

# North Yorkshire Council

## Statutory Licensing Sub-Committee

13 August 2024

**Application for the grant of a Premises Licence for the Alpamare Waterpark,  
28 Burniston Road, Scarborough, YO12 6PH.**

### 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 SUMMARY

- 2.1 An application for the grant of a Premises Licence has been received from the North Yorkshire Council and is attached at **Appendix A**.
- 2.2 The waterpark comprises of several indoor and outdoor pools, slides, spa, restaurant, bar and associated facilities. Having formerly benefited from a premises licence which authorised numerous licensable activities including the sale of alcohol and provision of regulated entertainment, this new application seeks only the sale of alcohol as follows:

Sale of alcohol (for consumption on the premises only)	08:00 to 22:00
Hours open to the public	08:00 to 22:00

- 2.3 The applicant also states that additional and enhanced conditions have been offered within the application to promote the four licensing objectives.

#### 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 four 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:

#### CCTV

1. A colour CCTV system shall be installed at the premises and be operational and recording at all times when licensable activities are taking place.

- a. The CCTV equipment shall have a constant time/date generation which must be checked on a daily basis for accuracy.
- b. CCTV cameras shall be installed to provide adequate cover of all public areas both in the premises (excluding toilets) and in all outside areas accessible to the public.
- c. The CCTV cameras will be positioned to cover the entrances/exits to the changing areas and customer lockers.
- d. The CCTV system must be capable of providing quality images of good evidential value. CCTV recordings must be kept for a minimum of 28 days.
- e. North Yorkshire Police or a responsible authority (as defined in the Licensing Act 2003) may at any time request a recording. This request shall be complied with within 48 hours of the request being made.
- f. The management will ensure that there are sufficient members of staff available during opening hours to be able to download evidence from the CCTV system at the request of the Police or responsible authority.
- g. Sufficient lighting shall be installed at all exits to enable clear CCTV coverage and to promote public safety.
- h. The CCTV will be monitored from behind the main reception counter for both the spa, the main pool and outside areas.

### **Children**

2. Alcohol will only be consumed within the red line shown on the plans deposited with the licensing authority and there will be no consumption of alcohol in the children's area, wave pool, flumes or changing rooms as shown on the plans deposited with the licensing authority.
3. There shall be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

### **Outside Bar**

4. Any bar that is used to sell alcohol must be placed adjacent to the building and family pool.

### **Safety & Security**

5. There will be no alcohol sales to any person save for persons who have paid an admission fee and received a wrist band or persons attending a pre-booked private function.
6. There will be no service of any drinks in glassware. All alcohol and soft drinks served on the premises will be served in polycarbonate or PET (or equivalent) drinking vessels. The alcohol will not be served in the same polycarbonate, plastic or PET (or equivalent) vessels as soft drinks in order to ensure detection of proxy sales.
7. Procedures shall be in place to ensure empty/discarded drinking vessels are collected at least every hour.
8. The premises will operate a Challenge 25 policy. Any person who appears to be under the age of 25 will be required to prove that he/she/they is over the age of 18. Upon receipt of that proof, that person will be issued with a wrist band, the colour of which will authorise that person to buy alcohol within the park.

9. There will be a radio system in place to allow all staff the ability to communicate with each other at all times that the premises are open to the public. This is to provide an early warning system for incidents within the complex.
10. The premises will participate in the Scarborough Pub Watch and Banned from One Banned from All schemes.
11. A suitable and sufficient health and safety risk assessment will be conducted and maintained.
12. Pools will comply with current legislation and HSE guidance having regard in particular to the most up to date version of HSG179 Managing health and safety in swimming pools concerning pool profiles, orientations, access arrangements etc.
13. A health and safety policy and management plan will be maintained addressing the key risks of operating swimming pools and the consumption of alcohol.
14. There will be specific supervision of areas where alcohol may be consumed given possible effects on swimming ability and risk of unruliness. An adequate number of lifeguards must be provided to all pool areas in line with HSG179.
15. Admission will be controlled so as not exceed the capacity of the facilities as determined by risk assessment.
16. Toilet, sanitary and associated appliances shall be provided in such numbers as agreed with North Yorkshire Council's Environment Services.

### **Training**

17. All staff engaged in the sale of alcohol will receive training with regard to their responsibilities and obligations under Licensing Act 2003. That training will be documented and records of training will be made available to the Police/officers of the responsible authorities.

### **Noise**

18. The premises should be adequately managed to ensure that any disturbance to residents is minimised. Noise from the premises (measured as a 5 minute Leq) should not exceed the existing background noise as measured in accordance with BS4142.
19. A car park management plan will be implemented to ensure customers using the premises in the evening park away from residential premises.
20. Sale by retail of alcohol is for consumption ON the premises (as indicated by the plans deposited with the licensing authority) ONLY.
21. Notices will be displayed at the exits requiring customers to leave the premises quietly.

3.3 The applicant also wishes to offer the following condition agreed with North Yorkshire Police Licensing during the consultation period:

22. An electronic or manual Refusal Register and an Incident Report Register shall be maintained for the bar within the premises. Such registers shall record incidents of staff refusals to underage or drunk people as well as incidents of any anti-social behaviour and ejections from the premises. Such registers shall be 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.

#### **4.0 REPRESENTATIONS**

4.1 Three relevant representations have been received from members of the public and these are attached at **Appendix B**, the representations are in line with the following licensing objectives:

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

4.2 The representations are summarised as follows:

- That the operation of the premises will interfere with the quiet residential area adjacent to the premises.
- The matter of staff and management addressing the likelihood of individuals becoming drunk within a family orientated setting and the risks this may pose.
- Staffing levels in relation to the management of the sale/consumption of alcohol including restricting access by children.
- That the requested hours for the sale of alcohol are excessive and should be further restricted.
- That alcohol should only be served and consumed in a designated area with a unit consumption limit imposed.
- Concerns regarding the ability to provide additional protections for females, LGBTQ+ and minority ethnic groups are raised.
- The fear of anti-social behaviour developing.
- Concerns regarding adequate toilet facilities.

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 relevant representations have 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 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, 1.19
- Crime and disorder – 2.1 to 2.7
- Public safety - 2.8 to 2.15
- Public nuisance - 2.21 to 2.27
- Protection of Children from Harm – 2.28 to 2.29, 2.31 to 2.35, 2.38
- 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:

- i. To grant the licence as applied for (subject to any conditions consistent with the applicant's operating schedule);
- ii. 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.

and for this purpose, the conditions of the licence are modified if any are altered, 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 – Representations

## BACKGROUND DOCUMENTS:

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

Karl Battersby  
Corporate Director – Environment  
County Hall  
Northallerton

24 July 2024

**Report author** – Alan Fane – Licensing Enforcement Officer

**Presenter of report** – Alan Fane – Licensing Enforcement Officer

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