

**Scarborough Borough Council**

**Licensing Sub-Committee.**

**Premises Licence Application**

**Youth Shack New Quay Road Whitby YO21 1DH**

**Date of Meeting:** 16 December 2020.

**Place:** Remote Hearing Zoom/Teams

**PRESENT:**

**Councillors**

Councillor Stewart Campbell. (Chair)

Councillor Simon Green (Vice Chair)

Councillor Subash Sharma

**Reserve Councillor:** Councillor Jane Mortimer

**Applicant (and Representative if applicable)**

Attended – Yes Mr Paolo Arceri

**Responsible Authority (and Representative if applicable)**

PC Debbie Chadwick, Police Alcohol Licensing Officer

**Interested Party**

Dr John Field on behalf of Whitby Civic Society

**Witnesses** None

**Legal Advisor:** Fiona Casson, Senior Solicitor, Scarborough Borough Council

**Licensing Officer:** Alan Fane

**1 Election of Chairman and Vice Chairman**

Councillor Stewart Campbell Chair

Councillor Simon Green Vice Chair

**2 Declarations of Interests (Personal / Prejudicial):**

There were no declarations of interest

**3 Exclusion of the Public – No**

## **DECISION NOTICE.**

**RESOLVED:** The licence be granted in accordance with the application as amended at the hearing by the Applicant and additional conditions will be added to those already volunteered by the applicant;

Amendments put forward by the Applicant;

Premises Open to the Public and Licensable Activities hours

Sunday to Thursday 1000hours to 0000hrs

Friday and Saturday 1000hours to 0100hrs

Application for Off Sales removed.

Additional Conditions regarding door supervisors put forward by North Yorkshire Police are agreed as set out below:

- (1) A minimum of 2x SIA registered door staff will be employed at the premises on Friday and Saturday from 2200hrs to close, and at all other times the requirement for door staff will be risk assessed by the DPS or manager on duty
- (2) North Yorkshire Police can reasonably request the use of SIA registered door staff at the premises for special events in the town, of which 14 days written notice will be given

### Members Amendments

Having considered the amendments made by the Applicant members are of the view that the premises can remain open to the public as amended however members have determined that the sale of alcohol and the playing of recorded music shall be between the following hours;

Sunday to Thursday 1000hrs and 2330hrs

Friday and Saturday 1000hrs and 0030hrs

Members wish to make it clear that for Bank Holidays there will be no variation to the hours during which the premises are open to the public and the hours during which the sale of alcohol and the playing of recorded are permitted.

Members have also amended condition (1) above relating to SIA registered door staff for such arrangements to start at 2000hrs

With regard to the application for Late Night Refreshment between the hours of 2300hrs and 0100hrs Members have determined that Late Night Refreshment will not be permitted Sunday to Thursday. On Friday and Saturday Late Night Refreshment will be permitted 2300hrs to 0030hrs.

### Members Additional Conditions

The prevention of public nuisance

Bottles and cans will not be emptied into receptacles in the outside areas of, or areas adjacent to the premises between the hours of 1800hrs on any day and 0900hrs the following day.

For the area marked Open Veranda on the premises plan the following conditions will apply:

The door allowing access to the veranda will remain closed at all times.

No speakers will be placed on the veranda nor will music from inside the premises be amplified such that it can be heard by users of the veranda.

At all times when customers are permitted to use the veranda they will be constantly supervised by either an SIA Registered door supervisor or a fully trained member of staff.

Prominent clear and legible notices will be displayed at all times on the veranda advising customers to be considerate of those living around the premises by keeping noise to a minimum and placing all litter in the receptacles provided.

Waste bins will be placed in the veranda area and the area designated for smoking.

## General

The premises shall operate as a bar with food provision, customers will predominately be seated with table service. The premises shall not operate as a vertical drinking establishment. The premises will not at any time provide a dance floor.

In addition the conditions outlined in the volunteered operating licence conditions of the licensing officers report are imposed namely:

## Volunteered Operating Licence Conditions

### **CCTV**

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. **The system must provide for the display of good quality live images available for monitoring during all times when the premises are open to the public.**
2. The CCTV system must be capable of providing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days continuous footage.
3. The CCTV footage will be controlled and kept in a secure environment to prevent tampering or unauthorised viewing.

4. 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 purpose to replay exported files immediately e.g. no indexing of files or verification checks.
5. **In consultation with North Yorkshire Police CCTV cameras will be placed to cover the alleyway adjacent to the front entrance to the premises and the area adjacent to the substation at the rear of the premises.**

### **Training**

6. A documented staff training programme shall be provided to all members of staff at the premises.

### **Premises Log Book**

7. A Refusal Register and an Incident Report Register shall be maintained within the premises

### **Notices**

8. 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.

### **Children**

9. The premises shall operate the challenge 21 age verification policy.
- ~~10. All children under the age 16 must be accompanied by an adult after 22:00.~~
10. There shall be no adult entertainment on the premises.
11. **Children under the age of 18 will not be allowed on the premises on any day between 2100hrs and the closure of the premises.**

### **Security**

12. Pub watch radio system will be incorporated by the premises.

Members have amended condition 1 above by text shown in bold.

Members have added the condition 5 and 11 above also shown in bold text

**Members Reasons:** In coming to its decision, the Sub-Committee has had due regard to the 4 Licensing Objectives, namely; the prevention of crime and disorder; public safety, the prevention of public nuisance, and the protection of children from harm. After hearing the issues today, it is the Licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance,

that are relevant and consideration has been given to this today. Members were reminded in the report before them that the premise lies within the Cumulative Impact Zone for Whitby, thus the burden of proof is shifted to the applicant to provide evidence that the premises will not add to the problems already generated by the concentration of licensed premises in the area. In coming to its decision, the sub-committee has considered the application on its own merits and has also had due regard to the National Guidance issued under section 182 of the Licensing Act 2003 and Scarborough Borough Councils Licensing Policy.

The Sub-Committee have heard submissions from the Applicant, PC Chadwick and Dr Field. The Sub-Committee have also had the benefit of reading the written submissions from a resident.

In reaching a decision the Sub-Committee have;

Taken into account the following matters;

The Applicants submission that the premises will operate as a bar with food and it is his intention to have in the region of 48 covers in the establishment operating as a café during the day and restaurant in the evenings up to around 10pm, therefore food will be served for the majority of the hours when the premises are open to the public. The Applicant has no intention to run the premises as a vertical drinking establishment or a dance venue. The Applicant accepts the concerns North Yorkshire Police and the conditions which they have suggested regarding door supervisors. The Applicant will operate his business in a way which is considerate to those living nearby and will reduce his operating hours to those suggested by North Yorkshire Police.

The Sub –Committee were concerned about the use of the open veranda, taking into account the representations made about potential public nuisance and the premises being located within the Whitby CIZ. Following discussions with the applicant regarding the presence of children under the age of 18 in the premise later in the evening when food service was likely to be coming to an end, members wanted to strengthen the volunteered condition.

The Sub – Committee had further concerns regarding the alleyway adjacent to the entrance to the premises and the area at the rear of the premises near to the sub-station where people may gather and cause noise and which may lead to public nuisance, but felt that these issues could be mitigated by CCTV cameras covering this area. The Sub-committee also seek a condition to be added to the volunteered condition regarding waste disposal to limit the times when bottles and cans can be disposed of in outside areas to protect the amenity of nearby residents.

Taking all of the above into account the Sub-Committee is satisfied on the evidence before it that the premises will not add to the problems already generated by the concentration of licensed premises in the area and the application as amended by the Applicant and varied by the Sub-Committee promotes the Licensing Objectives

With due regard to all of the above, the Sub-Committee consider that the additional and amended Conditions outlined earlier are to be added to the License.

If anyone is not satisfied with the decision of this Sub- Committee then there is a right of Appeal to the Magistrates Court within 21 days of the date of this Decision.

Chairman