

North Yorkshire Council

Statutory Licensing Sub-Committee

Minutes of the meeting held on Tuesday, 23rd May, 2023 commencing at 10.00 am.

Councillor Tim Grogan in the Chair. plus Councillors Subash Sharma and Roberta Swiers.

Officers present: Alan Fane, Kevin Chin, James Nichol and Jonathan Davey.

Apologies: None

Copies of all documents considered are in the Minute Book

21 Election of Chair

Resolved:-

That Councillor Grogan be elected Chair of this meeting.

22 Apologies for Absence

There were no apologies for absence.

23 Disclosures of Interest

There were no declarations of interest.

24 Procedure for Licensing Hearings

The attached procedure was confirmed.

25 Exclusion of The Press and Public

There was no application for the exclusion of the public. Reg 14(1) The Licensing Act 2003 (Hearings) Regulations 2005 states that the hearing shall take place in public.

26 Application for Review of a Premises Licence - JK's Bar, Wellington Road, Whitby, YO21 1DY

The Sub-Committee considered the report of the Corporate Director of Environment in respect of an application for a review of a premises licence, JK's Bar, Wellington Road, Whitby, YO21 1DY. In addition to the report the Sub-Committee had sight of the appendices, the additional evidence from the fire brigade, the statement of the youth employed and the additional statement provided by the applicant.

The additional statement of James Nichol was excluded in evidence and played no part in the reaching of the decision.

In respect of the Applicant and their representatives the meeting was attended by PC Deborah Chadwick, Alison Graham, Tom Stoffel and Gemma Churchward. The meeting was also attended by Bulent Osman represented by Nathaniel Gadsby, Solicitor.

In coming to its decision, the Sub-Committee has considered the application on its own merits and has also had due regard to the National Guidance issued under section 182 of the Licensing Act 2003 and Scarborough Borough Councils Licensing Policy. The sub-committee has had due regard to the 4 licensing objectives namely:

- The prevention of crime and disorder
- Public Safety
- Prevention of public nuisance
- The protection of children from harm

After hearing the issues today, it is the licensing objectives of ...

The prevention of crime and disorder
Public safety
The protection of children from harm

... that are relevant and consideration has been given to these today

Resolved-

That the Designated Premises Supervisor be removed and a condition be added to the licence that at least one personal licence holder shall be on duty in the public areas of the premises at all times when the retail sale of alcohol licensable activity takes place.

The Sub-Committee believe that:-

The DPS has accepted that the premises requires improvement. This remains the case after the police's interventions with the Premises improvement plan and the section 19 notices served on the premises. He has stated that 'I like to delegate, I am not hands on, I don't see it as my role.' A DPS should be hands on and is a responsible position. Unfortunately there is no one to delegate to and staff have not remained in post and there has been a high turnover of staff.

Of particular concern are the repeated issues of not documenting staff training which constitutes a breach of the licence. Different staff members will have had different levels of training, but none were able to satisfy the police in relation to operating the CCTV. This is a crucial condition on the licence. It is not acceptable to merely take on staff assuming that they will have had training. Checks needed to be made and in any event, training should be provided which looks at the conditions on the premises licence.

The DPS employed a 16 year old at the premises. The DPS accepted that he was present at the premises until midnight and the student stated that he was actually there later than that. The licence states that 'No persons under the age of 18 shall be permitted to remain on the premises until after 20:30 unless the premises has been hired for an event or function at which the general public are excluded.' Had that individual been properly trained the content of the premises licence should have been discussed with him. The protection of children from harm licensing objective is engaged by breaching the licence condition.

Mr Osman has no idea about the duties and responsibilities of the DPS. He assumed someone had a personal licence without making checks.

There have been so many alleged offences of breaching the licence conditions over a long period of time. It is clearly important that conditions are complied with to prevent crime and disorder in the night time economy and to maintain public safety. Mr Osman has also accepted that there has been a breach in relation to not having door staff on.

There was also an incident where an alleged drink spiking incident took place and the CCTV was wiped. Mr Osman accepted that patrons of his premises were intoxicated and it is important that CCTV is in operation at such premises to retain evidence in the night time environment where a variety of offences commonly occur. Without providing and recording staff training and also retaining CCTV the licensing objectives have been undermined. Every opportunity to put matters right have been provided but this has not been taken by Mr Osman and the licensing objectives continue to be seriously undermined.

The Sub Committee also asked for an occupancy figure to be obtained as soon as possible and added to the licence.

The meeting concluded at 2.45 pm.