

Meeting	Licensing/Gambling Hearing
Date	27 February 2017
Present	Councillors Gillies, Mason and Mercer

25. Chair

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

26. Introductions

27. 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.

Councillor Mason declared a personal, non-prejudicial interest in that he had previously used the services of the representor, Mr John Walker, in his capacity as a business solicitor.

28. Minutes

Resolved: That the minutes of the Licensing Hearing held on 12 December 2016 be approved as a correct record and then signed by the Chair.

29. The Determination of an Application by Mr Vincent Roberts for a Premises Licence Section 18(3) (a) in respect of 4 Patrick Pool, York, YO1 8BB (CYC-057510).

Members considered an application by Mr Vincent Roberts for a Premises Licence Section 18 (3) (a) in respect of 4 Patrick Pool, York, YO1 8BB.

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, in particular the existing licence conditions and the additional steps agreed to be taken by the applicant to promote the four licensing objectives.
2. The Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that the premises were inside the special policy area (as approved by Full Council on 27 March 2014) and that consultation had been carried out in accordance with the Licensing Act 2003.
3. The applicants' representations at the Hearing, and those of his business partner. They advised that they were aware this application fell within the special policy area and the implications of this. With this in mind they had consulted with North Yorkshire Police and the Licensing Officer to agree the following additional conditions:
 - I. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place and at any other times where members of the public are present on the premises.
 - II. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
 - III. The CCTV system must be capable of producing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days consecutive footage.

- IV. 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 48 hours of the request being made.
- V. 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.
- VI. The premises shall operate the Challenge 21 policy for the sale of alcohol.
- VII. The only acceptable proof of identification shall be a current passport, photo card driving licence or identification carrying the PASS logo (until other effective identification technology e.g. Thumb print or pupil recognition, is adopted by the Premises Licence Holder).
- VIII. A documented staff training programme shall be provided to all members of staff at the premises in respect of the :-
 - operation of the CCTV system (including the downloading of evidence);
 - retail sale of alcohol
 - age verification policy;
 - conditions attached to the Premises Licence;
 - permitted licensable activities;
 - the licensing objectives; and
 - opening times for the venue.
- IX. An incident log will be kept at the premises and made available on request to an authorised officer or the police which will record the following:
 - all crimes reported to the venue
 - any complaints received regarding crime and disorder
 - any incidents of disorder
 - any faults in the CCTV system
 - any refusal of sale of alcohol
 - any visit by a relevant authority of emergency service

Such records to be kept for a minimum of one year
[For the avoidance of doubt, the one year period

relates to each respective entry in the log book and runs from the date of that particular entry].

- X. There shall be a minimum of 25 chairs /seats available for customer use inside the premises at all times the venue is open to negate the need for vertical drinking.
 - XI. Food, (for clarity includes panini, wraps and sandwiches), shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises up to 2 hours before the end of permitted hours for the sale of alcohol.
4. The representations made by Mr John Walker in writing and at the Hearing.

In respect of the proposed licence, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 35(4) that it considered necessary for the promotion of 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) 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 and including any applicable mandatory conditions of the Licensing Act 2003. This option was **rejected**.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003. This option was **approved**.

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. This option was **rejected**.

Option 4: Reject the application. This option was **rejected** as the Sub-Committee saw no reason to reject the application based on the Licensing Objectives and City of York Council Licensing Policy.

In coming to their decision of approving the above **Option 2** the Sub-Committee imposed the following additional conditions:

- I. A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place and at any other times where members of the public are present on the premises.
- II. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
- III. The CCTV system must be capable of producing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days consecutive footage.
- IV. Through the Licensing Authority, 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 48 hours of the request being made.
- V. 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.
- VI. The premises shall operate the Challenge 21 policy for the sale of alcohol.
- VII. The only acceptable proof of identification shall be a current passport, photo card driving licence or identification carrying the PASS logo (until other effective identification technology e.g. Thumb print or pupil recognition, is adopted by the Premises Licence Holder).
- VIII. A documented staff training programme shall be provided to all members of staff at the premises in respect of the :-
 - operation of the CCTV system (including the downloading of evidence);
 - retail sale of alcohol
 - age verification policy;
 - conditions attached to the Premises Licence;
 - permitted licensable activities;
 - the licensing objectives; and
 - opening times for the venue.

- IX. An incident log will be kept at the premises and made available on request to an authorised officer or the police which will record the following:
- all crimes reported to the venue
 - any complaints received regarding crime and disorder
 - any incidents of disorder
 - any faults in the CCTV system
 - any refusal of sale of alcohol
 - any visit by a relevant authority of emergency service

Such records to be kept for a minimum of one year [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

- X. There shall be a minimum of 25 chairs /seats available for customer use inside the premises at all times the venue is open to negate the need for vertical drinking.
- XI. Food, (for clarity includes panini, wraps and sandwiches), shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises up to 2 hours before the end of permitted hours for the sale of alcohol.

All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

Reasons for the Decision:

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, creating a rebuttable presumption against the granting of new licences to sell alcohol in that area. The Sub-Committee considered that the applicant had demonstrated that, with the imposition of suitable conditions, the premises would not add to the alcohol related problems in the area and that there would be no negative cumulative impact on the licensing objectives. It was noted as particularly relevant that North

Yorkshire Police were not in objection, as the Licensing Authority place a great weight on the advice from the police when considering applications, particularly within the CIZ (in accordance with the 2003 Act Statutory Guidance at para 9.12). There were no representations from any local residents or from other Responsible Authorities, notably Public Protection. The Sub-Committee also commented on the small size of the venue, the careful handling of noise issues during the planning process, the style of venue proposed which was not intended to promote vertical drinking, but seated drinking with food available and the fact the premises would stop serving alcohol at 23:00 and that off sales had not been applied for. It was also noted that the plan accompanying the application showed 40 seats, whilst North Yorkshire Police had requested a minimum of 25 seats to be available within their proposed condition. The Sub Committee did not consider it to be necessary to specifically condition 40 seats be available as the limited space in the venue would restrict vertical drinking in any event and the applicants made it clear that the style of venue intended would not be promoting vertical drinking. However, it was noted that the Applicant would need the approval of the Licensing Authority if changes were proposed in the future to the approved layout that presently shows 40 seats on the submitted application plan.

The Sub Committee considered the representations made by Mr Walker regarding door staff, but North Yorkshire Police had not considered a condition requiring door staff to be required, and the Sub-Committee agreed that it was not necessary as whilst the premises were within the CIZ, they were not within a recognised drinking circuit and the premises were very small.

Councillor Gillies, Chair

[The meeting started at 10.00 am and finished at 11.25 am].