

North Yorkshire Council

Statutory Licensing Sub-Committee

18 April 2024

Application for the Variation of a Premises Licence for the Duke of York, 124 Church Street, Whitby, YO22 4DE.

Report of the Corporate Director – Environment

1.0 PURPOSE OF REPORT

- 1.1 To seek the determination by the Statutory Licensing Sub-Committee of an application for the Variation of a Premise Licence (Licensing Act 2003 'The Act')

2.0 SUMMARY

- 2.1 An application for the variation of a premise licence has been received from Stonegate Pub Company Limited and is attached at **Appendix A**. A copy of the existing premises licence (PL0431) is also attached at **Appendix B**.
- 2.2 The application seeks to vary the layout of the premises to include the basement bar servery within the licensed area which will be used to serve the adjacent external seating area as indicated on the plan. The application also seeks to add additional conditions relating to the management of the bar servery area which are outlined at 3.2 of the report. These conditions would restrict the use of basement bar servery to between 10:00 and 22:00 each day.

3.0 Promotion of Licensing Objectives

- 3.1 Section 4 of 'the Act' places a duty on the Licensing Authority to carry out its functions under the Act with a view to promoting the licensing objectives. The licensing objectives are:

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

- 3.2 The following conditions have been offered as part of the application:

- The operation of the basement servery shall be limited to between 10:00 and 22:00 hours each day.
- Whilst the basement bar servery is operating appropriate staff will be deployed for the purposes of floor walking to monitor the external area.
- At all times the basement bar servery is in operation there should be a minimum of one member of staff on duty at the bar linked to the premises radio/ contact system.

- The premises will implement an external area management plan for use when the basement bar servery is in operation.

4.0 Representations

4.1 A relevant representation has been received from a member of the public and is attached at **Appendix C**, the representation is in line with the following licensing objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance

4.2 The representation is summarised as follows:

- That the service of food and drink between 10:00 and 22:00 will disturb the residents of a nearby property which has bedrooms overlooking the area.
- That the variation may lead to an increase in drunken and anti-social behaviour in an area frequented by families.
- That the variation may lead to the peaceful tranquillity being ruined by loud, drunken, and obnoxious individuals.
- That there is no safety barrier in place around the external area which may lead to drunken individuals falling into the water.
- That customers leaving the premises may disturb nearby residents.

4.3 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.

5.0 ALTERNATIVE OPTIONS CONSIDERED

5.1 All of the Sub-Committee's options are outlined at 12.0 of the report. No alternative options are available.

6.0 FINANCIAL IMPLICATIONS

6.1 The costs involved in administering the Licensing Act 2003 are set in statutory legislation.

7.0 LEGAL IMPLICATIONS

7.1 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 application.

7.2 The Sub-Committee must have regard to the promotion of the four licensing objectives in exercising its functions under the Licensing Act 2003.

7.3 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 exercising its functions under the Act.

7.4 The applicant and all parties to the hearing may appeal against the decision of the Licensing Sub-Committee. Appeals must be made to a Magistrates' Court within 21 days of receiving notification of the decision.

8.0 CLIMATE CHANGE IMPLICATIONS

8.1 No climate change implications have been identified.

9.0 POLICY IMPLICATIONS

9.1 The following sections of the Scarborough Locality Statement of Licensing Policy are relevant in considering the licensing objectives:

“3.8 The Council has a duty under Article 8 of the European Convention on Human Rights to protect the rights of its residents to privacy and family life. The Council also acknowledges the rights of businesses in its area to operate, but this must be balanced against the rights of residents not to be disturbed by unreasonable noise and nuisance caused by licensed premises”.

“3.9 It is acknowledged that the Council has a duty to exercise its functions with a 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. In addition we will seek to support strategies where they are allied to the licensing objectives”.

“3.10 The licensing authority is unable to refuse or impose conditions on valid applications where no relevant representations have been made. Where conditions are imposed, they shall be appropriate and proportionate and shall be tailored to the size, style, characteristics and activities that take place at the premises concerned”.

“3.11 In addition conditions imposed shall be precise and enforceable, clear in what they intend to achieve, shall not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation, shall not replicate offences set out in the 2003 Act or other legislation, shall be justifiable and capable of being met and shall not seek to manage the behaviour of customers once they are beyond the direct management of the licence/certificate holder and their staff”.

9.2 The Sub-Committee should also consider the following sections of the S182 Licensing Act 2003 Guidance:

- Principles – 1.15 to 1.17
- Crime and disorder – 2.1 to 2.7
- Public safety - 2.8 to 2.20
- Public nuisance - 2.21 to 2.27
- Beer gardens or other outdoor spaces – 8.35 to 8.37
- Advertising applications – 8.80
- Conditions - 10.1 to 10.10

10.0 EQUALITIES IMPLICATIONS

10.1 No equalities implications have been identified for this matter.

11.0 REASONS FOR RECOMMENDATIONS

11.1 In accordance with section 35 of the Licensing Act 2003, the licensing authority must hold a hearing to consider the application and any relevant representations.

11.2 The Sub-Committee must, having had regard to the application and any relevant representations, take such steps (if any) as it considers appropriate for the promotion of the licensing objectives.

12.0 RECOMMENDATION(S)

The Licensing Committee has the following options:

- i) To modify the conditions of the licence; or
- ii) To reject the whole of part of the application.

And for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

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.

APPENDICES:

Appendix A – Application
Appendix B – Current premises licence
Appendix C – Representation

BACKGROUND DOCUMENTS:

Scarborough Locality Statement of Licensing Policy
Section 182 Guidance (Home Office), Licensing Act 2003

Karl Battersby
Corporate Director – Environment
County Hall
Northallerton

4 April 2024

Report Author – Lisa Templeton – Licensing Enforcement Officer
Presenter of Report – Lisa Templeton – Licensing Enforcement Officer

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.