

Minutes of the meeting of the Licensing and Appeals Hearings Panel held at 9.30 am on Wednesday, 5th January, 2022 at Council Chamber, Civic Centre, Stone Cross, Rotary Way, Northallerton, DL6 2UU

Present

Councillor R Kirk (in the Chair)

Councillor P Bardon

Councillor M A Barningham

Also in Attendance

Councillor D Hugill

LAHP.15 **Application for the Variation of a Premises Licence - Three Tuns Inn, 9 South End, Osmotherley, DL6 3BN**

Osmotherley and Swainby Ward

The subject of the decision:

The Director of Law and Governance submitted a report seeking consideration of an application for the variation of a premises licence in respect of Three Tuns Inn, Osmotherley. The application initially sought to:

- amend the internal premises plans;
- extend the permitted hours for the sale of alcohol to authorise sales from 10am until 1.30am every day;
- extend the permitted hours for the provision of late-night refreshment to authorise sales from 11pm until 1.30am; and
- authorise the provision of regulated entertainment from 10am until 1.30am every day.

Prior to the hearing, the applicant withdrew all forms of regulated entertainment from the scope of the application.

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 entire application. The Panel therefore considered whether to grant the application as applied for or to vary the licence subject to modifications. The Panel was satisfied that it was appropriate to modify the proposed hours and to impose additional conditions in order 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 noted that The Three Tuns Inn was a public house, restaurant and hotel situated within terraced housing in close proximity to local residents.

The Panel gave appropriate weight to representations submitted by 94 interested parties expressing concerns relating to crime and disorder, public safety, public nuisance and child protection.

The Panel noted that the existing licence in respect of Three Tuns Inn authorised the sale of alcohol from 11am until 11pm Monday to Saturday and from 12pm (Noon) until 10.30pm on a Sunday. It also authorised the provision of late-night refreshment from 11pm until 11.30pm Monday to Saturday.

The Panel noted that, during the consultation period, the applicant came to an agreement with North Yorkshire Police and the Council's Environmental Health Team to take additional steps to promote the licensing objectives. This included arrangements for CCTV, an incident register, staff training, a Challenge 25 policy, leave quietly notices and restrictions on the use of the outside areas.

The applicant informed the Panel that he had considered the representations made by local residents and had withdrawn regulated entertainment from the scope of the application in order to alleviate noise concerns.

The applicant indicated that there was no history of nuisance and no evidence of antisocial behaviour or criminal activity resulting from activities in either The Three Tuns Inn or The Queen Catherine (a local premises for which he also holds a licence authorising activities until 1am).

The applicant informed the Panel that the proposed variation was intended primarily to accommodate walkers and residents of The Three Tuns Inn, some of whom would like to enjoy a drink after 11pm.

The applicant acknowledged that he had a responsibility to ensure that his residents can get a good night's sleep and therefore it would be in his own interests to sustain a peaceful ambience. The applicant insisted that he would not therefore be encouraging customers to become rowdy late at night.

The applicant informed the Panel that, including his own (The Queen Catherine), two premises in the village are already licensed until 1am and, as is the case for those other two premises, he would not expect The Three Tuns Inn to remain open late on a frequent basis but would like to have the option to do so for occasional events and on request by customers or residents. The Panel was subsequently informed that the third premises in the village (The Golden Lion) was actually licensed for alcohol sales until midnight as opposed to 1am.

The applicant indicated that he had good working relationships with the Council and with North Yorkshire Police and believed that this was supported by the fact that none of the statutory responsible authorities had objected to the proposed variation.

The Panel noted that, following the withdrawal of regulated entertainment from the scope of the application, any objections relating directly to music would need to be disregarded. Concerns of potential disturbance from customers (and vehicles where applicable) in and around the premises, particularly late at night, remained relevant considerations for the Panel.

Several interested parties attended the hearing to amplify their own representations and, where applicable, to act on behalf of other interested parties. The Panel noted that not all of the concerns raised were matters for consideration at this hearing.

Concerns were raised in relation to the management of the premises and, specifically, to the suitability of an individual who a number of interested parties believed to be responsible for the day-to-day running of the premises. The Panel noted that no concerns had been raised in relation to the premises licence holder or the designated premises supervisor in respect of The Three Tuns and, in any case, there is adequate provision within the Licensing Act 2003 for a chief officer of police to consider the suitability of a responsible person in the event that the crime prevention objection may be undermined. In the absence of any concerns raised by North Yorkshire Police, the Panel was not satisfied that any further scrutiny would be justified in this regard.

The Panel was informed that the applicant had not adequately described the steps intended to promote the licensing objectives. The Panel noted that, whilst provision is made within the prescribed application form to identify any mitigating steps, the onus is on the responsible authorities and interested parties to demonstrate that the proposed variation would be likely to have an adverse effect on the licensing objectives. The Panel also noted that, during the consultation period, the applicant had agreed to make arrangements with regards to CCTV, an incident register, staff training, a Challenge 25 policy, leave quietly notices and restrictions on the use of the outside areas.

The Panel was asked to consider how the extension of licensable activities at The Three Tuns Inn would contribute to “the betterment and enhancement of the village”. The Panel noted that, whilst commercial demand and other related matters may be considered by the planning authority, they are not relevant considerations for the licensing authority. The Panel acknowledged that, in accordance with statutory guidance, it is limited to consideration of the promotion of the four licensing objectives and cannot consider anything outside those parameters.

Concerns were raised about the provision of lighting on the premises and, in particular, an alleged contravention of the dark skies initiative. The Panel was satisfied that the planning authority is responsible for matters of this nature and any concerns relating to light pollution could be addressed under primary legislation. The Panel noted that no concerns in this regard had been raised by Environmental Health in response to the variation application.

The Panel was asked to consider bringing the hours for licensable activities in the area in line with each other. The Panel was satisfied that it did not have the power to impose such a policy as all applications must be considered on their individual merits. The Panel was confined to considering the likely impact of extending the hours for licensable activities at The Three Tuns Inn in light of the representations made by interested parties.

The Panel was concerned that the application had attracted such strong opposition from the local residents. Members acknowledged that 94 objections represented a significant portion of the village population and illustrated significant concern over the impact that the extension of licensable activities would have on the ambience of a peaceful village.

The Panel was informed that residents had experienced some nuisance recently when customers of The Three Tuns Inn were leaving the premises with their drinks to continue drinking in a nearby pub. Residents were concerned that an extension to the terminal hour for alcohol sales at The Three Tuns Inn would lead to disturbances of this nature occurring later into the night.

The Panel was satisfied that the current levels of background noise in the village would be very low after 11pm and therefore the proposed variation would be likely to impact on the ability of residents (including young children) to sleep.

The Panel was satisfied on the balance of probability that the noise from customers inside and outside the premises, smoking and chatting, vacating the premises, waiting for taxis or other vehicles and moving from one premises to another would be likely to cause a nuisance to local residents.

In light of the objections raised, the Panel concluded that an extension to the terminal hour for licensable activities would be likely to undermine the prevention of public nuisance objective. The Panel therefore decided not to authorise the sale of alcohol or the provision of late-night refreshment beyond the existing terminal hours.

The Panel noted that the applicant had agreed to prohibit alcohol consumption in the external areas after 10.30pm at the front of the premises and after 10pm at the rear. Having concluded that the terminal hour for alcohol sales should not be increased, the Panel was not satisfied that any additional conditions should be imposed in this regard.

The decision:

The Panel resolved to grant the application in respect of the proposed changes to the internal layout and to authorise the sale of alcohol on Monday to Saturday from 10am to 11pm subject to the following conditions agreed during the consultation period:

1. A digital colour CCTV system shall be installed to cover all licensed areas. It will be maintained, working and recording at all times when the premises are open. The recordings should be capable of providing clear images to be produced in Court or other such hearing. Copies of the recordings will be kept available for 28 days. Copies of the recordings will display the correct time and date of the recording.
2. An incident log will be kept at 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 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]

3. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:
 - operation of the CCTV system;
 - retail sale of alcohol;
 - age verification policy;
 - conditions attached to the Premises Licence;
 - permitted licensable activities;
 - the licensing objectives; and
 - 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]

4. 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)
5. Prominent, clear and legible notices shall be displayed at all exits to the premises requesting the public to respect the needs of local residents when smoking outside and also to leave the Premises and area quietly.

6. No refuse, including bottles, shall be placed into receptacles outside the premises between the hours of 10pm and 7am.
7. Children under the age of 18 years shall not be permitted to enter or remain at the premises after 9pm unless resident, dining with an adult or attending a pre-booked function.
8. All sales of alcohol for consumption off the premises shall be in sealed containers.

Note: The panel adjourned at 11.45am for deliberations and reconvened at 12.40pm.

The meeting closed at 12.42 pm

Chairman of the Panel