

Meeting Licensing Hearing

Date 11 August 2014

Present Councillors McIlveen, Richardson and Watt

11. Chair

Resolved: That Councillor Watt be elected as Chair of the meeting.

12. Introductions

13. Declarations of Interest

At this point in the meeting members were asked to declare any personal, prejudicial or pecuniary interests they may have in the business on the agenda. None were declared.

14. The Determination of an Application by Ellis Thackray for a Premises Licence Section 18(3)(a) in respect of 59-63 Walmgate, York, YO1 9TY (CYC- 023576)

Members considered an application for a premises licence by Ellis Thackray in respect of 59-63 Walmgate, York, YO1 9TY.

In coming to their decision, Members took into consideration all of the evidence and the 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.
2. The Licensing Managers report and her comments made at the hearing. She advised that the application was for a premises licence at 59-63 Walmgate, York. Plans showing the location and floor layouts were tabled. It was pointed out that although the applicant had intended to licence the outside area, this had been discounted from the

application in error and so the application before Members would not include the outside area. The premise is not located within the special policy area. A number of conditions had been agreed with North Yorkshire Police and the Council's Environmental Protection Unit prior to the hearing. Consultation had been carried out successfully.

3. The representations made at the hearing by the applicant's solicitor. He outlined the changes made to the application – the application would only relate to the sale of alcohol as the request for live and recorded music had been removed. He also reiterated that the outside area was not part of the application. He advised that the majority of the premises floor space (over half) would be used as a bicycle shop, bicycle repair shop and showroom for 'City Bikes' which would be a new concept for York. The cafe aspect of the business would be a small ancillary cafe/restaurant area which would be laid out for a minimum of 16 covers at all times and would not be used for vertical drinking. It was anticipated that the premises would operate 9am to 6pm but the later hours had been applied for in case of special events being held for a cycle club or similar group. Smoking would not be allowed anywhere on the premises including the outside area and the applicant would manage this himself.
4. The representations made in writing and at the hearing by Local Residents who raised concerns about the potential for public nuisance caused by customers being in the outside area which faced onto their properties. They also raised concern about the extractor fan which had been installed to the rear of the premises and queried the planning status although it was accepted that these issues could not be addressed by the Licensing Committee. They also raised concerns about the number of licensed premises opening up in the Fossgate/Walmsgate area and the potential for the addition of this licence to add to the existing problems of public nuisance and crime and disorder.

In coming to their decision the Sub-Committee considered the following options:

- Option 1 Grant the licence in the terms applied for.
- Option 2 Grant the licence with modified/additional conditions imposed by the Sub-Committee.
- Option 3 Grant the licence to exclude any of the licensable activities to which the application relates.
- Option 4 Reject the application.

Members chose Option 2 and agreed to grant the licence with the following additional conditions:

North Yorkshire Police Conditions

1. The venue shall operate primarily as a bicycle show room and repair centre with ancillary cafe style operation. For the purpose of clarity a 'cafe style' would be defined as a small restaurant serving light refreshments.
2. The majority (i.e. over half) of the floor space shall be given over to display of bicycles or cycling paraphernalia, the repair of bicycles or any other ancillary cycling materials/products.
3. There shall be a minimum of 16 seated covers laid out at anytime.
4. The first floor shall not be used for the consumption of alcohol or any licensable activities.
5. Digital colour CCTV will be installed to cover the entrance to the venue and the bar serving area so as to capture images of persons entering the venue.
6. CCTV will be maintained, working and recording at all times when the premises are open.
7. The recordings will be of evidential quality in all lighting conditions and will be of sufficient quality to be produced in court or other such hearing.
8. Copies of recordings will be kept available for any responsible authority for 28 days.
9. Copies of the recordings will be made available to any responsible authority within 48 hours of request.

10. Copies of the recordings will display the correct time and date of the recording.
11. All images downloaded from the CCTV must be provided in a format that can be viewed on readily available equipment without the need for specialist software.
12. Clear notices shall be prominently displayed requesting customers to leave the premises and the area in a quiet and orderly manner.
13. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.
14. Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue.
15. The documented records (referred to in condition 16) shall be kept for at least a year and they will be made available upon request from any responsible authority.
16. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to underage or drunk people.
17. Both the above documents (referred to in condition 18) will be made available upon request from any responsible authority and will be kept for at least one year.

Conditions requested by the Councils Environmental Protection Unit:

18. Bottles will not be disposed of into bins at night but will be disposed of after 10am in the morning.
19. Customers shall not take alcoholic drinks outside the premises.

All relevant mandatory conditions shall apply.

REASON FOR THE DECISION:

The Sub-Committee concluded that the application was acceptable with the above amended and additional conditions as it addressed representations made both in writing and at the hearing, and it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, 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 noted the local residents' concerns. They also noted that there had been no objection to the application from the Responsible Authorities and that the Police and EPU had agreed a number of proposed conditions with the applicant to address potential crime and disorder and public nuisance issues. The Sub-Committee considered that it had received sufficient assurances from the applicant in order to be satisfied that the premises would be operated responsibly to avoid noise nuisance to local residents. It also took into account that there would be no live music or recorded music. It also noted that the premises would operate primarily as a bicycle shop with the cafe being ancillary and it would not be used as a vertical drinking establishment.

The Sub-Committee therefore agreed to grant the licence with the additional conditions referred to above but reminded the applicant of the necessity of upholding all of the licensing objectives and highlighted the possibility of the licence being reviewed if it was found that the licensing objectives were not being upheld.

Resolved: That in line with Option 2 the licence be granted.

Reason: To address the issues raised.

Councillor Watt, Chair

[The meeting started at 10.00 am and finished at 11.30 am].