

## Statutory Licensing Sub-Committee

10 May 2023

**Title: Determination of a Grant Application for a Premises Licence, The Funky Monkey, 51 Main Street, Crosshills, BD20 8TT (“the Premises”)**

**Report of the Corporate Director of Environment – Karl Battersby**

### 1.0 Purpose of Report

1.1 On 15 March 2023 the Licensing Authority received an application for the grant of a Premises Licence. During the statutory 28 day notice period two representations were received – one of which has been dispensed with, leaving one representation. The Licensing Authority is now under a duty to determine the application for the grant of a Premises Licence application under Section 18 (3) (a) of the Licensing Act 2003 (“the Act”).

#### **Recommendation:**

The Sub-Committee is requested to consider the Premises Licence application in respect of the premises with a view to promoting the licensing objectives:

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

In determining this application, the Sub-Committee must have regard to the representation and take such steps as it considers appropriate for the promotion of the licensing objectives.

The steps are:

- a. to grant the licence as applied for, subject to conditions consistent with the operating schedule and as modified to such extent as the authority considers appropriate for the promotion of the licensing objectives, and any condition which must under section 19, 20 or 21 (mandatory conditions) be included in the licence;
- b. to exclude from the scope of the licence any of the licensable activities to which the application relates;
- c. to reject the application.

In making its decision, the Sub-Committee must act with a view to promoting the licensing objectives. The Sub-Committee must also have regard to its Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Act.

## 2.0 Background

2.1 The applicant is a Limited Company, WadProp Ltd which proposes to carry out licensable activities as applied for in the application (**Appendix A**) at the Premises. The plan to the application showing the proposed licensable area can be seen at **Appendix B**. Site photographs of the Premise and location can be seen at **Appendix C**.

2.2 The Sub-Committee acknowledges that Licensing and Planning form two distinctive legislative regimes, and the applicant must comply with both. Any premises is liable to enforcement action under both licensing and planning legislation. Under the planning process, Environmental Health was a consultee on the planning application, and they secured 'relevant conditions' as part of the planning process. This is beneficial for members to be aware of (**Appendix D**). Any decision taken by members should be made based on the specific merits of the application, taking account of the licensing objectives and the objection (representations) lodged; and not be based on how other businesses operate or whether or not there is a commercial need for such a premise in the vicinity.

## 3. Consultation

3.1 The application has been served on all of the Responsible Authorities. These are;

- North Yorkshire Police
- North Yorkshire Fire & Rescue
- Public Health
- Environmental Health Services
- Environmental Health Safety at Work
- Planning Department
- North Yorkshire Council Children & Young Persons
- Licensing Authority
- Trading Standards.

3.2 Formal responses were received from North Yorkshire Police, Environmental Health and Planning.

3.3 The application was advertised in the form of a Public Notice in the Craven Herald dated 23 March 2023, and by way of the required statutory blue notice at the property. Additionally, the application was published on the council's website.

3.4 North Yorkshire Police corresponded directly with the applicant, and it was confirmed that the operating schedule would be amended to include additional conditions around the Prevention of Crime and Disorder, **Appendix E**.

**3.5** Environmental Health commented on the application to bring attention to the comments they had made during the planning application process, and that conditions required under that regime should be sufficient to control any concerns that could arise from the use of the premise (**Appendix F**).

**3.6** During the public consultation two public objections were received. One objection was subsequently withdrawn following discussions with the applicant. As a result, this is not included for consideration.

The remaining objection can be found at **Appendix G**. Licensing officers have provided further correspondence to the objector (**Appendix H**).

#### **4.0 Summary of key points**

The applicant has applied for the following:

##### **Licensable activities:**

##### **Sale of Alcohol (On & Off)**

Monday to Saturday 12:00 – 23:00  
Sunday 12:00 – 20:30

##### **Hours open to the Public**

Monday to Saturday 12:00 – 23:30  
Sunday 12:00-21:00

The additional half hour the premise is open to the public is to allow a drinking up time from the last sale of alcohol as recommended within the Council's policy.

The Committee will note the application has not specified a Designated Premises Supervisor (DPS). If a licence were to be granted, no sale of alcohol could take place until a DPS is nominated and the details of the proposed DPS served on the Licensing Authority and North Yorkshire Police.

#### **4.1 Details of the proposed Operating Schedule are as follows:**

**4.2** To promote the licensing objectives, the applicant has proposed steps detailed on page 16 of the application form, attached at **Appendix A**. Any condition embedded on a licence must be measurable, achievable and enforceable. Breach of a licence condition can lead to an unlimited fine, six months imprisonment or both in respect of each offence. A draft version of how the proposed conditions would be worded, including those agreed with North Yorkshire Police, can be found at **Appendix I**. These do not include the mandatory conditions to which all licences must adhere.

**4.3** A plan of the building is included at **Appendix B**. This shows the licensable area of the premises, outlined in red. This shows where the licensable activity would be permitted to take place. Any alcohol taken outside of this area would be considered an 'OFF' sale.

## **5.0 Promotion of the Licensing Objectives**

**5.1** Section 4 of 'the Act' places a duty on the Licensing Authority to carry out its function under 'the Act' with a view to promoting the Licensing objectives.

**5.2** These four objectives (set out at 1.1) are the only matters that can be taken into account in determining an application, with equal weight given to each objective. Conditions can be attached to licenses in order to achieve these licensing objectives.

## **6.0 Policy Implications**

### **6.1 Policy considerations and S182 Guidance**

**6.2** Craven's statement of licensing policy (2022 – 2027) remains in place by operation of the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008. The following sections of that Policy are relevant in considering the licensing objectives in relation to this application.

- Part 4, Page 12 – Anti social behaviour
- Part 4, Page 17 – Children
- Part 7, Page 25 – Licensing hours
- Part 6, Page 23 & 38 – Operating Schedule
- Part 11, Page 28 – Conditions

**6.3** The following sections of the Guidance issued under section 182 of the Act issued by the Secretary of State for Culture, Media and Sport (December 2022) is relevant in considering the licensing objectives in relation to this application:

- Part 2, Page 11 - Public safety
- Part 2, Page 13 – Prevention of Public Nuisance
- Part 2, Page 14 – Protection of children from harm

### **6.0 Legal Implications**

**6.1** As a relevant representation has been received, the Sub-Committee must hold a hearing to consider the representation and, having regard to the representation, determine the Premises Licence application.

**6.2** The Sub-Committee must have regard to the promotion of the four licensing objectives, namely, the prevention of crime and disorder; public safety; the prevention of public nuisance and the protection of children from harm in exercising its functions under the Act.

**6.3** The Sub-Committee must also have regard to the statutory guidance under Section 182 of the Act and the Council's own Statement of Licensing Policy in exercising its functions under the Act.

## **7.0 Right of Appeal**

**7.1** Schedule 5 of the Act gives a right of appeal to the applicant and to any person who has made a relevant representation.

**7.2** Any appeal must be made to the Magistrates Courts and must be made within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

## **8.0 Conclusion**

**8.1** The Sub-Committee is asked to determine the application to Grant a Premises Licence.

**8.2** The Sub-Committee has the options as set out in the Recommendations above.

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Background Documents:

Craven District Council Statement of Licensing Policy 22<sup>nd</sup> February 2022 [Statement of alcohol and entertainment licensing policy | North Yorkshire Council](#)  
Section 182 Guidance December 2022 - [Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](#)

Appendices:

Appendix A – Premises Licence Application – Page 11  
Appendix B – Plan of licensable area – Page 37  
Appendix C – Site photos – Page 39  
Appendix D – Planning determination – Page 43  
Appendix E – North Yorkshire Police consultation response – Page 47  
Appendix F - Environmental Health response – Page 49  
Appendix G – Objection received – Page 51  
Appendix H – Objector correspondence – Page 53  
Appendix I – Premises Licence proposed conditions – Page 57