

North Yorkshire Council

Statutory Licensing Sub-Committee

Minutes of the meeting held on Wednesday 2 April 2025 commencing at 10.00am.

Councillors Kevin Foster, Tim Grogan and Angus Thompson.

Officers present: Tim Chadwick (Licensing Area Manager)
Helen Tait (Licensing Enforcement Officer)
Monique Jarvis-Legg (Senior Lawyer – Regulatory Legal Services)
Stephen Loach (Senior Democratic Services Officer)

Other Attendees: Andrew Cochrane (Solicitor for the Applicant)
Henry Kitson (for the Applicant)
Chris Herron (Agent of Kitson and Sons Limited)
Patrick Montgomery (Objector)
Alan Mortimer (Parish Councillor)
David Hugill (Ward Member/Councillor)

Copies of all documents considered are in the Minute Book

1 Election of Chair

The decision:

That Councillor Tim Grogan be elected as Chair for the duration of the meeting.

(Councillor Grogan in the Chair)

2 Apologies for Absence

Apologies were received from Objector number 6. There were no other apologies for absence.

3 Disclosures of Interest

There were no declarations of interest.

4 Procedure for Meeting

The decision:

The Sub Committee agreed the procedure for the meeting as outlined by the Chair.

5 Bay Horse – Application for a New Premises Licence

The subject of the decision:

The Corporate Director – Environment submitted a report seeking consideration of an application for the grant of a premises licence in respect of Bay Horse, 1 Northside, Hutton Rudby, TS15 0DA.

The application seeks to authorise:

- a. Live and recorded music (indoors) 23.00 – 02.00 Mon-Sat and 23.00 – 00.00 Sun (No amplified live music will take place outdoors)
- b. Late night refreshment (indoor and outdoor) 23.00 -02.00 Mon-Sat and 23.00 -00.00 Sun
- c. Alcohol (indoor and outdoor) 08.00 – 02.00 Mon-Sat and 08.00 - 00.00 Sun.

The applicant has since the application, suggested an amendment to the terminal hours for all licensable activities to 23.00 Sun-Thurs (Closing at 23.30) and 24.00 Fri-Sat (Closing 00.30).

Alternative options considered:

The Sub-Committee considered all of the options as set out in the officer's report. The Sub-Committee did not consider it necessary to reject the application, but it was satisfied that additional measures would be required to adequately promote the licensing objectives and therefore concluded that it was appropriate to grant the application with additional conditions.

The reason for the decision:

The Sub-Committee considered the representations of the parties, objectors and relevant councillors, written objections, the Licensing Act 2003 as amended, the Council's Statement of Licensing Policy and the guidance issued under Section 182 of the Licensing Act 2003.

The Sub-Committee noted that all statutory requirements had been complied with.

The Sub-Committee had consideration of the of the Licensing Objectives which may be considered by the sub-committee, being:

1. Crime and disorder
2. Public safety
3. Public nuisance; and
4. The protection of children from harm

And emphasised the equal importance attached to each of the Licensing Objectives.

The Sub-Committee clarified the suggested amendments.

Objector raises a query regarding the notice that was posted outside the Bay Horse. The Parish Councillor confirms that it was known about within the village and Cllr Foster was satisfied that given the number of representations received, it is apparent the notice was properly advertised. This was also confirmed by the solicitor for the applicant.

The Sub-Committee heard representations from the solicitor for the applicant. There was already an existing premises license for the index premises until 2am. The applicants are local and live within sight of the premises. They have invested a significant sum of money to refurbish the premises. Principle difference is that there will now be a function room on the first room, which would have triggered a substantial variation of the current premises license. The applicant is hopeful for the premises to be opened toward the end of this year. On the whole, there is support for the re-opening of the premises, here was disquiet for the 2am closing time. It is requested due to the current license extending to 2am and would allow for flexibility in the operation of the premises, modifications are proposed. The early opening would facilitate events on special occasion days, race days and breakfast trade generally. Restrictions on use of the outside area is a live issue not yet determined, which in itself is self-limiting when it comes to late hours, due to the weather. The solicitor submits that outside restriction would not be necessary, but the applicant is willing to limit this to 11pm for outside alcohol consumption.

Cllr Grogan clarified whether there is an existing license. The license was suspended. The license could have been transferred to the new owners and applied for a major variation, that is the logic for applying for a new license.

Cllr Grogan asks Mr Dickson what experience he has running a licensed premises, he answers that he has not run a licensed premises before but does have experience running restaurants.

Cllr Foster confirms whether there would be use of the outside area after 10pm and whether the applicant would be amenable to a condition with a 10pm limitation. The Applicant's solicitor advances that it would not be necessary.

Cllr Foster confirms the usefulness of the publication of the phone number for residents to call should they be affected by any noise emitting from the premises. This will be given to the Parish Council as well, that the connection with the Parish Council would be advantageous.

The Sub-Committee noted paragraph 9.15 of the Home Office Guidance issued under section 182 of the Licensing Act 2003, which states that it is reasonable for licensing authorities "*to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance*".

The Sub-Committee noted that no representations had been lodged by responsible authorities.

Representations were heard from Mr Montgomery. The crux of the concerns is the noise nuisance. He acknowledges the efforts made so far to limit the noise from the premises. His concern centres around the noise coming from the outside of the premises. He resides directly opposite the premises. He suggests that additional permits should be applied for on the seldom occasions when there is going to be additional noise. On the occasions when there were events on in the history of the premises, he was kept awake all night, and he has had cause to telephone the police.

Parish Councillor made representations regarding the long-established history of the premises. He advances that the significant change is the intensification of the outside use of the premises. The old beer-garden was a lightly used space. The concerns relate to the noise that will be emitted from the outside area. Concerns of the residents are focused on the noise, although many are keen to see the premises operational again, especially the restaurant. They would like to see reasonable management of the noise from the outside space. There are no objections to the suggested use of the inside space. The other public houses in the vicinity have a 10pm restriction on the use of the outside space.

Cllr Hugill made representations regarding the outside noise and 2am closure. He suggests there needs to be a way of restricting the noise outside. He acknowledges the Kitson's experience and reputation. With the improved hours suggested, there is little objection.

The Applicant's solicitor makes representation that the outside area will be better managed than it has been in the past due to the manned bar which is proposed outside. There is no evidence to suggest that the applicants are going to be anything other than proper citizens of that premises. It would not be appropriate to make any further concessions.

Mr Montgomery reiterates that he does not think that 20 occasions (5 months of weekends in the summer months) is not reasonable. He proposes that the license is not granted unless it is complemented with the TENS system.

The Sub-Committee resolved that with additional conditions on the licence, the concerns raised in objection to the grant of license would be mitigated.

The decision:

The Sub-Committee considered all written and oral representations from all parties and taking into account all of the above, unanimously decided that it was appropriate and proportionate, having considered all of the representations, all the evidence presented to it, whilst also taking into account the Licensing Act 2003, the Secretary of State Guidance issued under section 182 of the Licensing Act 2003, North Yorkshire Council's Statement of Licensing Policy, and the promotion of the licensing objectives to grant the licence as requested with the additional amendment of the application.

The Sub-Committee resolved to **grant** the application to authorise:

- a. Live and recorded music (indoors) 23.00 – 00.00 Friday and Saturday (No amplified live music will take place outdoors)
- b. Late night refreshment (indoor and outdoor) 23.00 -00.00 Friday and Saturday
- c. Alcohol (indoor and outdoor) 08.00 – 23.00 Sunday to Thursday and 08.00 - 00.00 Friday and Saturday.
- d. On up to 20 occasions per year, upon giving the Licensing Authority 96 hours' notice per occasion, may open for all licensable activities up to 02.00 (closing 02.30) to cover bank holiday/Christmas extensions.

subject to all relevant mandatory conditions and the following additional conditions:

1. A CCTV system shall be installed at the premises. The CCTV system shall be maintained in working condition and record the premises when they are conducting licensable activities.
 - (a) All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - (b) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and will include the external area immediately outside the premises entrance.
 - (c) All recordings shall be stored for a minimum period of 31 days with date and time stamping.
 - (d) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.
2. The Premises Licence Holder or nominated person shall ensure that all relevant members of staff receive training in their responsibilities under the Licensing Act 2003. Such training shall be documented, and records made available upon request from the Police or an authorised officer of the Licensing Authority.
3. A record of refusals shall be maintained which documents every instance that a sale of alcohol (and any other age restricted product) is refused on the premises, indicating the date and time the refusal was made, and the member of staff making the refusal. The record of refusals shall be available for inspection by authorised officers of the licensing authority, officers of the trading standards service, and officers of the police.
4. An incident log shall be kept at the premises for at least 12 months, and made available on request to a Police officer or an authorised officer of the licensing authority, which will record the following:
 - All crimes reported to or by the premises to the Police.
 - All ejections of patrons
 - Any incidents of crime and disorder
 - Seizures of drugs, offensive weapons, fraudulent ID or other items
 - Any faults with the CCTV system
 - Any refusal of the sale of alcohol
5. Drug prevention measures must be employed, and signs displayed.

6. Alcohol supplied between the hours of 08:00am and 11:00am must be as part of a substantial meal.
7. The premises will have first-aid facilities available on site.
8. Clear legible notices are to be displayed at all exits from the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.
9. A direct telephone number for the premises shall be available upon request to resident in the vicinity, to call at all times the premises are open.
10. The doors (except for access and egress) and windows to the premises will be kept closed at all times when there is regulated entertainment.
11. The external bar will be closed from 11pm.
12. 'Challenge 25' policy shall be adopted, implemented, and maintained ensuring that all members of staff are trained to refuse supply to anyone who appears to be under the age of 25 and who is seeking to obtain any age restricted product unless that person provides credible photographic proof of age evidence. Such credible evidence shall include a photograph of the customer and acceptable form of ID. Examples of acceptable ID are limited to photo card driving licence, passports, military identification, or proof of age cards bearing the 'PASS' hologram. No other evidence of age and identity may be accepted.
13. Challenge 25 posters shall be displayed at the premises.
14. Children are not permitted on the premises beyond 11pm unless attending a specific event or private function.

The Sub-Committee considered that approval of the application, subject to the conditions detailed in the application and the additional conditions herein, would promote the licensing objectives.

APPEALS INFORMATION

Either those who have made the application, or those who have made representations on this application may appeal to the Magistrates' Court (Licensing Act 2003 – Schedule 5 Paragraph 2). The Appeal must be commenced within 21 days beginning with the date on which the Appellant was notified by the Licensing Authority of their decision. Notice of Appeal should be given to the North Yorkshire Magistrates' Court sitting at York.

Note: The panel adjourned at 10.57am for deliberations and reconvened at 11.12am.

The meeting concluded at 11.15am.