

SCARBOROUGH BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

17 NOVEMBER 2022

LICENSING ACT 2003

REPORT OF THE ENVIRONMENT AND REGULATION MANAGER - 22/231

on

APPLICATION FOR VARIATION OF A PREMISES LICENCE DUKE OF YORK, 124 CHURCH STREET, WHITBY, YO22 4DE

1. PURPOSE OF REPORT

To seek the determination by the Licensing Sub-Committee of an application for the variation of a premises licence where one or more relevant representations has been received.

2. APPLICATION

- 2.1 An application for the variation of a premises licence has been received and is attached at **Appendix A**. A copy of the existing premises licence is attached at **Appendix B**.
- 2.2 The application to vary seeks to extend opening hours and the time for the sale of alcohol & recorded music to commence from 08:00. To allow live music on Wednesdays. To extend the provision of live and recorded music and entertainment similar to live & recorded music on New Years Eve until 02:00 and Christmas Eve until 01:00 hours. To remove conditions from the Premises Licence following consultation with the authorities and update the CCTV condition.
- 2.3 *The application seeks to extend the permitted hours for licensable activities as follows:*

Activity	Current hours	Requested hours
Live music (indoors)	Thurs to Tues – 20:00 to 00:00	Mon – Sun – 20:00 to 00:00 New Years Eve - 20:00 to 02:00 hours Christmas Eve - 20:00 to 01:00

Recorded music (indoors)	Mon to Sun – 11:00 to 00:30	Mon to Sun – 08:00 to 00:30 New Years Eve - 08:00 to 02:00 hours Christmas Eve - 08:00 to 01:00
Anything of a similar description to live/recorded music or performance of dance (indoors)	Mon to Sun – 11:00 to 00:00	Mon to Sun – 11:00 to 00:00 (no change) New Years Eve - 11:00 to 02:00 hours Christmas Eve - 11:00 to 01:00
Supply of alcohol (for consumption on & off premises)	Mon to Sun – 11:00 to 00:00 New Years Eve – 11:00 to 02:00 Christmas Eve – 11:00 to 01:00	Mon to Sun – 08:00 to 00:00 New Years Eve - 08:00 to 02:00 hours Christmas Eve - 08:00 to 01:00
Hours open to the public	Mon to Sun – 11:00 to 00:30 New Years Eve – 11:00 to 02:30 Christmas Eve – 11:00 to 01:30	Mon to Sun – 08:00 to 00:30 New Years Eve - 08:00 to 02:30 hours Christmas Eve - 08:00 to 01:30

2.4 The application to vary seeks to remove the conditions and add new conditions to the licence of Annex 2. Please see pages 8 and 9 of the application for the proposal to remove certain conditions. For clarification the amended conditions would read as follows:

General

1. There shall be a 30 minute 'wind down' period after the permitted hours for the sale of alcohol.
2. The licensee shall request taxis to be considerate when picking up fares from outside of the premises and specifically request them not to sound their horns.

CCTV

3. The following CCTV conditions shall apply to this licensing application
 - i) A colour digital CCTV system shall be operational at the premises at all times when licensable activities are being carried out and at any other times where members of the public are present on the premises.
 - ii) The CCTV equipment shall have constant time and date generation which must be checked on a daily basis.
 - iii) The CCTV system shall cover all areas of the premises occupied by the public under the terms of the licence.

- iv) The CCTV system shall be capable of providing quality images of good evidential value. The CCTV system shall have sufficient storage retention capacity for a minimum of 28 days' continuous footage.
- v) North Yorkshire Police or a responsible authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be compiled with within 24 hours of the request being made.
- vi) 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.

Security, Noise Nuisance & Children

- 4. The premises shall continue to participate in the local Pub Watch scheme, to include the use of a Pub Watch radio and adoption of the 'Banned from One, Banned from All' scheme.
- 5. Door staff shall be utilised during special events and Bank Holidays when requested by North Yorkshire Police.

2.5 Protection of Children from Harm

The applicant states that there will be no adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

- 2.6 Members are asked to note in particular paragraph 3.46 of the Council's Policy in that where an applicant states in the Operating Schedule that there is no adult entertainment or similar entertainment taking place at the premises, then the Licensing Authority shall consider this restriction to be a condition on the licence even though it may not state this on the licence itself.

2.7 Existing premises licence

When considering the amended conditions and the imposition of any additional conditions, consideration should be given to the conditions in the current premises licence which is attached at **Appendix B**.

3 REPRESENTATIONS

- 3.1 The Licensing Authority has received a representation(s) from Members of the Public which are attached at **Appendix C**.

- 3.2 The representations are in line with the following Licensing Objectives:

- *Prevention of Crime and Disorder*
- *Prevention of Public Nuisance*
- *Public Safety*
- *Protection of Children from Harm*

- 3.3 The representation received from members of the public is summarised as follows:

1. Increase of stag and hen dos to a residential area
 2. An increase drunken and aggressive behaviour
 3. Late night live music will create noise pollution and will have an adverse affect on the residents
 4. Possible increase in anti social behaviour due to entended hours
 5. Children pass the premises to get to the sands.
 6. Residents already experience anti social behaviour and this will add to the problem
- 3.4 Members should note that some of the grounds for the representations may not directly relate to the licensing objectives but have been included in the interests of openness and transparency.

4 LICENSING POLICY AND DCMS NATIONAL GUIDANCE

- 4.1 Members are referred to the Council's Licensing Policy together with the Home Office Amended Guidance issued under s182 of the Licensing Act 2003.

5 OPTIONS

- 5.1 The Licensing Sub Committee has the following options:
- a) Reject the application
 - b) Grant the licence as per the application
 - c) Grant the licence as per the application with additional conditions
 - d) Grant the licence but exclude a licensable activity from the application
 - e) Grant the licence but exclude a licensable activity from the application and include additional conditions

6 DETERMINATION OF THE APPLICATION

- 6.1 Under section 17 of the Crime and Disorder Act 1998 (CDA), the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.
- 6.2 Members must also exercise their decision making powers in accordance with the provisions of the Human Rights Act 1998, and the principles of natural justice.
- 6.3 Members are invited to determine this application following consideration of the evidence presented to them.



Environment and Regulation Manager

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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

List of Background Papers:

Council's Statement of Licensing Policy

Licensing Act 2003

National Guidance issued Under Section 182 of the Licensing Act 2003

Relevant Regulations associated with the Licensing Act 2003

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The following papers were unable to be included in the electronic version of this document.

Appendices A - D are only available for the applicant in this matter as per Section 185 of the Licensing Act 2003.