
Meeting	Licensing Hearing
Date	14 April 2014
Present	Councillors Boyce, Horton and Watt

75. Chair

Resolved: That Councillor Boyce be elected as Chair of the meeting.

76. Introductions

77. Minutes

Resolved: That the minutes of the Licensing Hearings held on 9th and 23rd January 2014 be approved and signed by the Chair as a correct record.

78. Declarations of Interest

At this point in the meeting, Members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda. None were declared.

79. The Determination of an Application by Under the Influence (Yorkshire) Ltd, Bewlie, Burnby York for (Premises Licence) [Section 18(3)(a)] in respect of 54-56 Fossgate, York (CYC-023101)

Members considered an application by Under the Influence (Yorkshire) Ltd for a premises licence.

In coming to their decision, Members took into consideration all of the evidence and submissions that were presented to them and determined their relevance to the issues raised and the licensing objectives.

The following were taken into account:

1. The application form.
2. The Licensing Managers report and her comments made at the hearing. She advised that the application was for a premises licence at 54-56 Fossgate, York. Plans showing the location and floor layouts were tabled. The premise is located within the special policy area as of 27th March 2014 but the licence application had been made before this date with the consultation period ending on 12th March. A number of conditions had been agreed with North Yorkshire Police and the Council's Environmental Protection Unit prior to the hearing. Consultation had been carried out successfully.
3. The applicant's Solicitor's representations made at the hearing including that the premise would be replacing the old Army and Navy Stores and that a planning application for change of use had now been granted. Due to the relatively small size of the building and the use of tables on the ground floor and the first floor, the capacity was likely to be half of the 170 quoted in the application and 90% of the floor area would be seated. The concept would be that of a coffee shop and bistro with alcohol being a part of the overall sales, rather than the main focus. A comprehensive operating schedule was in place for the premises and in response to concerns raised by local residents it was advised that trained staff would monitor the conduct of patrons smoking outside the building and there would be door staff on duty at peak times. The premises would have no effect, cumulative or otherwise, on the promotion of the licensing objectives.
4. The representations made in writing and at the hearing by two local residents who raised concerns about the potential for public nuisance and disturbances caused by the customers from the premises being in the area late at night, particularly customers smoking outside the premises. They raised concerns about the number of licensed premises opening up in the area and the potential for the addition of this licence to add to the existing problems of public nuisance and crime and disorder.

The Sub-Committee were presented with the following options:

- 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.

Members chose Option 2 and agreed to grant the licence with the following conditions as amended and agreed with North Yorkshire Police and conditions agreed with the Council's Environmental Protection Unit:

Condition 8 – reworded as follows:

- (a) A CCTV system will be installed to cover the premises and recorded coverage will include all areas where the public will have access to consume alcohol.
- (b) The CCTV system will be maintained, working and recording at all times when the premises are open.
- (c) The recordings shall be of good evidential quality to be produced in court or other such hearing.
- (d) Copies of the recordings will be kept available for the police or authorised officer for 31 days.
- (e) Copies of the recordings shall be made available to the police or authorised officer within 48 hours of request.
- (f) Copies of the recordings will display the correct time and date of the recording.

Condition 11 – reworded as follows:

An adequate number of Door Supervisors (at least one) shall be provided at the venue from 21:00hrs on the following occasions:

- i) Every Friday and Saturday evening

- ii) The evening before a Bank Holiday
- iii) The evening of race meetings held at York Racecourse (save for the family meeting held September and the first meeting in May).

Condition 12 – the following wording to be inserted:

The incident log shall be kept for at least one year and will be made available immediately upon a reasonable request from any responsible authority.

Condition 13 reworded as follows:

The venue shall partake in the York Nightsafe Night-time Economy radio system.

Condition 19 to have the following wording inserted:

...so as to ensure the licensing objective *the prevention of crime and disorder* is not undermined.

Conditions 29, 31 and 32 to be removed.

An additional condition to cover staff training:

Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue. Such records (referred to in condition x) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.

Conditions requested by the Councils Environmental Protection Unit:

1. All doors and windows shall be closed after 23:00 each night (except for ingress and egress)
2. Clear signage shall be displayed requesting that customers respect neighbouring residents and leave the premises quietly.
3. The use of external areas for the purpose of smoking shall be restricted to the facade fronting onto Fossgate.
4. The removal of any waste to the exterior bins shall be restricted to 08:00hrs to 23:00hrs each day.

5. Music within the premises shall be played at a background level only.
6. Noise and vibration emanating from the premises shall not be audible at the nearest noise sensitive premises.

REASON FOR THE DECISION:

The Sub-Committee concluded that the application was acceptable with the above amended and additional conditions as it addressed representations made both in writing and at the hearing, and it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, 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 noted the local residents' concerns that there has been a recent increase in anti-social behavior in Fossgate. They noted their concerns about noise problems in Fossgate, particularly from smokers congregating outside other licensed premises and coming and going late at night. They also noted that there had been no objection to the application from the Responsible Authorities and that the Police and EPU had agreed a number of proposed conditions with the applicant to address potential crime and disorder and public nuisance issues. 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 to local residents, particularly late at night. It also took into account that there would be no live music and that recorded music would be background only. It also noted that the premises would operate as a coffee house/brasserie/bar with 90% of the floor area would be devoted to seating rather than use as a vertical drinking establishment.

Resolved: That in line with Option 2, members approved the application.

Reason: To address issues raised.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 11.45 am].