



PART A:	MATTERS DEALT WITH UNDER DELEGATED POWERS
REPORT TO:	LICENSING SUB COMMITTEE
DATE:	13th JUNE 2022
REPORT OF THE:	ENVIRONMENTAL HEALTH SERVICES MANAGER ROBERT ROBINSON
TITLE OF REPORT:	APPLICATION TO VARY A PREMISES LICENCE FOR THE GROUNDS, THE TALBOT, YORKERSGATE, MALTON, YO17 7AJ
WARDS AFFECTED:	MALTON WARD

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 Malton Amenity CIC t/a Visit Malton to vary a Premises Licence for The Grounds, The Talbot, Yorkersgate, Malton, YO17 7AJ where relevant representations have been received. A copy of the application is attached at Annex A and a copy of the existing premises licence including conditions is attached at Annex B.

2.0 RECOMMENDATION(S)

- 2.1 It is recommended that:

- (i) the application 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 an application where a representation has 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 this application 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 APPLICATION

- 5.1 The application seeks to:

- a) Increase the number of bars/points at which alcohol may be sold to 10.
- b) Increase the maximum number of event days per calendar year to 10.

Relevant representations have been received and therefore the decision on whether or not to grant the licence now rests with the Licensing Sub-Committee.

6.0 RELEVANT REPRESENTATIONS

- 6.1 The Licensing Authority has received two representations from members of the public which are attached at Annex C, the representations are in line with the following licensing objective:

- Prevention of public nuisance

- 6.2 The representations are summarised as follows:

- That increasing the number of events would result in an unwelcome intrusion and interfere with the quiet enjoyment of their property.
- That the application may result in live music being played every weekend during the summer.
- That the grounds are surrounded by residential properties.
- That weddings held in the marquee to the rear of the Talbot already cause a disturbance.
- Request that the applicant submits a professional Noise Impact Assessment as part of the application.

- 6.3 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.

7.0 LICENSING POLICY AND NATIONAL GUIDANCE

Ryedale`s Licensing Policy

- 7.1 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”.

- 7.2 Part 4.6 of the policy states that “The Licensing Authority, however, recognises that the licensing law is not the primary mechanism for the general control of nuisance, noise or anti-social behaviour particularly once individuals have left the vicinity of the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence or certificate. However licensing controls and targeted enforcement should have a positive impact on the immediate vicinity of the licensed premises and assist in the management of the evening and night time economy”. In addition 4.7 states “The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Gambling Act 2005, the Equality Act, The Clean Neighbourhoods and Environmental Act 2005, Health and Safety at Work, etc. Act 1974, Environmental Protection Act 1990, the Noise Act 1996 and the Regulatory Reform (Fire Safety) Order 2005, etc.”.
- 7.3 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”.

National Guidance

- 7.4 **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”.

8. OPTIONS

8.1 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.

9.0 DETERMINATION OF THE APPLICATION

9.1 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. 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. 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.

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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