

## LICENSING SUB-COMMITTEE

At a meeting held on Friday, 28 June 2019

Present:-

Councillor Mrs J E Mortimer (Chairman) in the Chair;  
Councillors Campbell and N Heritage

1. **ELECTION OF CHAIRMAN**  
**RESOLVED** that Councillor Jane Mortimer be elected Chairman of this hearing.
2. **DECLARATIONS OF INTEREST**  
There were no declarations of interest.
3. **EXCLUSION OF THE PUBLIC**  
There was no application for the exclusion of the public.
4. **APPLICATION FOR GRANT OF A PREMISES LICENCE**  
**WALRUS & CARPENTER, 147 CHURCH STREET, WHITBY,**  
**NORTH YORKSHIRE, YO22 4BH**

The Licensing Sub-Committee considered a report of the Environment and Regulation Manager (Report 19/109).

- (i) representations received from Peter John Anderson, the Duke of York, the Blitz Café.
- (ii) the Sub-Committee had sight of the licensing officers report, appendix A and(the application), appendix B (Representations).

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 has had due regard to the 4 licensing objectives namely:

The prevention of crime and disorder, Public Safety, Prevention of public nuisance and The protection of children from harm. After hearing the issues today, it is the licensing objectives of Prevention of crime and disorder, prevention of public nuisance and public safety that are relevant and consideration has been given to these today.

**RESOLVED** that the Licence be granted for the following activities

<b>Activity</b>	<b>Hours granted</b>
Late Night Refreshment (on the premises only)	Friday and Saturday 23:00 – 00:00 New years Eve 23:00 – 01:00
Sale of alcohol (Both on and off the premises)	Sunday to Thursday 11:00 – 22:30 Friday and Saturday 11:00 – 23:30 New Years Eve 11:00 – 00.30
Hours open to the public	Monday to Thursday 08:00 – 23:00 Friday to Sunday 08:00 – 00:00 New Years Eve 08:00 – 01:00

The licence will be subject to the following conditions:

**General**

1. Consumption of alcohol will only take place on the ground floor or outside seating area.
2. No alcohol to be served outside after 19:00 except in the summers months of June, July, August and September and Bank Holidays when service is allowed until 20:00 hours.
3. All drinks will be waitress served.
4. There will be no more than 3 small tables and 10 chairs permitted in the outside area.
5. The manager on duty will ensure that the tables and chairs from the outside area are removed or stacked and secured by 19:30 hours each day except in the summer months of June, July, August, September and Bank Holidays when the time of 20:30 hrs applies.
6. The outside area will not be used after the times when tables and chairs should be stacked apart from for smoking and entry and egress. No consumption of alcohol is permitted in the outside licensable area after the times when tables and chairs should have been stacked.
7. Any tables and chairs outside must be placed in the area allowed in the designated outdoor seating area as per the plan supplied. Checks must be made to ensure that tables and chairs remain inside the licensable area.
8. There will always be a minimum of 20 seats available inside to negate the need for vertical drinking.

## **CCTV**

9. 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.
10. The CCTV system shall contain the correct time and date stamp information.
11. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence. This includes the outside area.
12. 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.
13. The CCTV footage will be controlled and kept in a secure environment to prevent tampering or unauthorised viewing.
14. The data controller, under the data protection act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of an authorised officer or an officer of North Yorkshire Police, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of request being made the data controller will ensure that they are secured to prevent any overwriting.
15. 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.
16. No device shall be permitted that could in any way adversely affect or impede the quality of the images recorded by the CCTV, e.g. smoke or dry ice machines.

## **Training**

17. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-
  - age verification policy;
  - conditions attached to the Premises Licence;
  - permitted licensable activities;
  - the licensing objectives; and
  - opening times for the venue.

with such records being 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.

### **Premises Log Book**

18. A Refusal Register and an Incident Report Register shall be maintained within the premises. Such registers will record incidents of staff refusals to under age 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 a Register and runs from the date of that particular entry in the Register].

### **Notices**

19. 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**

20. The premises shall operate the challenge 21 age verification policy.
21. All children must be accompanied by an adult.
22. Children under 14 years shall not be permitted on the premises after 21:00.
23. There shall be no adult entertainment on the premises.

### **Security**

23. North Yorkshire Police may reasonably require door supervisors to work on bank holidays and for any other special events in the town. North Yorkshire Police will provide a minimum 14 days written notice of such requests. At all other times the requirement for door supervisors will be risk assessed by the Premises Licence Holder.

### **Off sales**

24. Any off sales after 20.00 will have to be in sealed containers.

### **Members reasons;**

The applicant has a good track record of running Arnie's café next door with no issues. He is operating in accordance with the terms of the licence for that premises. This has been explained by the licensing officer who has referred to s190 of the Licensing Act 2003.

The applicant has a thorough understanding of how to run a licensed premises having run Arnie's since 2005. Before then he has worked as a doorman and in security. He is providing food as well as drink and the emphasis is not on running a business such as a vertical drinking establishment.

The sub-committee has considered the representations made and not heard directly from any people making representations today. A lot of the content of the representations was speculative. It is also noted that some of the representations are made by rival businesses. The creation of competition is not a relevant representation that can be considered. There are no residents in the vicinity of the premises that are objecting.

It is noted that the premises is in the Whitby cumulative impact zone. 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 that area.

There will not be an increase in crime and disorder due to the licence being granted because of the nature of the premises and the clientele Mr Dixon is targeting. There have been no representations from the police and the applicant has a firm understanding of how to run a licensed premises responsibly.

In relation to public safety we are not concerned about the potential for disorder. Conditions have been placed on the licence in relation to tables and chairs not straying outside the licensable area and we expect this to be stringently enforced so that there will not be any incidents. Again there is no evidence of problems at the premises the applicant currently operates.

The applicant proposed a minimum of 15 seats inside but we have increased that to 20. This is to limit the number of vertical drinkers so the condition is both necessary and appropriate.

There are also no concerns about public nuisance. Mr Dixon has good existing arrangements in relation to the disposal of bottles at 8AM each morning. The times that the outside seating area can be used are restricted. There have also been no objections from Environmental Health.

The applicant is a fit and proper person to hold the licence who takes his responsibilities as a licensee seriously and the granting of the licence is appropriate in the circumstances.

**Chairman**