

Minutes of the meeting of the LICENSING AND
APPEALS HEARINGS PANEL held at 9.30 am
on Thursday, 26th April, 2018 at Main Committee
Room, Civic Centre, Stone Cross, Northallerton

Present

Councillor M A Barningham (in the Chair)

Councillor P Bardon

Councillor N A Knapton

LAHP.25 **APPLICATION FOR THE GRANT OF A PREMISES LICENCE, UNIT 4, THE
ARCADE, HIGH STREET, GREAT AYTON**

Great Ayton Ward

The subject of the decision:

The Director of Law and Governance submitted a report seeking consideration of an application for the grant of a premises licence in respect of Unit 4, The Arcade, High Street, Great Ayton. The application initially sought to authorise the sale of alcohol and the provision of regulated entertainment (live and recorded music). However, on 22 March 2018, the applicant sent an email to the Council's Licensing Team withdrawing the regulated entertainment from the scope of the application. The application now sought to authorise the sale of alcohol for consumption on and off the premises between the hours of 12pm and 11pm every day. The proposed opening hours were 8am to 11.30pm each day.

Alternative options considered:

The Panel considered all the options outlined in paragraph 7.2 of the officer's report. The Panel was satisfied that the licensing objectives were not likely to be adversely affected by the proposed licensable activities provided that appropriate conditions were imposed. Therefore, the Panel concluded that the alternative options were not appropriate in this instance.

The reason for the decision:

The Panel considered the representations of the parties both written and oral, the Licensing Act 2003 as amended, the Council's Statement of Licensing Policy and the guidance issued under section 182 of the Licensing Act 2003.

The Panel gave appropriate weight to the representations submitted by North Yorkshire Police and local residents in relation to concerns in respect of anti-social behaviour and youths congregating, littering, noise levels and parking issues.

The applicant informed the Panel that he had over 20 years' experience in the licensed trade, had acted in a senior position for 15 years and was currently running a similar licensed premises in a residential area in York. The applicant informed the Panel that the application was for a micro-pub which would be a community venue (not a drive-to destination food led pub) and, by its inherent nature, would likely attract a mature customer base.

The applicant told the Panel that he had been made aware of concerns relating to anti-social behaviour caused by youths congregating in the locality of the premises and he believed that the current quiet and unused location was attractive to bored teenagers. The applicant indicated that if the application was granted the premises would undergo a noise assessment in accordance with national guidance prior to opening.

The Panel noted that the applicant had withdrawn live and recorded music from the scope of his application prior to the hearing and therefore this element of the application was not a relevant consideration for the Panel.

The Panel considered concerns raised by North Yorkshire Police and local residents relating to anti-social behaviour and youths congregating in the area. According to Sgt Booth (Force Licensing Manager, North Yorkshire Police) police records indicate that, since January 2018, one incident of anti-social behaviour had been reported. Sgt Booth informed the Panel that, whilst the police had objected to the application as applied for, those concerns could be alleviated by imposing a number of additional conditions on the premises licence in order to promote the licensing objectives to prevent crime and disorder and public nuisance. Sgt Booth also indicated that empty premises would generally attract more anti-social behaviour than utilised premises.

The Panel believed that concerns relating to anti-social behaviour could be alleviated by imposing conditions relating to the use of a CCTV system and placing restrictions on people under the age of 18 years entering the premises and adult entertainment. The applicant indicated a willingness to adopt police recommendations in that regard.

The Panel considered the recommendations made by North Yorkshire Police in relation to the local Pubwatch scheme. The Panel noted that the applicant had agreed to participate in the scheme. The Panel supported the applicant's decision to participate but, given the voluntary nature of the Pubwatch scheme, it was not satisfied that mandatory compliance would be appropriate particularly in light of the fact that the scheme itself is outside the control of the applicant. On that basis the Panel decided not to impose a condition in this regard.

The Panel considered concerns raised by local residents in relation to an apparent litter problem in the area. The Panel concluded that the applicant is not responsible for existing problems in the locality and that there was insufficient evidence to suggest that those existing problems would be exacerbated. In addition, the Panel was satisfied that the applicant was committed to satisfying his general obligation to prevent public nuisance in this respect.

The Panel considered local residents' concerns about the impact of patrons smoking on the highway outside the premises. The Panel noted that the promotion of public health was not a licensing objective and therefore was not a relevant consideration. The Panel did, however, consider representations relating to noise concerns in this regard.

The Panel considered representations from local residents which indicated that the grant of the premises licence would lead to an increase in late night noise nuisance caused by people talking, shouting, leaving the premises, opening and closing car doors and engine noise. An interested party proposed that an additional condition be imposed to require the external door to the premises be kept closed to control the escape of noise.

The Panel believed that noise nuisance concerns could be alleviated by imposing conditions relating to the external door and placing notices within the premises requesting customers leave quietly.

The Panel considered representations from local residents that the number of toilets provided at the premises for its customers was insufficient. The Panel noted that the requirement for sanitary appliances at licensed premises is an issue considered by planning and environmental health departments and not a relevant matter for the Panel.

The Panel considered representations that the premises is an eyesore. The Panel noted that its discretion was limited to considering the impact on the licensing objectives and therefore the physical attractiveness of the premises was not a relevant consideration.

The Panel was informed that parking in the area was problematic and a car park neighbouring the premises was used by youths to congregate. The Panel considered a request by local residents for the applicant to install CCTV equipment and external lighting to cover the neighbouring car park. The Panel concluded that issues relating to parking were not related to the sale of alcohol and therefore not a relevant consideration. The Panel concluded that the neighbouring car park did not form part of the premises application and was outside the applicant's control and therefore it was not appropriate for the applicant to install CCTV equipment in the manner proposed.

The Panel considered representations regarding the use of external areas of the premises. The representations indicated that the use of an outdoor seating area would increase the level of noise emanating from the premises. The Panel was also asked to consider the potential consequences if 'off-sales' were permitted without restriction. The Panel was satisfied in light of the representations that this could exacerbate existing anti-social behaviour problems unless appropriate measures were taken to control the sale of alcohol for consumption off the premises. The Panel was satisfied that off-sales in sealed containers would pose no significant risk to the licensing objectives. However, in light of concerns raised in relation to the consumption of alcohol in external areas and beyond, the Panel was satisfied that it was appropriate to impose conditions to prevent the removal of alcohol from the premises in open containers. Local residents also indicated that smokers permitted to drink outside the premises would likely stay longer outside, again increasing the likelihood of a noise nuisance. An interested party suggested an additional condition prohibiting the use of external seating be imposed. The Panel noted that external areas of the premises were not included in the premises application plan and therefore could not be regulated.

The Panel considered a number of additional conditions proposed by the police and agreed at the hearing by the applicant. The Panel was satisfied that it was appropriate to impose some of these conditions in order to alleviate the concerns of the interested parties. The conditions imposed include the use of CCTV equipment, the provision of staff training and restrictions relating to the sale of alcohol.

The Panel was satisfied that, in light of the evidence relating to anti-social behaviour, it was appropriate to require the installation of a colour digital CCTV system with time and date generation. The Panel was satisfied that the recordings should be retained for a minimum of 28 days.

The Panel was satisfied that the implementation of a staff training programme would promote the licensing objectives.

The Panel noted that the licence would also be subject to all relevant mandatory conditions in addition to any conditions consistent with the applicant's operating schedule. The Panel was satisfied that the mandatory conditions would address any concerns over drink promotions and age verification.

THE DECISION:

The Panel resolved to grant the application and impose the following conditions:

- 1) A colour digital CCTV system shall be maintained and operated at the premises. The CCTV coverage will include the external smoking area at the front of the premises. The system shall continuously record whilst licensable activities are being carried out. All recordings shall be stored for a minimum of 28 days and shall be capable of being downloaded. The CCTV equipment shall have a constant time/date generation which must be checked on a regular basis for accuracy.
- 2) A documented staff training programme shall be provided to all members of staff in respect of:
 - the operation of the CCTV system;
 - the retail sale of alcohol;
 - the age verification policy;
 - any conditions attached to the premises licence;
 - the permitted licensable activities;
 - the licensing objectives; and
 - the opening hours.Any such record shall be kept for a minimum of 1 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.
- 3) A refusal register and an incident report register shall be maintained at the premises. Such registers will record incidents of staff refusals to under age or drunken people as well as incidents of any anti-social behaviour and ejections from the premises. Such registers shall be kept for a minimum of 1 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.
- 4) No open drinking vessels or bottles shall be taken out of the licensed premises onto the pavement or highway.
- 5) All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.
- 6) Prominent, clear and legible notices shall be displayed at all exits requesting customers respect the needs of local residents and to leave the premises and area quietly.
- 7) The premises shall operate a Challenge 25 scheme for the sale of alcohol.
- 8) No persons under the age of 18 are allowed in the premises after 21.00hrs.
- 9) There shall be no adult entertainment at the premises.

- 10) All external doors to the premises shall be kept closed except for access and egress.

The meeting closed at 11.25 am

Chairman of the Panel