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**PART A: MATTERS DEALT WITH UNDER DELEGATED POWERS**

**REPORT TO: LICENSING SUB COMMITTEE**

**DATE: 15 JULY 2019**

**REPORT OF THE: ENVIRONMENTAL HEALTH MANAGER  
ROBERT ROBINSON**

**TITLE OF REPORT: APPLICATION FOR A NEW PREMISES LICENCE FOR THE  
PRIVATE HILL, THRUSSENDALE FARM, THRUSSENDALE  
ROAD, ACKLAM, YO17 9RG.**

**WARDS AFFECTED: DERWENT**

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to enable the Sub-Committee to consider an application from Mr Roddy Hamilton for a new Premises Licence for The Private Hill, Thrussendale Farm, Thrussendale Road, Acklam, Malton, YO17 9RG under the Licensing Act 2003, where relevant representations have been received.

### **2.0 RECOMMENDATION(S)**

- 2.1 It is recommended that:

- (i) the application for the new premises licence for The Private Hill, Thrussendale Farm, Thrussendale Road, Acklam, Malton, YO17 9RG be determined taking into account the relevant representations received, amendments / conditions proposed, the four Licensing Objectives, the Licensing Act 2003, Government Guidance issued under section 182 of the Licensing Act 2003 and Ryedale District Councils Statement of Licensing Policy and after hearing from both the applicant and any objector(s).

### **3.0 REASON FOR RECOMMENDATION(S)**

- 3.1 Relevant representations have been received and as officers do not have delegated powers to grant a premises licence where such representations have been made the determination of the application now rests with the Licensing Sub Committee.

#### **4.0 SIGNIFICANT RISKS**

- 4.1 The Licensing Authority must determine an application for the grant of a Premises Licence as prescribed by the Licensing Act 2003 and regulations made under this Act. The Licensing Authority would leave itself open to appeal or judicial review should it not comply with all legal requirements.

### **REPORT**

#### **5.0 BACKGROUND AND INTRODUCTION**

- 5.1 An application for a new premises licence has been received from Mr Roddy Hamilton for The Private Hill, Thrussendale Farm, Thrussendale Road, Acklam, Malton, YO17 9RG. The applicant wishes to supply alcohol (both on and off sales) each day between the hours of 12:00 and 22:00 and until 00:00 hours at pre-arranged private events/functions. The applicant also wishes to provide regulated entertainment in the form of recorded music each day between the hours of 12:00 and 22:00 and until 00:00 at pre-arranged private events/functions until 00:00 hours. The premises to be open to the public each day between 10:00 and 19:00 hours and at pre-arranged private events/functions until 00:00. A copy of the licence application is attached at Annex A. In summary the applicant wishes to:-

- a) Provide the supply of alcohol (on and off sales) each day between the hours of 12:00 and 22:00. At pre-arranged private events/functions until 00:00 hours.
- b) The provision of recorded music each day between the hours of 12:00 and 22:00. At pre-arranged private events/functions until 00:00 hours.
- c) The premises to be open to the public each day between the hours of 10:00 and 19:00. At pre-arranged private events/functions until 00:00 hours.

Relevant representations have been received (see Annex B) and as Council officers have been unable to resolve these representations the decision on whether or not to grant the licence will now rest with this Licensing Sub Committee.

#### **6.0 RELEVANT REPRESENTATIONS**

- 6.1 These are representations which:-

- Are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives
- Were made by either a responsible authority or other persons ( see consultation below )

- 6.2 The four licensing objectives are :-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

## **7.0 CONSULTATION**

7.1 The consultation period for this application ran from the 1<sup>st</sup> of May 2019 until the 29<sup>th</sup> of May 2019 and the application was advertised in the prescribed manner.

7.2 The following Responsible Authorities have been consulted:-

- Police
- Fire
- Health and Safety
- Pollution
- Planning
- Social Services
- Trading Standards
- Environmental Health
- Director of Public Health
- Home Office(immigration)

## **8.0 REPORT DETAILS**

8.1 The premises application seeks to provide the following licensable activities:-

- Provide the supply of alcohol (on and off sales) each day between the hours of 12:00 and 22:00. At pre-arranged private events/functions until 00:00 hours.
- The provision of recorded music each day between the hours of 12:00 and 22:00. At pre-arranged private events/functions until 00:00 hours.
- The premises to be open to the public each day between the hours of 10:00 and 19:00. At pre-arranged private events/functions until 00:00 hours.

8.2 As stated above, all Responsible Authorities have been consulted and the Licensing Authority have received relevant representations from:-

- 24 persons

8.3 Most of the people are concerned that if the application were granted it would lead to an increase in disorder, noise nuisance, public safety and the protection of children from harm caused by regulated entertainment and the supply of alcohol.

8.4 Copies of all relevant representations received by this Authority can be seen at Annex B.

## **9.0 LICENSING POLICY AND NATIONAL GUIDANCE**

### **Ryedale`s Licensing Policy**

9.1 Part 4.4 of the policy states that "The Licensing Authority shall expect every licence /certificate holder or event organiser to minimise the impact of their activities on the surrounding area and any anti-social behaviour created by their customers in and within the vicinity of their premises by taking

appropriate measures and actions consistent with that responsibility. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned”.

- 9.2 Section 21.1 states “The Operating Schedule is a key part of the application form whereby applicants may volunteer appropriate conditions to demonstrate compliance of the licensing objectives by describing the steps they intend to take to promote these objectives. These volunteered conditions will then form conditions on the Premises Licence or Certificate. In completing an Operating Schedule, applicants are expected to have regard to this policy”. Section 21.4 states that “In completing their Operating Schedule the Licensing Authority suggest an applicant consider the following and goes on to give a list of measures applicants may like to consider for all four of the licensing objectives when completing their operating schedules eg CCTV, door supervisors etc”. Finally Section 21.5 states that “These lists (contained in 21.4) are not exhaustive and advice can be obtained from the relevant responsible authority. However, applicants are reminded again to contact the relevant Responsible Authority to seek their expert advice before an application is submitted to the Licensing Authority”.
- 9.3 Section 16.1 states that “ With regard to the Protection of Children from Harm licensing objective, the Licensing Authority and this policy recognises the Director of Children and Young People’s Service at North Yorkshire County Council as the Responsible Authority competent to act in relation to this licensing objective. The Licensing Authority will give considerable weight to representations on child protection matters”. Section 16.2 states “The Licensing Authority shall not seek to limit the access of children to any licensed premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other case it will be left to the discretion of the Licensee but the Licensing Authority shall expect that the licensee shall give full consideration of access by children at all times and ensure that there is a policy in place to promote this licensing objective”. 16.3 states “Where there are concerns with regard to access of children the Licensing Authority will consult the Director of Children and Young People’s Services. However, where the Licensing Authority’s discretion is engaged it will judge the merits of each application before deciding whether or not to impose conditions limiting the access of children”. Sections 16.4 and 16.5 give examples of types of premises and forms of entertainment that are likely to raise concern and engage the Licensing Authority as a Responsible Authority to take action. Finally, Section 16.7 states that “In particular, the Licensing Authority will consider what conditions are offered in the Operating Schedule. The applicant in completing the Operating Schedule is required to describe the steps they intend to take to promote this licensing objective and highlight any adult entertainment or services etc that may give rise to concern in respect of children. However, where the applicant does not state the steps they intend to promote this objective but does state that “ no adult or similar entertainment shall take place on the premises”, the Licensing Authority shall consider that this restriction to be a condition on the licence/.certificate even though it may not state it on the licence/certificate itself”.

## National Guidance

- 9.4 **CRIME AND DISORDER** Paragraph 2.1 states “Licensing authorities should look to the police as the main source of advice on crime and disorder”. Paragraph 2.2 states that “In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (SIA) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with the police and other agencies, that companies are not being used as fronts for serious and organised criminal activity”. Paragraph 2.3 states that “Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally”.
- 9.5 **PUBLIC SAFETY** Paragraph 2.7 states that “Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning”. Paragraph 2.8 lists matters that should be considered in relation to public safety which includes fire safety, ensuring appropriate access for emergency services, good communication with local authorities and emergency services etc”. Paragraph 2.10 states that “Licence holders should make provision to ensure that premises users safely leave their premises and lists measures such as providing local taxi information and adequate lighting”. Paragraph 2.12 states that “Safe capacities should only be imposed where appropriate for the promotion of public safety or for the prevention of disorder on relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence”.
- 9.6 **PUBLIC NUISANCE** Paragraph 2.15 of the Guidance states “The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this Licensing Objective, Licensing Authorities and Responsible Authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter”. Paragraph 2.16 adds “Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises”. Paragraph 2.17 adds “Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises”. Further in the same paragraph it states “Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the

specific premises and its licensable activities. Licensing Authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues".

Paragraph 2.18 states that " the approach of the licensing authority and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate"

Paragraph 2.19 states that "where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive period. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11pm and 8am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave". Paragraph 2.21 states that "Beyond the immediate area surrounding the premises, these are matters for personal responsibility of the individual under the law".

- 9.7 **PROTECTION OF CHILDREN FROM HARM** Paragraph 2.22 states that "The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives. Paragraph 2.23 states that "The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:- adult entertainment is provided, staff member(s) have been convicted for serving alcohol to minors, it is known that unaccompanied children have been allowed access, there is a known association with drug taking". Paragraph 2.25 states that "Applicants must make clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises". Paragraph 2.26 states that "Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises". Paragraph 2.27 states "Conditions where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:-restrictions on the hours when children may be present, restrictions or exclusions on the presence of children under certain ages when particular activities are taking place, restrictions on parts of the premises to which children have access, restrictions on parts of the premises to which children may have access, age restrictions, restrictions/exclusions when certain activities are taking place, requirement for an accompanying adult, full exclusion of people under 18 from the premises". Paragraph 2.29 states "Licensing authorities should give considerable weight to representations about child protection matters".

## **10.0 OPTIONS**

- 10.1 In the case of a grant of a Premises Licence the Sub Committee has 5 options:
- a) to reject the application
  - b) to grant the licence
  - c) to grant the licence with additional conditions
  - d) to exclude from the licence a licensable activity
  - e) to exclude from the licence a licensable activity and include additional conditions
- 10.2 Should members ultimately determine to grant the Premises Licence, with conditions to address the representations received, they may wish to consider any options provided by the Responsible Authorities/other persons as set out in Section 8 of this report.

## **11.0 DETERMINATION OF THE APPLICATION**

- 11.1 Members are invited to determine the application following consideration of the evidence presented to them and taking into account the legislation and guidance.

### **GARY HOUSDEN HEAD OF PLANNING AND REGULATORY SERVICES**

**Author:** Robert Robinson, Environmental Health Manager  
**Telephone No:** 01653 600666 ext:43300  
**E-Mail Address:** Robert.robinson@ryedale.gov.uk

#### **Background Papers:**

Licensing Act 2003  
National Guidance issued under Section 182 of the Licensing Act 2003  
Ryedale District Council Statement of Licensing Policy March 2019