

SCARBOROUGH BOROUGH COUNCIL

LICENSING SUB-COMMITTEE 14 MAY 2019

LICENSING ACT 2003

REPORT OF THE ENVIRONMENT AND REGULATION MANAGER – 19/109

on

APPLICATION FOR GRANT OF A PREMISES LICENCE WALRUS & CARPENTER, 147 CHURCH STREET, WHITBY, NORTH YORKSHIRE, YO22 4BH

1. PURPOSE OF REPORT

To seek the determination by the Licensing Sub-Committee of an application for the grant of a premises licence where one or more relevant representations has been received.

2. APPLICATION

- 2.1 An application for the grant of a premises licence has been received and is attached at **Appendix A**. The premises are described as a café.
- 2.2 The application seeks to include the following licensable actives:

Activity	Hours requested
Late Night Refreshments (on the premises only)	Fri & Sat – 23:00 to 00:00 New Year's Eve – 1 additional hour
Sale of Alcohol (Both on and off the premises)	Sun - Thurs – 11:00 to 23:00 Fri & Sat – 11:00 to 00:00
Hours open to the public	Mon - Thurs – 08:00 to 23:00 Fri - Sun – 08:00 to 00:00 New Year's Eve – 1 additional hour

2.3 Cumulative Impact Policy (CIP)

This premises is located within the cumulative impact zone. The effect of adopting the CIP is to create a presumption that applications for new licences, variations or material variations will normally be refused if relevant representations are received. 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.

2.4 Protection of Children from Harm

The applicant states that there will be no adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

2.5 Members are asked to note in particular paragraph 3.46 of the Council's Policy in that where an applicant states in the Operating Schedule that there is no adult entertainment or similar entertainment taking place at the premises, then the Licensing Authority shall consider this restriction to be a condition on the licence even though it may not state this on the licence itself.

2.6 Volunteered Operating Licence Conditions

The applicant has volunteered the following licensing conditions as part of their application:

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.
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 outside area will not be used after 20:00 hours (save for smoker and entry and egress) The manager on duty will ensure that the tables and chairs from the outside area are removed or stacked and secured by 22:00 hours each day.
6. There will always be a minimum of 15 seats available inside to negate the need for vertical drinking.

CCTV

7. 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.
8. The CCTV system shall contain the correct time and date stamp information.
9. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence.
10. 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.
11. The CCTV footage will be controlled and kept in a secure environment to prevent tampering or unauthorised viewing.
12. 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.

13. 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.
14. 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

15. 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

16. 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

17. 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

18. The premises shall operate the challenge 21 age verification policy.
19. All children must be accompanied by an adult.
20. There shall be no adult entertainment on the premises.

Security

21. 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.

3 REPRESENTATIONS

- 3.1 The Licensing Authority has received representations from members of the public which are attached at **Appendix B**.
- 3.2 The representations are in line with the following licensing objectives:
 - Prevention of Crime and Disorder
 - Prevention of Public Nuisance
 - Public Safety
- 3.3 The representations are summarised as follows:
 1. That the premises is located within the Cumulative Impact Zone.
 2. Concerns over another outside area being used for the consumption of alcohol within Whitby and that this would be detrimental to other businesses.
 3. That the area already suffers from antisocial behaviour including fighting in the street and noise.
 4. Concerns over public safety.
- 3.4 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.

4 LICENSING POLICY, CUMULATIVE IMPACT POLICY AND DCMS NATIONAL GUIDANCE

- 4.1 Members are referred to the Council's Licensing Policy which includes the Cumulative Impact Policies for Scarborough and Whitby Town centres together with the Home Office Amended Guidance issued under s182 of the Licensing Act 2003.

5 OPTIONS

- 5.1 The Licensing Sub Committee has the following options:
 - a) Reject the application.
 - b) Grant the licence as per the application.

- c) Grant the licence as per the application with additional conditions.
- d) Grant the licence but exclude a licensable activity.
- e) Grant the licence but exclude a licensable activity and include additional conditions.

6 DETERMINATION OF THE APPLICATION

- 6.1 Under section 17 of the Crime and Disorder Act 1998 (CDA), the Council has a duty to exercise its functions with 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.
- 6.2 Members must also exercise their decision making powers in accordance with the provisions of the Human Rights Act 1998, and the principles of natural justice.
- 6.3 Members are invited to determine this application following consideration of the evidence presented to them. The procedure for this hearing is available on the Council's website.



Environment and Regulation Manager

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IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

List of Background Papers:

Council's Statement of Licensing Policy

Licensing Act 2003

National Guidance issued Under Section 182 of the Licensing Act 2003

Relevant Regulations associated with the Licensing Act 2003

SCARBOROUGH BOROUGH COUNCIL

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The following papers were unable to be included in the electronic version of this document.

Appendices A - B are only available for the applicant in this matter as per Section 185 of the Licensing Act 2003.