

North Yorkshire Council

Statutory Licensing Sub-Committee

12 May 2023

Application for grant of a Premises Licence for Par N Bar, Adventure Golf Course, North Bay Promenade, Scarborough, YO12 7TQ

Report of the Corporate Director of Environment – Karl Battersby

1. PURPOSE OF REPORT

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

2. APPLICATION

2.1 An application for the grant of a premises licence under section 17 of the licensing act 2003 was received on 17th March 2023 from Par N Bar Crazy Golf Adventures LTD, Company Registration Number 14489382, for the Premises North Bay Promenade, Scarborough, YO12 7TQ The last date for representations was agreed with the applicant for the 15th April 2023 one day more due to a delay in displaying the Blue Notice. The full application form and accompanying documents is attached as **Appendix A**.

2.2 The premises are described on the application form in Section 5 and states:-

The premises is the North Bay Crazy Golf site above the promenade that leads to the Sealife premises. On site we will have 2 small cafes with external seating and a larger pizza / wine bar with internal and external seating. Alcohol will only be served from within the 2 small cafes and the larger pizza / wine bar - these are shown as the 'hatched areas' on the plan.

2.3 The application stated in section 7 to 17 the following licensable activities are applied for:

- Films (Indoors) 08:00 to 00:00 Mon-Sun
- Live Music (Both) 12:00 to 22:00 Mon-Sun
- Recorded Music (Both) 08:00 to 00:00 Mon-Sun
- Anything of a similar description to live music, recorded music or performances of dance 08:00 to 00:00 Mon-Sun
- Late night refreshment 23:00 to 00:30 Mon-Sun
- Sale of alcohol 08:00 to 00:00 Mon-Sun
- Opening hours 08:00 to 00:30 Mon-Sun

New Years' Eve 08:00 to 02:00 for all licensable activities and opening hours

2.4 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.

- 2.5 Members are asked to note in particular paragraph 3.46 of the Scarborough Borough Council Licensing Policy, still current until the North Yorkshire Council 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.

2.6 Volunteered Operating Licence Conditions

The applicant volunteered the following conditions as part of their application:

- The premises shall only operate as a café/pizza & wine bar
 - List here steps you will take to promote all four licensing objectives together
1. The premises shall not operate any drinks promotions.
 2. A documented staff training program shall be provided to all members of staff at the premises in respect of the:-
 - Retail sale of alcohol;
 - Age verification policy;
 - Conditions attached to the Premises License;
 - 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.

2.7 The prevention of crime and disorder

1. A colour digital CCTV system will 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.
2. North Yorkshire Police can reasonably request door supervisors be employed at the premises during special events in the town and bank holidays. A minimum of 14 days written notice must be given to the premises prior to this request, at all other times the requirement for Door Supervisors will be risk assessed by the DPS / Manager on duty
3. External lighting will be used to light up the golf course area within the premises boundary within operating hours.

4. Glass waste such as bottles will be disposed into large bins between the hours of 09:00 & 18:00.

2.8 Public safety

1. A risk assessment taking into account public and staff safety will be carried out.
2. A fire risk assessment will be carried out.
3. First aid kits will be available on the premises.
4. A rubbish collection policy will be in place
5. Emergency exits will be clearly identified.

2.9 The prevention of public nuisance

1. Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
2. All supplier deliveries shall be between the hours of 8am and 6pm.
3. All external lighting will be turned off after the premises are closed to the public.

2.10 The protection of children from harm

1. There shall be no adult entertainment on the premises.
2. The premises shall operate a challenge 21 policy, NO ID – NO SALE.
3. We shall keep a refusal book.

3. REPRESENTATIONS

- 3.1 The Licensing Authority has received over 100 representations from members of the public which are attached at **Appendix B**.

Representations included 64 in favour of the licence and the business proposal some of the comments were stating positive things for local and visitors alike and quality development. There were a further 21 positive representations that were disregarded due to no address details to validate the representation.

There were representations from 21 objectors and the objections fell in line with the licensing objectives with concerns for :-

Late Night Noise, Music	15
Public nuisance	3
Litter and Waste Issues	6
Lack of Toilets	4

However, for clarity the objections do contain non relevant aspects of concern such as mention of people falling in the sea. Some aspects of the objections were late night music and late night drinking were mentioned this is not relevant to a 10:30pm close compared to the original requested opening hours. The entire of the full representation has been included for the purpose of the clarifying the overall

community concern only. This is inline with the Section 182 Guidance to include the community in the decision making process.

The representations were a mixture of negative and positive representations. During the mediation process the applicant represented by director Richard Egan asked the local authority to change the application and this was sent to all representees. He also sent communications in letter/leaflet form to the neighbouring residential properties.

4. The Amended Application

- Section 5 of 21 – Has been changed by the applicant to include the changes as below:-

The premises is the North Bay Crazy Golf site above the promenade that leads to the Sealife premises. On site we will have 2 small cafes with external seating. Alcohol will only be served from within the 2 small cafes these are shown as the 'hatched areas' on the plan.

Removed items from the application as below (strikethrough text)

- ~~Films (Indoors) 08:00 to 00:00 Mon-Sun~~
- ~~Live Music (Both) 12:00 to 22:00 Mon-Sun~~
- ~~Recorded Music (Both) 08:00 to 22:30 Mon-Sun (Background) see below~~
- ~~Anything of a similar description to live music, recorded music or Performances of dance 08:00 to 00:00 Mon-Sun~~
- ~~Late night refreshment 23:00 to 00:30 Mon-Sun~~
- ~~Sale of alcohol 10:00 to 22:00 Mon-Sun~~
- ~~Opening hours 08:00 to 22:30 Mon-Sun~~
- ~~New Years' Eve 08:00 to 02:00 for all licensable activities and opening hours~~

Additional Conditions offered...

- To purchase alcohol, customers must either.

Sit in the designated seating area in front of each kiosk.

Or

Purchase a ticket for a game of crazy golf – 1 drink only per person per game.

- Recorded music.

To be played at a back ground level.

Music relating to the golf only to be played, such as pirate related etc.

Separate CCTV condition are agreed with the Police

CCTV

i) A colour digital CCTV system will 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 system shall contain the correct time and date stamp information.

iii) The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence.

iv) The CCTV system must be capable of providing quality images of good evidential value. The system shall retain continuous footage for at least the last 28 days.

v) The CCTV footage will be controlled and kept in a secure environment to prevent tampering or unauthorised viewing.

vi) The data controller, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of an authorised officer or an officer of North Yorkshire Police, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.

vii) The CCTV system will be adequately maintained and be capable of transporting recorded material onto a removable media. The CCTV system replay software must allow an authorised officer or an officer of North Yorkshire Police to search the picture footage effectively and see all the information contained in the picture footage for the purposes of detecting, investigating and preventing crime. It must be possible to replay exported files immediately e.g. no indexing of files or verification checks.

viii) No device shall be permitted that could in any way adversely affect or impede the quality of the images recorded by the CCTV system, e.g. smoke or dry ice machines.

5. Other Offered conditions:

- List here steps you will take to promote all four licensing objectives together
- 1. The premises shall not operate any drinks promotions.
- 2. A documented staff training program shall be provided to all members of staff at the premises in respect of the:-
 - Retail sale of alcohol;
 - Age verification policy;
 - Conditions attached to the Premises License;
 - 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.

5.1 The prevention of crime and disorder

1. A colour digital CCTV see above.
2. North Yorkshire Police can reasonably request door supervisors be employed at the premises during special events in the town and bank holidays. A minimum of 14 days written notice must be given to the premises prior to this request, at all other times the requirement for Door Supervisors will be risk assessed by the DPS / Manager on duty.
3. External lighting will be used to light up the golf course area within the premises boundary within operating hours.
4. Glass waste such as bottles will be disposed into large bins between the hours of 09:00 & 18:00.

5.2 Public safety

1. A risk assessment taking into account public and staff safety will be carried out.
2. A fire risk assessment will be carried out.
3. First aid kits will be available on the premises.
4. A rubbish collection policy will be in place.
5. Emergency exits will be clearly identified.

5.3 The prevention of public nuisance

1. Prominent, clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
2. All supplier deliveries shall be between the hours of 8am and 6pm.
3. All external lighting will be turned off after the premises are closed to the public.

5.4 The protection of children from harm

1. There shall be no adult entertainment on the premises.
2. The premises shall operate a challenge 21 policy, NO ID - NO SALE.
3. We shall keep a refusal book.

6. 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

7. The representations are summarised as follows:

Prior to December 2022 before the section 182 guidance became statutory the standard response to some of the representations would have been to reject them where there were no evidence of impact in to the 4 licensing objectives. However in respect in encouraging great involvement in licensing decisions by the community the general representations of support or concern are included in the representation files. Appendix B.

8. 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.

9 LICENSING POLICY

9.1 Members are referred to the Council's Licensing Policy in the scarborough locality which includes the Home Office Amended Guidance issued under s182 of the Licensing Act 2003 which is statutory guidance since December 2022. This highlights the licensing objectives.

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

The section 182 Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality

9.2 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;

- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

Please note the statutory guidance section 182 of the licensing act 2003 is quoted above in 3.2 and puts more emphasis on encouraging the community to be involved in licensing decisions and the volume of representation received highlights the local feeling regarding this application.

10 OPTIONS

10.1 The 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.
- e) Grant the licence but exclude a licensable activity and include additional conditions.

11 DETERMINATION OF THE APPLICATION

- 11.1 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.
- 11.2 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.
- 11.3 Members are invited to determine this application following consideration of the evidence presented to them. The procedure for this hearing is available on the Council's website.

Karl Battersby
Corporate Director of Environment
County Hall
Northallerton

04 May 2023

Report Author: Lisa Templeton – Trainee Licensing Officer and Kevin Chin Licensing Manager

Background Documents: None

Appendices:

Appendix A – Application and associated documents

Appendix B – Representations

Appendix C – Scarborough Council Licensing Policy 2018 – 2023 FINAL

Telephone No: 01723 232323

E-mail address: licensing.services@scarborough.gov.uk

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

Revised Guidance issued under section 182 of the Licensing Act 2003

North Yorkshire Council

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

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