

Agenda

Minutes for Information

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Minutes of the meeting of the Licensing and Appeals Hearings Panel held at 9.30 am on Wednesday, 9th December, 2020 at a Virtual Meeting via Teams

Present

Councillor R Kirk (in the Chair)

Councillor M A Barningham

Councillor K G Hardisty

LAHP.6 **Application for the Grant of a Premises Licence - Horsebreakers Arms, Hutton Sessay, YO7 3BA**

Sowerby and Topcliffe 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 new premises licence in respect of the Horsebreakers Arms, Hutton Sessay. The application sought to authorise the sale of alcohol from 11am to 11pm Sunday to Thursday; from 11am to Midnight on Friday, Saturday and on public holidays; and from 11am to 2am on New Year's Eve.

Alternative options considered:

The Panel considered all of the options in paragraph 7.2 of the officer's report.

The Panel did not consider it necessary to reject the application. The Panel therefore considered whether to grant the application as applied for or to grant the licence subject to additional conditions. The Panel was satisfied that appropriate conditions, as agreed by the applicant during the consultation period, should be imposed to adequately promote the licensing objectives.

The Panel therefore 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 one local resident and Sessay & Hutton Sessay Parish Council in relation to concerns in respect of public safety from an increase in cars parked on the road and public nuisance being caused by late night noise.

The applicant informed the Panel that she had operated under the benefit of several temporary event notices since August 2020 and the premises had not given rise to any significant disorder or nuisance.

The applicant indicated that the premises were open to the public but the vast majority of customers were residents of the White Rose Caravan Site.

The applicant informed the Panel that, in the past, the premises had been open for residents of the caravan site to consume their own alcohol. The Panel noted that these arrangements would not require a licence and therefore the activities could not be regulated in the same way as licensed premises. The applicant indicated that she recognised the benefits of working with the relevant authorities and local residents to reduce any adverse impacts. Accordingly, she was applying for a premises licence to authorise licensable activities subject to appropriate conditions and restrictions.

The Panel considered the representations of a local resident in relation to potential nuisance and safety concerns over car parking in the village. The resident informed the Panel that the car park adjoining the Horsebreakers Arms was often used as an overflow car park for the caravan site and concerns were raised about customers parking on a busy road away from the premises.

The Panel noted that the licensing authority could only consider matters that related to licensable activities. The Panel acknowledged that there may be issues surrounding parking and traffic in the area but concluded that any such issues would not be significantly affected by the sale of alcohol on these premises. The Panel did, however, note that the applicant intended to discuss parking arrangements with the caravan site owner in order to ensure that the car park was reserved for customers of the Horsebreakers Arms.

The Panel considered the local resident's representations in relation to the proposed hours of operation and noise from the customers. The Panel noted that a premises licence was previously in place in respect of the same premises, authorising the sale of alcohol and the provision of regulated entertainment during the hours proposed by the applicant. The Panel noted that the licence was surrendered in November 2019 and no significant concerns had been raised previously.

The local resident also raised concerns in relation to potential disturbance from any events that may be arranged in future. The Panel noted that it was only entitled to consider the current application and, if any further authorisation was sought to permit licensable activities, it would need to be considered on its individual merits in due course.

The Panel also noted that the application did not attract representations from any of the responsible authorities and that the applicant had agreed to take mitigating measures proposed by North Yorkshire Police and the Council's Environmental Health Team in order to reduce the likelihood of nuisance and disorder.

Specifically, the Panel noted that, in an email dated 3 November 2020, the applicant indicated that she would assess the need for door supervisors and CCTV where necessary and that she would implement appropriate procedures relating to incident logs, a proof of age scheme and staff training. The applicant also agreed to ensure that all off sales would be made in sealed containers and that notices would be displayed requesting customers to leave the premises quietly. The Panel was satisfied that, where appropriate, conditions should be imposed on the licence in order to adequately promote the licensing objectives.

The Panel also noted that, in an email dated 5 November 2020, the applicant expressed a willingness to prohibit alcohol consumption in any external areas of the premises after 11pm. The Panel concluded that it would be appropriate for the prevention of public nuisance to impose a condition to this effect.

In conclusion, the Panel was not satisfied on the balance of probability that the grant of the licence would have an adverse effect on the licensing objectives, provided the aforementioned conditions were imposed along with any appropriate conditions consistent with the applicant's operating schedule. The Panel noted that the licence would also be subject to all relevant mandatory conditions and may be subject to review in the event of any issues resulting from licensable activities being carried out on the premises.

The decision:

That the premises licence be granted as applied for, subject to the following conditions:

- An incident log will be kept on the premises and made available on request to an authorised officer or the police which will record the following:
 - all crimes reported to the venue;
 - any complaints received regarding crime and disorder;
 - any incidents of disorder;
 - any refusal of sale of alcohol - with such records being kept for a minimum of one 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]

- The premises shall operate the Challenge 25 policy for the sale of alcohol. The only acceptable proof of age identification shall be a current passport, Photocard Driving Licence 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).
- A documented staff training programme shall be provided to all members of staff at the premises in respect of:-
 - the retail sale of alcohol;
 - the age verification policy;
 - the conditions attached to the Premises Licence;
 - the permitted licensable activities;
 - the licensing objectives; and
 - the opening times for the venue.

with such records being kept for a minimum of one 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]

- All off sales shall be in sealed containers.

- Prominent, clear and legible notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and the area quietly.
- No alcohol shall be sold for consumption in any external areas of the premises between the hours of 11pm and 11am.
- An adequate supply of first aid equipment shall be kept on the premises at all times.
- Bottle bins shall not be emptied between the hours of 11pm and 7am.

The meeting closed at 10.00 am

Chairman of the Panel

Present

Councillor R Kirk (in the Chair)

Councillor M A Barningham

Councillor K G Hardisty

LAHP.7 **Application for the Renewal of a Private Hire Vehicle Licence**

All Wards

The subject of the decision:

The Director of Law and Governance asked the Panel to consider whether to grant or refuse an application for a new hackney carriage vehicle licence, a Ford Mondeo, registration mark YG65 VSM.

Alternative options considered:

The Panel considered granting the application but concluded that the specific circumstances of the case were not sufficient to justify a departure from the Council's Hackney Carriage and Private Hire Licensing Policy.

The reason for the decision:

The Panel considered the officer's report, the applicant's representations, the Council's Hackney Carriage and Private Hire Licensing Policy and the relevant legislation.

The Panel noted that the vehicle in question satisfied the mechanical standards set out in the Council's Policy. However, the vehicle reached the general five year age limit (as prescribed by the Policy) in September 2020.

The applicant invited the Panel to consider the exceptional circumstances of his case on the basis of the vehicle's condition and the financial impact of the COVID-19 pandemic.

The Panel considered 11 images provided by the applicant and concluded that, although the vehicle could not reasonably be described as a luxury vehicle, it did appear to be in good condition.

The applicant informed the Panel that the vehicle had previously been used as a taxi licensed by Hambleton District Council and had therefore been subject to frequent testing and servicing. The Panel noted that the last recorded mileage for the vehicle was 196,971.

The Panel considered the vehicle's MOT history and noted that, prior to satisfying the legal standards for each of the last two years, the vehicle had failed its MOT test. The Panel acknowledged that those tests were carried out before the applicant acquired the vehicle from the previous owner.

The Panel noted that the vehicle recently satisfied the mechanical standards set out by the policy. However, on the basis of the MOT history, the Panel concluded that the vehicle had previously been maintained to the minimum regulatory standards and therefore could not reasonably be described as exceptionally well-maintained.

The applicant informed the Panel that, due to the financial impact of the COVID-19 pandemic, he was unable to afford a vehicle that complies with the Council's five year age limit.

The applicant confirmed that he was aware of the policy age limits when he purchased the vehicle in question and he did not make any enquiries with the Licensing Team in this regard.

The Panel noted that the Council's Hackney Carriage and Private Hire Licensing Policy took effect in January 2020 following consultation with the hackney carriage and private hire trade in September 2019.

The policy generally opposes the grant of a licence in respect of vehicles over the age of five years and the Panel noted that the policy will be applied in the majority of cases but each application must be considered on its individual merits. The Panel acknowledged that it was entitled to exercise its discretion to allow exceptions where the applicant has demonstrated that the policy objectives can still be met and the specific circumstances justify a departure from the policy.

The Panel was not satisfied that a Ford Mondeo with a last recorded mileage of 196,971 and a history of mechanical defects could reach the required threshold on the basis of quality and condition.

The Panel considered the financial impact that the COVID-19 pandemic had on the applicant and, whilst it understood the challenges posed by the current situation, it did not find that the applicant's circumstances were exceptional. The Panel concluded that many individuals and businesses would be adversely affected by the pandemic and any general relaxation of the policy on this basis would be a matter for the full Licensing Committee.

The Panel noted that the age limit was adopted in order to promote public safety, reliability and improved high standards of hackney carriage and private hire services in the district. The Panel concluded that the licence could not be granted in this instance without undermining the policy objectives.

The Decision:

Taking account of the above and having given appropriate weight to the evidence, the Panel decided to refuse to grant the application under section 37 of the Town Police Clauses Act 1847.

The meeting closed at 1.15 pm

Chairman of the Panel

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