
Meeting	Licensing/Gambling Hearing
Date	11 April 2022
Present	Councillors Galvin, Looker and Melly

35. Chair

Resolved: That Cllr Galvin be elected to chair the hearing.

36. Introductions

The Chair introduced those present at the hearing; the Sub-Committee Members, the Legal Adviser, the Democratic Services officer, the Licensing Manager, the Applicant and the Representors.

37. Declarations of Interest

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. No interests were declared.

38. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

39. Minutes

Resolved: That the minutes of the hearing held on 20 December 2021 be approved as a correct record, to be signed by the Chair at a later date.

40. The Determination of an Application by 2 Many Wines for a Section 35(3)(a Variation of a Premises Licence in respect of 3 Bishopthorpe Road, York YO23 1NA (CYC-068573)

Members considered an application by 2 Many Wines for the variation of a premises licence in respect of 3 Bishopthorpe Road, York YO23 1NA.

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. The Prevention of Public Nuisance

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 papers before it, including the additional papers published in the Agenda Supplement and the written representations.
3. The Licensing Manager's report, and her comments at the Hearing.

The Licensing Manager outlined the report and the annexes, noting that the premises were not in the cumulative impact area (CIA) and confirming that the Applicant had carried out the consultation process correctly. She highlighted the fact that the original application had been modified following mediation with North Yorkshire Police and the Environmental Protection Unit, including the changes to the proposed operating hours set out in paragraph 5 of the report and the additional conditions set out in Annexes 4 and 5. She drew attention to the representations from local residents contained in Annex 7, and the additional information in the Agenda Supplement. Finally, she advised the Sub Committee of the options open to them in determining the application.

4. The representations made by Cyriaque Lajoinie on behalf of 2 Many Wines (henceforth referred to as the Applicant).

The Applicant apologised that the original application had caused a stir, and said he thought that a reasonable agreement had now been reached. He stated that the reason for the application was to increase the revenue from the premises in order to create employment, as well as responding to the comments of customers, who often asked if they could stay later. With regard to extending the licensed area to the front terrace, many nearby businesses had similar terraces and a 9pm closure seemed reasonable. There were signs outside the premises to ensure that everyone behaved respectfully. The premises were well managed and staff were trained, so that there were no problems with the community.

The Applicant went on to state that he and his business partner wanted to raise an extra £2k per month to employ someone to run the business when they needed to be elsewhere. He outlined the support that the business provided to the local community and charities. He explained that the approach that he and his partner took was to encourage people not to drink for the sake of drinking but to have something to eat as well, as in their home countries of France and Italy. The premises also operated as a shop, and a venue for art and sculpture. The aim was to be progressive, and to build a good relationship with the community to ensure that the business survived and continued to operate.

The Applicant then called Ysanne Neal as a witness. Ms Neal said she had previously worked alongside the Applicant in a city centre venue. She stated that the Bishopthorpe Road premises operated responsibly and provided something new in York. It was a good fit for the area and should be allowed the opportunity to expand its operation.

In response to questions from Members of the Sub-Committee, the Applicant stated that:

- Café-style food was available at the premises every day and throughout the day, from 10 am.
- Late night refreshment was not provided.

(The Licensing Manager confirmed at this point that 'late night refreshment' in licensing terms was hot food provided between 11 am and 5 am).

- He wanted to provide the same service in the outside area as inside - that is, table service – so that bottles of wine could be served to the outside tables.
- The outside area was enclosed by removable furniture, including 2 planters on wheels that also served as storage boxes, all of which was brought inside after closure.
- The business was part of the 'Bishy Road' community.

5. The representations made by Paula Elenor, a local resident.

Ms Elenor stated that she welcomed the presence of the Applicant's operation in Bishopthorpe Road and that it was a well-run and responsible business that had brought benefits to the area. She also appreciated that in choosing to live in close proximity to a number of businesses, residents had to weigh up the benefits against the inconveniences. However, she was concerned about the proposed extension of operating hours beyond 11pm, specifically in relation to the public car parking bay close to the sleeping areas in her home, which she feared would be used by patrons of the business late at night. She usually went to bed at 10 pm and while some disruption was to be expected, the parking bay was closer than the people using it probably realised and disturbance was caused by car doors, people talking etc. She was also worried that the extension of hours could be the 'thin end of the wedge'.

In response to questions from Members of the Sub-Committee, Ms Elenor stated that:

- Another business near her home, the Lal Quila, closed at 11pm; there was noise from there but mostly from staff.
- Her experience had been miserable when the premises operated as Domino's 5 years ago, with a 2 am closing time.
- She could live with an 11 pm finish time but any hours beyond that would be less tolerable.

- She didn't really want to have to contact the applicant every time there was a problem, though he had offered this and had been very good.
 - It was the council's responsibility to consider the delicate balance (of residents and businesses) in the area.
6. The representations made by Richard Wetherill, a local resident.

Mr Wetherill stated that he agreed with Ms Elenor's comments and that Bishopthorpe Road was a fine balance of commercial and residential concerns. His parents had lived there for 40 years. He felt there should be consistency in the hours of operation of businesses in the area and that the Angel on the Green had set a precedent which should be followed. He said that customer dwell time, social chat and raised voices should be taken into consideration, as well as the time taken to clear the outside area and the noise of cabs arriving. It was a question of striking a balance between levels of noise and the hours of operation. He fully supported the activities in Bishopthorpe Road, which was flourishing, but again thought a balance must be struck to achieve that unique street feel.

The Representors and the Applicant were each then given the opportunity to sum up.

Ms Elenor summed up, stating that she had nothing more to add to her previous comments but hoped that things could be kept friendly and constructive.

Mr Wetherill summed up, asking what would happen if the premises were sub-let to an operator who did not have the same understanding and approach as the Applicant. *(The Licensing Manager confirmed at this point that the licence remained with the premises until surrendered, revoked, or lapsed, and so could be taken over by a different operator.)*

The Applicant summed up, stating that he checked with his customers as they left to ensure they would not be driving if they had been drinking. Staff were also trained to ask people to be quiet as they left, and no standing was

allowed in the outside area. He was not planning to go anywhere else, having signed a 10-year lease for the premises last year and with children at school in York.

Members of the Sub-Committee sought clarification from the Applicant on how he planned to enforce Condition 12 of the licence (*page 53 of the agenda papers*), preventing open drinks containers being taken off the premises, if the outside area was licenced.

The Applicant replied that off-sales would only take place inside and that the terrace was always staffed.

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

Option 1: Modify the conditions of the licence. This option was **approved**.

Option 2: Reject the whole or part of the application. This option was **rejected**.

Resolved: That Option 1 be approved and that:

- (i) The licensable activities, days and hours be varied as follows:

Activity	Timings
Supply of alcohol – on and off the premises	Sunday to Thursday - 10:00 - 23:00 Friday & Saturday – 10:00 - midnight
Opening hours	Sunday to Thursday – 09:00 – 23:3

	Friday & Saturday – 09:00 – 00:30
Live music	Removed from licence
Recorded music	Removed from licence
Performance of plays	Removed from licence

- (ii) The currently licensed area be extended to include the outside front ground floor area on Bishopthorpe Road shown edged red on the plan submitted with the application (“the outside seating area”) SUBJECT TO the above timings and the restrictions set out in the additional and varied conditions below.
- (iii) The following additional and varied conditions be imposed:
- (a) The outside seating area shall only be open between the hours of 10:00 and 21:00 daily.
 - (b) There shall be no more than 20 seats provided for customer use in the outside seating area.
 - (c) Customers shall be served by way of table service only in the outside seating area.
 - (d) There shall be no vertical drinking in the outside seating area.
 - (e) All tables and chairs in the outside seating area shall be stacked immediately after 21:00 daily and shall be stored away securely within the premises when closed.
 - (f) The main door for the premises will be kept closed after 23:00 hours daily other than for immediate ingress and egress.
 - (g) Bottles shall only be disposed of between 07:00 and 23:00 each day.

- (h) A direct telephone number for the Designated Premises Supervisor shall be provided to local businesses and residents.
- (i) Condition 2 in Annex 2 of the licence shall be varied to refer to 'inside the premises'.
- (j) Condition 7 in Annex 2 of the current licence shall be removed from the licence.

Reasons:

- (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
- (ii) The Sub-Committee noted that the premises are not located within an area where a Cumulative Impact Policy applies.
- (iii) The Applicant had amended the application to scale back the licensable activities and timings proposed. The Applicant had agreed specific conditions with the Police and Public Protection and that this had led to the absence of representations on their part.
- (iv) The Sub-Committee noted the concerns of Representors that an extension of licensable activities and extension of the licensed area at the premises to include the area to the front pavement on Bishopthorpe Road would lead to an increase in public nuisance. However, the Sub Committee felt that with the imposition of suitable conditions, it was unlikely that public nuisance to local nearby residents would be caused by these variations to the licence.
- (v) The Sub-Committee did not consider that the proposed extension to the hours in which alcohol would be supplied and the use of the outside area would lead to crime and disorder or that the proposed licence variation would have any material impact on the licensing objectives.

Cllr J Galvin, Chair

[The meeting started at 10.07 am and finished at 11.30 am].