectives as they had mediated with Public Protection and had agreed with the Police to the addition of several conditions to be added to the grant of a licence.

- viii. In light of the evidence given by the Applicant, the Sub-Committee was satisfied that the premises would be operated responsibly. It did not find any evidence to justify a refusal of the application and given the nature of the proposed operation it was felt that further conditions would not be necessary in order to promote the licensing objectives.
- ix. Accordingly, in all of the circumstances of the case it was felt that the decision of the Sub-Committee to grant the licence subject to the additional conditions agreed with the Police was justified as being appropriate and proportionate for the promotion of the licensing objectives.

Cllr I Cuthbertson, Chair

[The meeting started at 1.34 pm and finished at 2.26 pm].