

Public Document Pack

Licensing Sub Committee

Held at Meeting Room 1, Ryedale House, Malton, North Yorkshire YO17 7HH
on Wednesday 11 January 2023 at 10 am

Present

Councillors Paul Andrews, John MacKenzie and Mike Potter (Chair)

In Attendance

John Wardell (Clerk), Jonathan Davey (Legal Advisor) and Mark Heaton (Senior Licensing Officer)

Minutes

1 **Emergency Evacuation Procedure**

The Chairman informed Members of the Public of the emergency evacuation procedure.

2 **Introductions**

The Chairman introduced those present at the hearing: the members of the Sub-Committee, the Applicant Mr Stuart Holt, Mrs Sarah Holt and their business associates Ms Georgia Jackson and Mr Ryan Cuthbert, the witness Mr Alistair Duncan, the Senior Licensing Officer presenting the report, the Legal Adviser, and the Committee Clerk.

3 **Apologies for absence**

There were no apologies received.

4 **Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, which they might have in the business on the agenda.

There were no declarations of interest.

5 **Exempt Information**

The Chairman referred to the Legal Officer, who outlined exclusion of the public and asked the parties if they felt there was a requirement to exclude the Public.

Decision

There was no application for the exclusion of the public.

6 **Licensing Sub Committee Hearing Procedure**

The Chairman outlined the Licensing Sub Committee Hearing Procedure.

7 **To determine an application for a Premises Licence (Section 18, Licensing Act 2003) for the premises known as Dogh, Main Street, Welburn, York, YO60 7ED**

Preliminary Issue - Identified in Officer's Report (Point 5.0)

Minutes

The Chairman invited the Senior Licensing Officer to outline the Preliminary Issue detailed under point 5 of the Officer's report:

The Sub-Committee were asked to determine whether an error in relation to the advertisement of the application should lead to the matter being adjourned to allow for it to be re advertised.

The Chair asked if members had any questions to put to the Licensing Officer. The Chair asked the Senior Licensing Officer to confirm how long the notice has been displayed on the public website. The Officer advised it was displayed from 4 to 9th December 2022.

The legal advisor added that the Sub-Committee will also be required to determine whether the Public notice at the site had been displayed correctly and was in the correct format as this had been raised in Mr Duncan's representation.

In relation to this the Senior Licensing Officer advised that he had undertaken an unannounced site visit on 6th December 2022 and could confirm that the blue notice was in situ and the newspaper notice had been circulated for the prescribed period. He added that no late representations had been received.

Mr Duncan was invited by the chair to make any statements regarding the preliminary matter. Mr Duncan stated that his first knowledge of the application was from the newspaper article and had spoken to other residents of the village. He stated that the notice in the premises window was on white paper less than A4, obscured by Christmas decorations and the window had condensation on making it difficult to read.

The Chair then asked Mr Holt if he wished to add any further comments. Mr Holt stated that the notice was on blue paper, condensation on the windows was no longer an issue following a change to the heating system, and although there were decorations in the window they were not obscuring the notice.

The Officer advised the Chair he had taken a photograph of the notice at the premises if it would be helpful for the Sub-Committee to see. The Officer presented the photographs which showed a close up of the notice and a wider shot of the front of the premises showing the notice.

The photographs were passed around all parties.

Mr Holt added the notice was definitely A4 paper.

There were no further comments and that Sub-Committee retired to consider their decision.

Decision

The Sub-Committee is satisfied that the Blue notice was properly displayed at the premises in accordance with the regulations. We accept the evidence presented by the Senior Licensing Officer, Mark Heaton and have seen photographs produced from the unannounced visit.

In relation to Ryedale District Council's website, it is accepted that the notice was not published in the correct time. However, we cannot see this will prejudice the hearing or lead to injustice. There were also no late representations received.

The hearing proceeded.

Minutes

1. The Chairman invited the Senior Licensing Officer to present his report. The Chairman asked if the Officer could confirm if there were any outstanding planning enforcement matters. The Officer advised he was not in the position to advise on this matter.

The Legal advisor stated that Planning is a responsible authority and that they had not made a representation, and it must be noted by all parties that Planning is a separate authority to that of the Licensing Committee.

The Chairman asked if the Senior Licensing Officer was aware of any issues previously with nuisance or issues with safety at the premises. The Officer advised no representations had been received from Environmental Health or the Police and the Officer was unaware of any history reported to the

authority. The Legal Advisor advised the Sub-Committee that they can only consider information included within the agenda pack and members can only judge on the evidence submitted.

Cllr Andrews asked if the premises has permission presently to operate in the evening should their application be successful. The Officer advised Planning permission is dealt with under separate legislation.

Mr Holt advised the chair that at present they do not have Planning permission but would be looking to make an application should their Licensing application be successful.

There were no further questions.

2. The Chairman invited the applicant to make their opening statement. Mr Holt outlined their current business modal and explained their goals for the business. Mr Holt stated that they currently employ 20 staff. They hope to operate moving forward as a small bistro deli with evening events throughout the year. They do not intend to increase footfall just increase the average spend of each customer by being able to offer alcohol with food and off sales.

Mr Holt then proceeded to address some of the matters raised within the representations made as outlined in the Officer's report para 7.2.

He advised that they would amend their application to restrict the licensable area to the building of the premises and exclude any external seating areas from their licensed area.

Mr Holt stated the by the removal of the exterior seating area he felt this would address the concerns raised as identified in the officer's report para 7.2 items 1,3,5,6 and 7.

Mr Holt referred to the document pack issued two days before the hearing (Minutes annex) showing emails from the Police and Senior Licensing Officer stating that if they wished to extend the licensed hours a full variation would be required, so therefore it would be prudent to include these extended hours at this stage. Mr Holt confirmed that they would seek the relevant planning permissions should they wish to use this aspect of the licence and felt this addressed the issues raised at para 7.2 item 2.

Mr Holt advised the they have a litter policy in place which is included within the opening statement document pack item 3 and he felt this addressed point 4 on para 7.2.

Mr Holt stated that they believe they have met the Licensing Objectives. He went on to say that the external licensed area would be removed from the application should those who have made representations support their future planning application for extended hours.

The Legal advisor advised the Sub-Committee that they have no powers to bind the Planning process and cannot reach any such agreement.

The Chairman asked if there were any questions from of the members of the Sub-Committee and Officer. There were none.

He then asked if Mr Duncan had any questions for the applicant. Mr Duncan wish to confirm who the applicant was as he understood a limited company was being set up. Mr Holt stated that one was in the process of being set up however this was only recent and was post submission of the application and he and Mrs Sarah Holt were the applicants.

The Officer explained how a licence can be transferred to another holder once it had been granted (e.g. a limited company) and the Designated Premises Supervisor (DPS) could be the manager or the main director of the business. The Officer explained the role of a DPS.

Mr Holt advised that his business associates who will be running the premises on his behalf will look to obtain a Personal Licence and possibly may become the premises DPS in the future.

There were no further questions from the Sub-Committee and Officer.

3. The Chairman asked Mr Duncan to make his opening statement. Mr Duncan opened by outlining the main concerns he and the interested parties he represented had about the application. Namely those listed in the Officer's report para 7.2 items 1-7. He stated that if the applicant was willing to remove the external areas this would address the concerns and limit the evening events (finishing at 22:30hrs) to 10 per year with only one per month this would address some concerns around evening business activity.

Mr Duncan asked the Legal advisor if it could be agreed that those who made representations are consulted when an application is made to planning for extended hours.

The legal advisor reiterated that the Licensing Committee and Planning Committee are separate authorities and such a condition could not be applied.

Cllr Andrews stated that no decision made by the Licensing Sub-Committee would influence the planning process.

4. The Chairman asked if anyone had any questions for Mr Duncan. There were no questions.
5. The Chairman asked the applicant if the application was to be amended. Mr Holt stated that the external licensed area was to be removed from the licensed area. There were no other amendments to the application.
6. The Licensing Officer, Applicant, Mr Holt and Interested Party, Mr Duncan had nothing further to add.
7. Members of the Sub-Committee retired to consider the application and arrive at their decision. The Legal Advisor and Clerk retired with them.

8. Members of the Sub Committee, Legal Advisor and Clerk return to the Council Chamber and the Chairman announced the decision as follows:

Decision

DECISION OF THE SUB – COMMITTEE

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 Ryedale District 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
- The protection of children from harm

After hearing the issues today, it is the licensing objectives of ...

Prevention of public nuisance

Public Safety

... that are relevant and consideration has been given to these today

The applicant has amended their application so that the licensable area will be restricted to the indoor area only. The outdoor area is therefore not being applied for.

It is the decision of the sub-committee today that:

The Licence be granted for the following activities

| Activity | Hours granted |
|---|------------------------|
| Supply alcohol for consumption both on and off the premises | 08.00 – 18.00 each day |

| | |
|--|-------------------------|
| Hours open to the public | 08.00 – 18.00 each day. |
| The permitted hours outlined above are extended until 22.30 on a maximum of 10 occasions per year to facilitate events. A maximum of 1 event to be held per calendar month. The supply of alcohol is also permitted during the extension to the permitted hours. | |

The premises plan is amended to remove the outdoor licensable area.

The licence will be subject to the following conditions:
The conditions at para 6.2 of the report are attached to the licence.
Condition 5 will be amended to read as above.

An additional condition will be added – ‘A log detailing when the late event days are taking place must be produced by the premises. This must be produced on request to the licensing authority and the police.’

The sub-committee believe that

As a preliminary issue we are satisfied that the blue notice was properly displayed at the premises in accordance with the regulations. We accept the evidence provided by the licensing officer and have seen photographs produced from the unannounced visit.

In relation to the Ryedale Council website the notice was not published in the correct time however we cannot see that this will prejudice the hearing or lead to injustice. There were no late representations received.

We note the concerns about the prevention of public nuisance and public safety. We feel that these concerns have been addressed by the amended application to exclude the outdoor licensable area and due to the conditions proposed by the applicant.

The concern about litter relating to the licensable activity outside will not apply because the licensable area is restricted to inside areas now. The other concerns about noise and cigarette smoke all likewise now restricted to inside areas. It is noted that the sale of alcohol will be

ancillary to food so we have no concerns about the premises opening late on 10 occasions.

Based on the application we do not have concerns about any increase of vehicles causing nuisance.

It is also noted that the responsible authorities, including the police, Environmental Health and planning have not objected to the application.

Signature of Chair: Cllr Mike Potter

Date: 11/1/23

Decision notified to all relevant parties

There is a right of appeal to the Magistrates' Court which should be exercised in writing within 21 days of the date of deemed service of the written version of this decision. A fee may be payable to the Magistrates' Court upon submitting an appeal.

8 Any other business that the Chairman decides is urgent.

There was no other business.

The meeting started at 10:00 am closed at 12:14 pm

Document 1



Chadwick, Deborah <Deborah.Chadwick@northyorkshire.police.uk>

3 Nov 2022, 08:31



to me ▾

Morning Georgia

Those hours would not cause a problem at all ... just a thought .. would it be beneficial for you to go to say 8pm .. just thinking in the summer months if you wanted to stay open a little later .. it would give you that flexibility ???



Many thanks

Debbie

Document 2



team@dogh.co.uk

to Mark ▾

Hi Mark,

Thanks for your comments. Can I just confirm before I amend our application – if we may wish to change our opening hours in future, or open later on some days, would it be better to set our standard timings for both opening and service alcohol to later (i.e we close at 6pm, but would it be worth listing 8pm on the application to cover ourselves?).

Thanks,



5 Nov 2022, 14:11



Mark Heaton <mark.heaton@ryedale.gov.uk>

to me ▾

Hi Georgia,

Thanks for your email.

If you wanted to increase your operating hours in the future it would likely require a full variation application, so I'd suggest including the later hours at this stage even if you do not intend to use them.



Kind regards,

Mark

Mark Heaton | Senior Licensing Officer

Landline: 01653 600666 [REDACTED]

7 Nov 2022, 10:01



**DOGH WELBURH
MAIN STREET
WELBURH
YORK YO60 7DX**

**Discharge of Conditions
21/01499/FUL**

Approval in part of Application 21/01499/FUL on 18 March 2022 is subject to two planning conditions that require discharge – Conditions 04 & 07.

Condition 04 - Litter Management Plan

The operators and staff of the premises currently trading as Dogh Café will carry out regular litter patrols of the area adjoining the café during operational hours, collecting any litter that has been dropped on the ground or has blown off the picnic benches.

The tables will be cleared as soon as possible after customers have completed their meals to prevent litter blow in the first place.

There is a public litter bin situated on the Village Green close to the café. When this is near to overflowing, as occasionally occurs, the operators and staff will remove surplus litter from the bin and deposit this in their own commercial bins for collection by the Local Authority on the designated day.

Condition 07 - Safety Measures for Outdoor Seating

In accordance with Condition 02 of the approval to Application 21/01499/FUL, the two picnic benches sited directly in front of the building, one on each side of the central entrance, as shown on approved Drawing PL 04 Rev A dated 09.02.2022, shall not project more than 1.8 metres from the front elevation with a maximum width of 1.5 metres.

The operators of the café and its staff will ensure that the picnic benches will not be moved outside these defined limits so as to avoid encroaching onto the adjacent section of service road. The operators and staff will also seek to ensure that the belongings of seated customers do not encroach into the service road or interfere with the flow of passing traffic on the service road.

By placing appropriately worded notices, the operators will seek to prevent the picnic benches being used by the general public outside business hours of 08:00 to 18:00 Monday to Saturday and 08:00 to 17:00 on Sundays and Bank / Public Holidays as approved under Application 21/01590/73A.

The operators of the business will advise suppliers not to park delivery vehicles adjacent to the picnic benches in order to minimise interruption to the flow of local traffic on the service road and to prevent conflict with seated customers.