

Meeting	Licensing/Gambling Hearing
Date	14 May 2018
Present	Councillors Hayes, Reid and Richardson

1. Chair

Resolved: That Councillor Reid be appointed to Chair the meeting.

2. Introductions

3. 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 which they may have in respect of business on the agenda. None were declared.

4. The Determination of an Application by Mr Paul James Rhodes for a Premises Licence [Section 18(3)(a)] in respect of Holtby Grange, Holtby Lane, York, YO19 5XQ (CYC-060806)

Members considered an application by Mr Paul James Rhodes for a Premises Licence [Section 18(3)(a)] in respect of Holtby Grange, Holtby Lane, York.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The prevention of public nuisance
2. Public safety

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 Licensing Manager's report and her comments made at the Hearing. She outlined the proposed activities and their timings made in the application, and noted the information contained within the annexes to the report (including the operating schedule), adding that annex 3 had been circulated as there was one page missing from the printed pack. She advised that the premises were not located in the special policy Cumulative Impact Zone (CIZ). She reported that the consultation had been carried out correctly in accordance with the Licensing Act 2003. She stated that conditions had been mediated with North Yorkshire Police and City of York Council Public Protection (Environmental Protection). She stated that there had been representations from 19 other interested parties. She outlined the four options available to the committee.

In response to questions raised, the Licensing Manager confirmed that that the application limited the number of people on site to 5000, however, there was no capacity stated in the application. She was asked and explained why amendments may have been made to the application form, such as temporary structures such as tents being classed as indoor, not outdoor structures. In response to a question regarding the portable bar she reported that the licensed area was for the whole site. Following a question regarding planning issues she explained that planning and licensing were separate processes. In response to the requested condition from North Yorkshire Police regarding the use of fireworks, the Licensing Manager confirmed that this condition had not been put in before.

3. The representations by the applicant, Mr Paul Rhodes, at the Hearing. He explained that the Licensing Officer made amendments to the application form as the marquee/tepees were classed as indoor structures. He advised that concerning the maximum of 5000 people, his aim was to hold high end weddings, corporate seminars and functions, and he envisaged a maximum of two weddings per week with corporate functions to be held

during the day. He advised that there was an average of 80-120 attendees at weddings and he did not envisage more than 120 people attending weddings. Mr Rhodes advised that in order to meet customer needs for functions on different days, he had stated 365 days on the application form. He stated that he would be living on site with his family. In relation to addressing public nuisance relating to the track leading up to the property, Mr Rhodes explained that the track was owned by the property and he would work with local taxi companies to arrange travel to and from the premises, and that he would install CCTV (with signage) on the main driveway.

Mr Rhodes advised that people would not be allowed to bring alcohol onto or off the premises and staff would patrol the premises regularly. There would also be signage asking people to be mindful of neighbours. He explained that to mitigate noise, all external doors would be kept closed.

Following his statement, Mr Rhodes was asked a number of questions. He confirmed that the site to be covered by the licence includes the house, barn, tracks leading to the premises, and licensed area. Mr Rhodes was asked and explained that there was car parking for at least 30 cars and he explained that he could create an additional 10 parking spaces. When asked about the condition of the track leading to the premises he advised that it had good access off the main road, was a single track lane with five vehicle passing points and had been well maintained by the present owners. Mr Rhodes was asked and stated that he envisaged one marquee being erected during events and noted that he had started looking into how to control noise from the marquees or tepees, including the use of sound proof curtains.

Mr Rhodes confirmed that he had no prior experience of organising events in marquees and had not observed the effect music might have from a marquee. In response to a question concerning emergency vehicle access to the site during events he explained that this would be managed by staff on site during events. He was asked and explained that he would need to explore options for a turning circle for coaches.

Mr Rhodes concluded by stating that he didn't envisage more than 120 people on site and he would work within the licensing objectives. He advised that there was a current licence for 35 people every day and he did not intend to cause problems or impact on local businesses.

4. The representations made by Cllr Mark Warters (Ward Councillor) in writing and at the hearing. In addition to the points raised in his written representation Cllr Warters stated that he hoped the Sub-Committee would understand the licence application in the context of the limitations of the licensing and planning processes. He explained that the premises were in a noise sensitive location in a rural setting with rural businesses. He stated that when external doors were open, noise would travel and he expressed concern about the disruption caused by this. He added that even if granted planning permission for the change of use for the barn, the use of marquees was licensable and they would bring problems. He concluded by stating the application site was in an open location adjacent to working farms.
5. The representations made by Dr David Marles in writing and at the hearing. Dr Marles was speaking on behalf of a number of local residents (a number of whom had made written representations). He stated that the application did not promote the licensing policy aims and would affect residents' amenity and should be refused for those reasons. He explained there was a single farm track leading up to the premises and there were no public footpaths or public transport to the site. He noted the impact of the traffic accessing the site on residents. He advised that the site was 7 acres and was surrounded on all sides by residential properties and working farms, with half a dozen residences less than half a mile from the site. He explained the impact that additional traffic would have on the road through Holtby.

Dr Marles expressed concern regarding the impact of noise on residents given the lack of hills or other barriers to present noise from travelling, noting how noise travelled from the Dunnington firework display, which could be heard from over a mile away. He stated that noise nuisance would place stress on horses at the nearby equine stud and on farm livestock, and in particular on

local residents. He outlined the affect of vehicles on the quality of life of residents on a night, including that of neighbouring villages. Dr Marles raised concern about the lack of communication from the applicant regarding the licence application and he stated that the granting of the licence would cause disturbance to residents.

6. The representations made by Mrs Mandy Dobson in writing and at the hearing. She explained that she lived on a farm next to the site and was concerned about the impact on livestock. She stated that the site was not on the right location for events and added that there was nothing to suggest that there would be a reduction in noise from the tents and marquees.
7. The written representations made during the consultation period.

Following consideration of representations, the Sub-Committee asked and were advised by the Senior Solicitor that they could ask EPU for technical advice only on the wording of conditions. The Environmental Health Officer (in attendance in a technical advisory capacity) was asked what condition could be imposed to control noise and he explained that the noise escape from a marquee was not the same as the noise from a building, and noise reducing curtains installed in a marquee would not be effective. Therefore, a noise condition should be made to require the venue to put in place a noise management plan. He explained that the use of fireworks was not a licensable activity. The Licensing Manager then explained that North Yorkshire Police had requested a condition that the use of explosives, pyrotechnics and fireworks of a similar nature shall not be used at the premises without written notification to the Licensing Authority.

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) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

- Option 1: Grant the variation of the licence in the terms applied for.
- Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
- Option 3: Grant the variation of 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 of the Panel carefully considered all the evidence placed before them including the application and all the representations, and had regard to the licensing objectives, the Section 182 Guidance issued by the Secretary of State and the Council's own statement of licensing policy. They considered the likely effects of the grant of the premises licence on the promotion of the licensing objectives and concluded that granting the application would be likely to impact on the licensing objective of public nuisance. They noted that the premises were in a quiet, rural location close to residential properties with low ambient noise. They accepted the representations made by local residents that if the licence was granted there would be a public nuisance from the noise created by weddings and other events (such as from music, guests and traffic) and that it would be difficult to mitigate that noise due to the topography surrounding the venue.

The Panel felt that the application did not sufficiently address the issue of sound attenuation and did not demonstrate any knowledge that noise levels from the premises could be reduced to an acceptable level for nearby residents. The Panel considered that the application had not been thought out for a premises that required very careful thought indeed in the light of its location. They took the view that the application failed to set out adequate and appropriate measures to deal with the issues and those inadequacies could not be remedied. After due consideration they therefore refused the application on the ground that to grant the application in its current form, it was likely to breach the licensing objective of the prevention of public nuisance.

In coming to their decision to choose Option 4 above to reject the application, the Sub-Committee considered very carefully the application and all the representations and had had regard to the Section 182 Guidance issued by the Secretary of State and the Council's own Statement of Licensing Policy.

Cllr A Reid, Chair

[The meeting started at 10.09 am and finished at 11.47 am].

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