

Meeting	Licensing/Gambling Hearing
Date	14 September 2015
Present	Councillors Boyce, Mason and Richardson

18. Chair

Resolved: That Councillor Boyce be elected to Chair the meeting.

19. Introductions

Introductions were carried out.

20. Declarations of Interest

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests. None were declared.

21. The Determination of an Application by The Ragged Trousered Philanthropists Ltd for a Premises Licence Section 18(3)(a) in respect of Cycle Heaven, 2, 2A & 4 Bishopthorpe Road, York, YO23 1JJ (CYC-053764)

Members considered an application by The Ragged Trousered Philanthropists Ltd for a Premises Licence Section 18(3)(a) in respect of Cycle Heaven, 2 2A and 4 Bishopthorpe Road, York.

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. The Sub-Committee also noted that since the application had been submitted the applicant had agreed not to play recorded music after 11.00pm at 2, 2A and 4 Bishopthorpe Road, York and that this was no longer part of the application. Further, that the revised plan showed a reduced licensed area comprising only the ground floor of part of 2 and 2A Bishopthorpe Road, and

part of the outside patio area in front of the Darnborough Street elevation.

2. The Licensing Officer's report and her comments made at the Hearing. She stated that the premises were not located within the special policy area and that consultations had been carried out correctly. Representations made by the EPU and North Yorkshire Police had been addressed. She also stated that prior to the hearing the applicants had stated that they were willing to reduce the capacity of the venue by between 60% and 40%. With the agreement of all parties, this additional information was accepted and a revised plan was tabled. The Representors confirmed that they had been consulted regarding the plan.
3. The representations made at the hearing by the applicant and those of his witness who is the landlord of the premises and who explained the rationale for the change of use of the premises. The applicant was looking to offer an alternative to the pubs and cafes in the area and was keen to work with neighbours to address their concerns. The revised plan would mean that a buffer zone would be in place to minimise noise and disruption to neighbours adjoining and nearby. Details were also given of other proposed actions to address the representations that had been made including, relocating the bin store, ensuring deliveries caused minimum disruption, strategies to encourage customers leaving the premises to do so quietly, ensuring windows were kept closed, minimising noise from air con unit, and working with the Police and relevant agencies to address any adverse issues in respect of alcohol or drugs. If it became necessary to do so, the premises would be closed for periods of time on race days. The first floor of the building would not be used for licensable activities. Appropriate arrangements would be in place in respect of fire risk and the provision of first aid facilities.

The applicant stated that:

- it was not the intention to serve food after 23:00 hours and hence the application for a premises licence no longer included an application for late night refreshment.

- he did not consider door supervisors to be appropriate at the venue even on race days as he considered their presence would change the perception of the style of venue he was promoting. In the event that door supervisors became necessary, he would not wish to continue to open the premises.
 - he would prefer flexibility within the licence to enable the proposed Licensed Area to be used until midnight both inside and outside the premises, and that any public nuisance could be prevented by good management.
 - the staff would receive up to date training.
 - the occupancy of the new proposed layout is likely to be 60 people at any one time.
 - the two doors on the Darnborough Street elevation would not be used to access the Outside Patio Area, it would be accessed from the main door at the corner of Bishopthorpe Road and Darnborough Street.
4. The representations made in writing and at the hearing by local residents. The Representors who spoke at the meeting stated that the revised plan addressed some of the issues raised regarding privacy but they remained concerned regarding other matters. They believed that the proposed hours were excessive and not in line with other premises in the area and they asked that these be restricted. They had particular concerns about noise, disruption and anti-social behaviour particularly in respect of the outside area and when customers left the premises. They were also concerned about disturbance, litter, road safety and parking. The Representors called a witness who lived opposite the outside area of the premises and he stated that he was concerned about noise disturbance late at night if he were sitting in his garden, particularly in the summer months.

Members were presented with the following options:

Option 1: Grant the licence in the terms applied for and including any applicable mandatory conditions of the Licensing Act 2003 as amended.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions of the Licensing Act 2003 as amended.

Option 3: Grant the licence to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions of the Licensing Act 2003 as amended.

Option 4: Reject the application.

In coming to their decision the Sub Committee chose Option 2 and granted the application with modified/additional conditions as follows:

1. The supply of alcohol inside the venue for consumption on and off the premises to be from 11:00 to 23:00 hours only on all days.
2. No licensable activity shall take place in the Outside Patio Area after 20:00 hours on all days to prevent public nuisance being caused to nearby local residents
3. A barrier/screening shall be installed around the Outside Patio Area to delineate this from the highway, and such barrier/screening shall be in place at all times when the Outside Patio Area is in use.
4. The “Licensed Area” is shown indicatively on the plan dated 14 September 2015, (“Plan”) (which is not to scale) and shall be that internal area within the front of the ground floor of No.2a and No.2 Bishopthorpe Road that faces Bishopthorpe Road, extending only to the rear internal walls of these areas shown as cafe and bar space on the Plan, together with the Outside Patio Area which shall extend only from the Bishopthorpe Road frontage of the Premises to the far door frame of the recessed door on the Darnborough Street frontage, thus excluding the retail entrance and the outside area in front of the cycle workshop shown on the Plan. To prevent overcrowding likely to lead to disorder or violence and to prevent public

nuisance the maximum number of customers in the Licensed Area shall not exceed 60 at any one time.

5. CCTV

- a. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place.
- b. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
- c. CCTV cameras shall be installed to provide adequate cover of all public areas in the premises and entrances/exits & outside designated smoking areas (excluding toilets).
- d. All CCTV recorded images will have sufficient clarity/quality/definition to enable facial recognition. Recordings must be kept for a minimum of 28 days.
- e. North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 24 hours of the request being made.
- f. 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.

6. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- (i) retail sale of alcohol;
- (ii) age verification policy;
- (iii) conditions attached to the premises licence;
- (iv) permitted licensable activities;
- (v) the licensing objectives;
- (vi) opening times for the venue,

with such records being kept for a minimum of one year. (For the avoidance of doubt the one year period relates to each entry in the log book and runs from the date of the particular entry).

7. Strengthened glassware will be used for the consumption of alcohol within the venue.
8. The venue shall operate a Challenge 25 age verification policy for the sale of alcohol.
9. Alcoholic drinks purchased on the premises may only be taken off the premises (i.e. outside the Licensed Area) in sealed containers.
10. Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
11. The placing of refuse such as glass bottles into bins outside the premises where it is likely to be noisy, shall only take place between the hours of 09:00 and 21:00.
12. An incident book/refusals register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:
 - a) All alcohol related crimes reported to the venue
 - b) Any complaints received regarding alcohol related crime and disorder
 - c) Any faults in the CCTV system
 - d) Any refusal of the sale of alcohol
 - e) Any visit by a relevant authority or emergency service.
13. The two doors within the Darnborough Street elevation shall not be used to access the Outside Patio Area during the operating hours of the Licensed Area. During this time the only access to the Outside Patio Area shall be the main entrance door at the corner of the premises.

Reasons for the Decision:

The Sub-Committee carefully considered the application and the representations submitted in writing and orally at the hearing by those making representations and the Applicant. In reaching their decision, the Sub-Committee took into consideration the provisions of the Licensing Act 2003, in particular the statutory Licensing Objectives, together with 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 had regard to the potential impact of noise and disturbance on local residents and the representations that had been made. They were mindful that the premises were in a residential area, in close proximity to a number of terraced residential properties and that this was an application for a new licensed premises. Having regard to licensing policy, and the presumption in favour of granting the licence, the Sub – Committee considered that the licensing objectives could be met, and the licence be granted, provided that conditions were attached to meet the licensing objectives of preventing public nuisance and crime and disorder.

In attaching the conditions to the licence the Sub-Committee had regard to the Statutory Guidance and gave particular consideration to whether the imposition of conditions restricting the sale of alcohol to between 11am and 11pm and use of the Outside Patio Area for licensable activities to 8pm were proportionate in the circumstances .

The Sub-Committee had regard to the Applicant's preference for flexibility in seeking a licence until midnight, and were mindful that there was no objection from the Environmental Protection Unit, provided recorded music after 11pm was not being applied for. However, the Sub Committee were persuaded by the evidence from the nearby residents that public nuisance in the form of unacceptable noise and disturbance was likely to be caused by patrons leaving the premises late at night, as the residential properties were close by, and that unacceptable disturbance was likely particularly on summer evenings when residents were in their gardens. The time restrictions imposed were therefore considered to be proportionate and appropriate to meet the licensing objectives having regard to the particular circumstances.

The Sub-Committee therefore agreed to grant the licence with the additional conditions referred to above which were appropriate and proportionate to meet the licensing objectives. They reminded the applicant of the necessity of complying with all of the conditions, and the Representatives of the opportunity to apply for a review of the premises licence should they have concerns.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 12.25 pm].