

Meeting	Licensing/Gambling Hearing
Date	24 October 2024
Present	Councillors Hook, Knight, and Nicholls
Officers in attendance	Helen Sefton – Senior Licensing Officer Jodi Ingram – Legal Advisor

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**30. Chair (3:17pm)**

Resolved: That Councillor Nicholls be elected to act as Chair of the hearing.

**31. Introductions (3:17pm)**

Introductions were made.

**32. Declarations of Interest (3:17pm)**

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. None were declared.

**33. Exclusion of Press and Public (3:18pm)**

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.

**34. Minutes (3:18pm)**

Resolved: That the minutes from the Licensing Hearings held on 8 August, 5 September, and 30 September 2024 be signed and approved as an accurate record.

**35. The Determination of an Application by Snazzy Brew Ltd for Determination of application for Premises Licence [Section 18(3) (a)] in respect of Snazzy Brew, 1A High Petergate, York, YO1 7EN. (CYC-078416) (3:19pm)**

Members considered an application by Snazzy Brew Ltd for determination of application for Premises Licence [Section 18(3) (a)] in respect of Snazzy Brew, 1A High Petergate, York, YO1 7EN. 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 crime and disorder.
2. Public Safety.
3. 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.
2. The papers before it including the written representation and additional information submitted by North Yorkshire Police.
3. The Senior Licensing Officer's report and her comments at the Hearing.

The Senior Licencing Officer outlined the report and the annexes, noting that the opening hours of the premises were from 0830 and 2300 hours each day, and the application requested alcohol sales from 1100 to 2300 hours. She explained that the plan of the premises was detailed in annex 1, and provided a larger printout of this to those in attendance at the hearing.

The Senior Licencing Officer outlined that the application was for a licence covering both the ground floor, and basement of the premises, and it was noted that the premises was not located within the Cumulative Impact Area (CIA).

The Senior Licencing Officer noted that there was one representation from a Responsible Authority, North Yorkshire Police, as set out in Annex 3 and the additional information submitted by them within the agenda supplement, and noted that there were no other representations. She then advised the sub-committee of the options open to them in determining the application.

4. The Applicant's representation at the hearing.

Gevish Kheddo (the Applicant) stated that they wanted to be able to sell drinks following inspiration of takeaway alcohol drinks from other local premises, it was expected that a high proportion of customers would be tourists, and that hard liquor would not be sold. The premises would operate as a café, not a pub or nightclub. The applicant stated that there were not many incidents which would involve the use of alcohol and that selling alcohol for takeaway would not put the public in danger.

In response to questions from the representor, Mr. Kheddo stated that:

- The notice as seen on page 3 of the agenda supplement had been taken down and that the business was remaining at the premises as stated in the application.
- In the application on page 52 of the agenda, the paragraph which reads "I am carrying on or proposing to carry on as a business which involves the use of the premises for licensable activities, or" should have been ticked.

In response to questions from members, Mr. Kheddo confirmed that:

- The plan was for alcoholic drinks in disposable containers to be taken away from the premises.
- The premises was mainly used as a café of which the majority of sales were hot drinks and cakes.
- The basement of the premises would be licenced, but there were no plans to use this floor or open it up to customers.

- There was an error in the wording of their application, and that the premises did not yet sell alcohol.
  - The administrative workload of managing frequent training sessions and record-keeping was understandable and achievable for the premises.
  - There was no plan for the premises to sell alcoholic spirits.
5. The representation of PS Booth from the Responsible Authority, North Yorkshire Police, at the hearing.

PS Booth stated that North Yorkshire Police had attempted mediation with the Applicant prior to the hearing and were unable to reach an agreement on conditions. North Yorkshire Police had accounted for crime and disorder in the premises' area in relation to street drinking and anti-social behaviour, and it was claimed that allowing customers to leave the premises with potential glass containers would have increased the risk of disorder. PS Booth noted that the Police were viewed as the Sub-Committee's main source on matters relating to crime and disorder.

PC Hollis spoke as a witness to PS Booth's representation and commented that North Yorkshire Police's proposed conditions on the premises were relatively light compared to those of other city centre premises as seasonal drinks would have been permitted, and they had not asked for alcohol to be sold only when ancillary to food. These proposed conditions would have been stronger if the premises was located within the CIA. It was also noted that there was also no demonstration within the application for how the Applicant would manage the sale of off sales, and that restrictions were necessary.

In response to questions from the Applicant, PS Booth and PC Hollis confirmed that:

- City of York Council's Statement of Licensing Policy demonstrated the CIA, and that although the premises was not inside this area, off sales could lead to increased drinking within it and therefore conditions were required to mitigate the risks of increased crime and disorder. Within the agenda supplement, evidence had been provided showing incident reports highlighting the need to mitigate these increased risks.
- Two of the four licensing objectives had already been experienced within the premises' area, and the proposed conditions were to protect the Applicant's premises as well as the public.

In response to questions from the Sub-Committee, PS Booth and PC Hollis confirmed that:

- Conditions could be added to condition which drinks could be sold at the premises.
- Conditions could be added to allow the sale of some drinks seasonally.
- It was easier to stipulate within the licence what drinks were not permitted, rather than which drinks were, and what containers could be used.
- Conditions were proposed to mitigate the issue of open containers being drunk on the street.
- North Yorkshire Police held a reservation about the proposed time allowance of 2300 hours for the sale of drinks in open containers.
- A Sainsbury's shop was located nearby to the premises.

PS Booth from the Responsible Authority, North Yorkshire Police was then given the opportunity to sum-up and stated that North Yorkshire Police did not object to licensable activities at the premises, but wanted to mitigate the risk of crime and disorder increasing, and wanted enforceable conditions so that the local community were not affected by the licence. It was stated that information heard during the hearing had helped

their concerns, but that they still held concerns regarding the sale of drinks in open containers up to 2300 hours.

The Applicant was then given the opportunity to sum-up and refused.

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: Grant the licence in the terms applied for. This option was **rejected**.

Option 2: Grant the licence with modified/additional conditions imposed by the sub-committee. This option was **approved**.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was **rejected**.

Option 4: Refuse to specify a person in the licence as a premises supervisor. This option was **rejected**.

Option 5: Reject the application. This option was **rejected**.

In approving Option 2, The Sub-Committee granted the licence with modified/additional conditions imposed by the Sub-Committee (Option 2) as set out below:

<b>Activity</b>	<b>Timings</b>
Supply of Alcohol – on & off the premises	11:00 to 22:30 everyday
Opening Hours	08:30 to 23:00 everyday

1. A digital colour CCTV will be installed to cover the premises and recorded coverage will include all areas (including outside areas) to where public have access to consume alcohol.

It will be maintained, working and recording at all times when the premises are open.

The recordings should be of good evidential quality to be produced in Court or other such hearing.

Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.

Copies of the recordings shall be made available to any Responsible Authority with 48 hrs upon request. Subject to Data Protection requirements.

Copies of the recordings will display the correct time and date of the recording.

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. Subject to Data Protection requirements.

2. Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the: -
  - Retail sale of alcohol
  - Age verification policy
  - Conditions attached to the Premises Licence
  - Permitted Licensable Activities

- The Licensing Objectives and
- The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

This training shall be refreshed every 12 months as a minimum.

3. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.

Such records shall be kept for at least one year. (For the avoidance of doubt, the one – year period relates to each respective entry in the logbook and runs from the date of the particular entry): They will be made available immediately upon a reasonable request from any responsible authority.

4. The venue shall operate wholly as a café style operation. For the purpose of clarity, a ‘café style’ would be defined as a small restaurant serving light refreshments and meals. Foods and light refreshment shall be available at all times the premises is open and operating for licensable activities.
5. It is the responsibility of the Designated Premises Supervisor/Manager on duty for risk assessing the need for SIA Door Supervisors at the premises. Special consideration should be given to the need for Door staff on Fridays/Saturdays or any Sunday leading into a bank holiday Monday and any days where race meetings are held at York Racecourse.

When employed, a register of those door supervisors employed shall be maintained at the premises and shall include:

- a) The number of door staff on duty;
- b) The SIA badge number and name of each member of door staff;



- c) The times the door staff are on duty;
  - d) Any incidents.
6. The sale of alcohol shall cease 30 minutes before close of business on any given day to allow for 'drinking up' times.
  7. Clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
  8. The licence holder will operate a Challenge 25 Age Verification Policy at the premises.
  9. The only acceptable proof of age identification shall be a current Passport, photo card Driving Licence, Military ID card, 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).
  10. Save for condition 14 alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.
  11. Save for condition 14 no drinks or drinking glasses shall be taken out of the licensed premises or (licensed area) onto the pavement or highway.
  12. The outside area will be regularly cleared and kept tidy.
  13. Save for condition 14 all off sales of alcohol shall be in sealed containers.
  14. From the 1 November to 6 January (inclusive) mulled wine can be purchased and taken out of the premises in an open non-glass and non-ceramic container between the hours of 11:00 to 19:00. 'Mulled Wine' for the purposes of this condition means warm red wine with spices added.

## Reasons

The Sub-Committee carefully reviewed all the information presented by the applicant and North Yorkshire Police in light of the licensing objectives and decided to approve Option 2, to grant the licence with modified/additional conditions imposed by the sub-committee, for the following reasons:

15. 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.
16. The Sub-committee noted the applicant's representation that they are not a pub or a night club and that they do not intend to serve hard liquor. It was noted that the reason they wish to serve off-sale alcohol in open containers is that they wish to serve drinks and mulled wine for 'takeaway' and that the Christmas Markets and other premises such as those in The Shambles do this. The Sub-Committee noted the applicant's representation that of the recorded incidents there are not many incidents which involve the use of alcohol and that alcohol for takeaway won't put the public in danger. It was also noted that the applicants stated that they would not be serving drinks in glasses.
17. The Sub-Committee had regard to the representation by North Yorkshire Police (the Police). They considered the representations regarding the issues with street drinking and crime and disorder in the area of the premises and noted the location of the premises in the city centre and its close proximity to the Cumulative Impact Area. The Sub-Committee acknowledged that the Police stated that they are not opposed to the granting of the licence or provision of 'takeaway' seasonal alcoholic drinks providing suitable conditions are imposed to uphold the licensing objectives. The Sub-Committee had regard to the Guidance issued under s182 of the Licensing Act 2003 and acknowledged that the police are their main source of advice on crime and disorder, they also had regard to paragraph 7.7 of the Statement of Licensing Policy and therefore gave the representation by the police considerable weight.

18. The Sub-Committee were persuaded that off sales in a glass open container late into the evening would be likely to have a detrimental impact on the area and that this would undermine the licensing objective of Crime and Disorder on the basis that the premises is in a city centre location and having regard to the issues with street drinking and antisocial behaviour in the area. The Sub-Committee were satisfied that the imposition of a condition regarding the sale of mulled wine for 'takeaway' would not undermine the licensing objectives. The Sub-Committee considered the conditions proposed by the Police to be appropriate, proportionate, to accord with the Statement of Licensing Policy and to promote the licensing objectives.
19. The Sub-Committee were satisfied that the imposition of the conditions is appropriate and proportionate to promote the licensing objectives particularly the prevention of Crime and Disorder.

Cllr Nicholls, Chair

[The meeting started at 3.17 pm and finished at 4.53 pm].