

Meeting                      Licensing Hearing

Date                         15 May 2014

Present                     Councillors Boyce, Richardson and Watt

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**90.     Chair**

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

**91.     Introductions**

**92.     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 in the agenda. None were declared.

**93.     Minutes**

Resolved:                That the minutes of the Licensing held on 14<sup>th</sup> April 2014 be approved and signed by the Chair as a correct record.

**94.     The Determination of an Application by 22/44 The Shambles Ltd to Vary a Premises Licence Section 35(3)(a) in respect of Shambles Tavern, 44 Shambles, York, YO1 7LX. (CYC- 022106)**

Members considered an application to vary a premises licence in respect of Shambles Tavern, 44 Shambles, York.

In coming to their decision, Members took into consideration all of the evidence and the 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, in particular the operating schedule and the additional steps agreed to be taken by the applicant to promote the licensing objectives.

2. The Licensing Managers report and her comments made at the hearing. She advised that the application was for a licence variation to remove conditions 1 and 2 from annex 2 of the premises licence. Condition 1 being "The retail sale of alcohol shall be ancillary to the provision of food". Condition 2 was "Customers shall remain seated whilst consuming alcohol". In addition, the application requested the replacement of condition 7 at annex 2 which stated "Children must be accompanied by an adult at all times in the cafe area" to be replaced with the following, "Children at the premises must be accompanied by an adult at all times"
3. The comments made by the applicants solicitor at the hearing. He advised that the applicant did not want to increase capacity at the premises or introduce vertical drinking. The application was to cater for customers who may only wish to purchase a drink. Following the police visit in March 2014, rigorous staff training was now in place. In relation to the conditions suggested by the police, the applicant was in agreement with them all but the door staff condition which would be detrimental to the family friendly business model of the venue. The applicant was willing to consider other conditions if requested by the police.
4. The representations made in writing and at the hearing by North Yorkshire Police. They advised the Committee that following an intelligence led visit to the venue on 7<sup>th</sup> March 2014, it was found that alcohol was being served without the need for patrons to purchase a meal and that crisps were being consumed instead. During that visit, concerns were also raised about the lack of staff knowledge about the licence conditions and upon inspection, no training records were held on the premises. There had been a noticeable change in style of operation of the premises in the past year from a gift shop, to a cafe bar and now the suggestion was the premises was moving towards being alcohol led. In relation to the door staff condition being requested by the police, it was not considered unreasonable when other similar premises in the area had door staff employed from 9pm.

In coming to their decision the Sub-Committee considered the following options:

- Option 1    Grant the licence variation in the terms applied for.
- Option 2    Grant the licence variation with modified/additional conditions imposed by the Sub-Committee.
- Option 3    Grant the licence variation to exclude any of the licensable activities to which the application relates.
- Option 4    Reject the application.

In coming to their decision, the Sub-Committee chose option 4 and rejected the application.

#### REASON FOR THE DECISION:

The Sub-Committee resolved that the application for a variation be refused based on the evidence given by North Yorkshire Police at the hearing and the concerns of the Police regarding vertical drinking and drink led premises.

The Sub-Committee were mindful of the fact that the premises were located in an area to which a Special Policy of Cumulative Impact applies, although the rebuttable presumption against the granting of the variation did not apply as the variation would not increase capacity or extend the premises. However, they considered the application on its own merits and took into account of the concerns of the Police relating to the possible impact which the removal of the licence conditions would have on the prevention of crime and disorder in the area.

Having regard to the submissions made on behalf of the applicant, and the representations made by the Police, the Sub-Committee were not satisfied that the operation of the premises without conditions 1 and 2 on the licence would promote the licensing objective of the prevention of crime and disorder.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 11.40 am].