

North Yorkshire Council

Statutory Licensing Sub-Committee

Minutes of the meeting held on Friday, 26th April, 2024 commencing at 2.00 pm.

Councillor Tim Grogan in the Chair plus Councillors Barbara Brodigan and Kevin Foster.

Officers present: Lynne Ashton, Harriet Clarke, Wan Malachi, Edward Maxwell, Dawn Drury and Sharon Cousins (observer)

Copies of all documents considered are in the Minute Book

77 Election of Chair

Resolved:-

That Councillor Tim Grogan be elected as Chair for the meeting.

(Councillor Tim Grogan in the Chair)

78 Apologies for Absence

There were no apologies for absence.

79 Disclosures of Interest

There were no declarations of interest.

80 Procedure for Licensing Hearings

The attached procedure was noted.

81 Whaddy Know? Limited, trading as La Feria - Application to Vary a Premises Licence

The Sub-Committee considered the report of the Corporate Director of Environment which sought determination of a variation of a premises licence application in respect of Whaddy Know?, trading as La Feria, Ground Floor, Wellington House, Cold Bath Road, Harrogate, HG2 0NA.

The Senior Licensing Enforcement Officer, Wan Malachi, introduced the report which had been circulated to all parties, and it was confirmed that all statutory requirements had been complied with.

The Applicant sought the removal of a condition which had been attached to the current premises licence by the Council's Environmental Protection team, namely that customers shall not use external areas of the premises for eating and/or drinking between the hours of 21:00 and 09:00 hours. This condition was to be replaced with customers shall not use external areas of the premises for eating and/or drinking between the hours of 21:00 and 11:00 hours during the months of October to March. During April to September the external areas can be used between the hours of 11:00 to 23:00; these hours applied from Monday to Saturday. The hours of use on Sundays during this period would be the same as those during the months of October to March. A copy of the application and premises plan was provided at Appendix 1 of the report.

The Senior Licensing Enforcement officer advised that in 2018 a similar variation application hearing had taken place, at which time the application had been refused. Members heard that since that hearing the Applicant had utilised Temporary Event Notices on 43 occasions, with 17 of those occasions in the preceding 12 months, in order to make use of the external areas of the premises until 23:00 hours. The dates of these Temporary Event Notices were detailed in the report at paragraph 2.4.

The Sub-Licensing Committee noted that other than one complaint submitted to the Council in May 2018 in relation to noise from an extractor fan at the premises, which had been quickly resolved by the Applicant, no noise complaints had been received about the premises either in relation to the current premises licence activities or for the periods covered by the Temporary Event Notices.

Correspondence between the Applicant and North Yorkshire Police had resulted in the agreement of additional conditions in order to promote the licensing objectives which were attached at Appendix 5.

It was confirmed that one representation had been received from the Council's Environmental Protection Team on the objective of prevention of public nuisance, however the Applicant had accepted and agreed to all the conditions contained within the representation which were outlined in Appendix 6.

Three representations had been received from other persons on the prevention of public nuisance objective, and these were attached at appendix 7.1 to 7.3 of the report.

To promote the licensing objectives, the Senior Licensing Enforcement officer advised that the Applicant had confirmed that all other conditions attached to the current premises licence would remain, as well as the additional conditions contained within the agreed and withdrawn representation submitted by the Environmental Protection Team and the conditions agreed with North Yorkshire Police during consultation.

The options available to the panel were outlined at paragraph 13.0 of the report.

The Sub-Committee queried whether the previous application in 2018 had been refused on the potential of the public nuisance objective, if the external areas at the premises had been used up until 23.00 hours during all instances of the 17 TENs during the past year; and if any complaints had been received for that period. The Senior Licensing Enforcement Officer confirmed that the 2018

application had been refused on the prevention of public nuisance objective, that the outside area at the premises had been utilised up to 23.00 hours on each occasion, and that no complaints had been received, other than in relation to the extractor fan.

Members expressed their disappointment that none of the three representors had attended the hearing and queried where the representors lived in relation to the premises. It was confirmed that each representor lived within the immediate vicinity of the premises.

Submission by the Applicant

Ms Johnson, General Manager of the premises, addressed the Sub-Committee on behalf of the applicant, and explained that the Applicant had operated a successful family run, family friendly restaurant at the premises since 2016. Members heard that during the 8 years that Ms Johnson had been the General Manager for the premises, no complaints had been received in relation to noise.

Ms Johnson advised that the Applicant was very sensitive to local resident's and any possible noise nuisance that local residents may suffer from the premises. It was explained that notices had been displayed around the premises politely requesting customers to be respectful of the residents, and to keep noise to a minimum when leaving the premises. As General Manager she complied with every aspect of the Premises Licence and adhered to the restrictions contained therein.

It was further explained that the premises was not a late night bar or music venue, and the application was merely to allow the operation of the business to extend the outside dining experience, during the summer months, in order to allow their customers to continue to enjoy eating outside, rather than being asked to return inside at 21.00 hours.

Ms Johnson advised the Sub-Committee that a number of other businesses in the area were able to trade until 23.00 hours and that the Applicant would like to be afforded the same opportunity. The premises had survived Covid as an independent restaurant which had proved challenging, and the Applicant would now like to be able to offer the dedicated staff members extra hours of work while creating an income opportunity for the business, to help the business grow and continue to trade.

Mr Brewins, co-owner of the premises, explained he was very confident in Ms Johnson's abilities as the General Manager for the premises given her 30 years' experience in the business. It was further explained that several applications had been made to the Council and granted for TENs where the outside area had been used, and no complaints regarding noise had been made due to the diligence of Ms Johnson and her team. This application was part of the long-term vision for the business, as the Applicant was passionate about serving customers in the local community in Harrogate.

In response to questions from the Sub-Committee, Ms Johnson advised that since 2016, North Yorkshire Police had never attended the premises, and that in addition to herself, there was also an Assistant Manager and Deputy Manager, and on any given evening one of these team members would be on duty at the premises to

supervise.

In response to another question, Ms Johnson clarified that the business was a family restaurant and customers did not often attend just to drink; and it was confirmed that at present the last time for guests to be seated in the outside area was 19.00 hours to ensure that the diners had finished and left the area by 21.00 hours. Should the application be granted then the last time for guests to be seated outside would be 21.00 hours, with the area cleared by 23.00 hours. Ms Johnson then went on to explain the outside seating arrangements in order to ensure the clearing up process at the end of the evening was as quiet as possible.

The meeting was adjourned to allow Members to deliberate the application.

Resolved-

The Sub-Committee resolved to grant the variation to the premises licence application in full subject to:

The conditions consistent with the operating schedule as follows:

The conditions on the current premises licence and additional conditions agreed with North Yorkshire Council Environmental Protection Team and North Yorkshire Police.

Mandatory Licensing conditions as required by the Licensing Act 2003.

The meeting concluded at 2.42 pm.