

North Yorkshire Council
Statutory Licensing Sub-Committee

25 June 2024

**Application for grant of a Premises Licence for 37 Commercial Street, Norton,
Malton, YO17 9HX**

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 grant of a premise licence (Licensing Act 2003 'The Act')

2.0 Application

2.1 An application for the grant of a premise licence has been received from Malinka Malton Limited; the application is attached in **Appendix A**.

2.2 The application seeks to convert the ground floor of the commercial premises into a Middle Eastern restaurant with seating inside and out for a combined total capacity of 50 people. The licensable activities are as follows:

Sale of alcohol	10:00 to 23:00 Sunday to Thursday 10:00 to 01:00 Friday and Saturday
Recorded Music	23:00 to 01:00 Friday and Saturday
Performance of Dance	23:00 to 01:00 Friday and Saturday
Provision of Late Night Refreshment	23:00 to 01:00 Friday and Saturday
Opening Hours	10:00 to 23:00 Sunday to Thursday 10:00 to 01:00 Friday and Saturday

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 with a view to promoting the licensing objectives which 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 prevention of crime and disorder

- 1) A tamper-proof digital colour CCTV system shall be installed and maintained on the premises.

- 2) The CCTV system must provide a clear head and shoulders view to an evidential quality on the customers entry.
- 3) Recorded footage must be provided within a reasonable time to an authorised responsible Authority Officer upon request.
- 4) Such footage must be provided in an immediately viewable format and must include any software etc. that is required to view the footage.
- 5) The Designated Premises Supervisor shall ensure that the CCTV system is checked at least once every month. This check shall include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time and date. A written record of these checks shall be kept on the premises at all times and made available to a representative of any responsible authority on request.
- 6) A contact number for the Designated Premises Supervisor will be available on the premises when not on duty.
- 7) Relevant staff will be given the appropriate training on the legislation relating to alcohol and diners under the age of 18.

The prevention of public nuisance

- 8) Prominent, clear and legible notices shall be displayed at all exits and in key areas, requesting the public to respect the needs of the local residents and to leave the premises and the area quickly and quietly.
- 9) Refuse will be stored in an industrial container at the rear of the premise. Collections of refuse will only take place between 09.00 and 18.00.
- 10) No exterior lights will be allowed to cause any nuisance to any nearby resident.
- 11) The premises will only ever play low level background music.

The protection of children from harm

- 12) A documented programme shall be introduced for all staff in a position who take orders, sell or serve customers. This programme shall be made available for inspection at the request of a Responsible Officer. A written record shall be kept of the content of the training for a minimum of 12 months.
- 13) The premises shall operate a Refusals Log and an Incident Log.
- 14) A Challenge 25 Scheme shall be in operation at the premises and signage shall be prominently displayed at key areas. The only forms of ID that will be accepted will be valid photographic Driving Licenses, valid Passports, or other reliable photo ID that would be accepted by the Home Office.
- 15) The DPS or PLH shall conduct six monthly reviews with all members of staff authorised to sell, serve or deliver alcohol in order to reinforce the training and to promote best practice. A written record shall be kept of the content of such reviews.

3.3 North Yorkshire Police Licensing have agreed further conditions which are attached at **Appendix B**.

4.0 Representations

4.1 Relevant representations have been received from North Yorkshire Fire and Rescue Service and 23 members of the public. The representations are attached at **Appendix C**, and they are in line with the following licensing objectives:

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

4.2 The representations are summarised as follows:

North Yorkshire Fire and Rescue Service

- The present premises layout plan does not currently meet Fire regulations. It was also noted that at the time of submitting the representation that no application to Building Control had been submitted.

Members of the Public

- The local area is predominantly residential with two establishments serving alcohol until late. The addition of another late-night premises may significantly disrupt residents of Commercial Street due to amplified noise arising from music and dancing emanating from the premises until 1 a.m. This would further exacerbate the existing disturbance.
- Concerns have been raised regarding the potential noise disturbance to nearby properties caused by customers using the external seating area.
- The congregating of groups on Commercial Street is already a source of concern and intimidation for the public. It is widely believed that introducing a new premises will only worsen this issue.
- Increased disturbance from noise is anticipated, as currently experienced by residents due to the presence of alcohol-intoxicated individuals shouting and screaming while leaving the licensed premises in the area.
- There is expected to be an increase in vehicular traffic on Commercial Street catering to the collection and drop-off of customers at the premises. This may lead to noise and disturbance to nearby residential properties, particularly from engines running and car doors slamming late at night.
- The area currently experiences antisocial behaviour, encompassing vandalism, indecent exposure, public urination by intoxicated individuals, and the presence of litter resulting from drug use and public alcohol consumption. It is believed that the addition of another premises serving alcohol until late hours will exacerbate such behaviour.

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 representations and, having regard to the representations, 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 Ryedale Locality Statement of Licensing Policy are relevant in considering the licensing objectives:
- Section 4.4 of the policy states that 'The Licensing Authority shall expect every licence /certificate holder or event organiser to minimise the impact of their activities on the surrounding area and any anti-social behaviour created by their customers in and within the vicinity of their premises by taking appropriate measures and actions consistent with that responsibility. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned'.
 - Section 4.6 of the policy states that 'The Licensing Authority, however, recognises that the licensing law is not the primary mechanism for the general control of nuisance, noise or anti-social behaviour particularly once individuals have left the vicinity of the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence or certificate. However licensing controls and targeted enforcement should have a positive impact on the immediate vicinity of the licensed premises and assist in the management of the evening and night time economy'. Section 4.7 goes on to state 'The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Gambling Act 2005, the Equality Act, The Clean Neighbourhoods and Environmental Act 2005, Health and Safety at Work, etc. Act 1974, Environmental Protection Act 1990, the Noise Act 1996 and the Regulatory Reform (Fire Safety) Order 2005, etc.'.
 - Section 16.2 states 'The Licensing Authority shall not seek to limit the access of children to any licensed premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other case it will be left to the discretion of the Licensee but the Licensing Authority shall expect that the licensee shall give full consideration of access by children at all times and ensure that there is a policy in place to promote this licensing objective'. 16.3 states 'Where there are concerns with regard to access of children the Licensing Authority will consult the Director of Children and Young People's Services. However, where the Licensing Authority's discretion is engaged it will judge the merits of each application before deciding whether or not to impose conditions limiting the access of children'. Sections 16.4 and 16.5 give examples of types of premises and forms of entertainment that are likely to raise concern and engage the Licensing Authority as a Responsible Authority to take action. Finally, Section 16.7 states that 'In particular, the Licensing Authority will consider what conditions are offered in the Operating Schedule. The applicant in completing the Operating Schedule is required to describe the steps they intend to take to promote this licensing objective and

highlight any adult entertainment or services etc that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to promote this objective but does state that 'no adult or similar entertainment shall take place on the premises', the Licensing Authority shall consider that this restriction to be a condition on the licence/certificate even though it may not state it on the licence/certificate itself'.

- Section 21.1 states 'The Operating Schedule is a key part of the application form whereby applicants may volunteer appropriate conditions to demonstrate compliance of the licensing objectives by describing the steps they intend to take to promote these objectives. These volunteered conditions will then form conditions on the Premises Licence or Certificate. In completing an Operating Schedule, applicants are expected to have regard to this policy'. Section 21.4 states that 'In completing their Operating Schedule the Licensing Authority suggest an applicant consider the following and goes on to give a list of measures applicants may like to consider for all four of the licensing objectives when completing their operating schedules e.g., CCTV, door supervisors etc.' Finally Section 21.5 states that 'These lists (contained in 21.4) are not exhaustive and advice can be obtained from the relevant responsible authority. However, applicants are reminded again to contact the relevant Responsible Authority to seek their expert advice before an application is submitted to the Licensing Authority'.

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 2.9
- Public nuisance - 2.21 to 2.27
- Protection of Children from Harm – 2.28 to 2.29, 2.31 to 2.33
- Beer gardens or other outdoor spaces – 8.35 to 8.37
- 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 18 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:

- To grant the licence as applied for (subject to any conditions consistent with the applicant's operating schedule)
- To grant the licence subject to any additional conditions that Members consider appropriate for the promotion of the licensing objectives; or

iii. To reject the whole or part of 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.

APPENDICES:

Appendix A – Application

Appendix B – North Yorkshire Police Licensing Agreed Conditions

Appendix C – Representations

BACKGROUND DOCUMENTS:

Ryedale Locality Statement of Licensing Policy

Section 182 Guidance (Home Office), Licensing Act 2003

Karl Battersby

Corporate Director – Environment

County Hall

Northallerton

13 June 2024

Report Author – John Wardell – Senior Licensing Enforcement Officer (East)

Presenter of Report – Mark Heaton – Area Licensing Manager (East)

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