

ADDITIONAL INFORMATION FROM ENVIRONMENTAL HEALTH

From: John Hayes
Sent: 13 November 2023 16:15
To: Karen Robson; Helen Johnson - Licensing Team Leader (N'hoods)
Cc: Richard Taylor; Terence Haley; Adam Shanley; Kelly Gilmore-Craze
Subject: Tuesday 28th November 2023 at 9.30am County Hall Durham - Review of a Premises Licence for Ye Olde Elm Tree, 12 Crossgate, Durham-Supplemental Information

Good afternoon Karen

Ahead of the scheduled hearing on 28 November reading the review of the premises license of Ye Olde Elm Tree I wish to add the additional/supplemental information following the representation that was submitted on behalf of the Responsible Authority for the Prevention of Public Nuisance; I have copied in the premises license holder and their legal representative as well as the Clerk to the City of Durham Parish Council who requested a review of the premises licence.

Following the request for a review of the premises license in relation to the licensing objective of prevention of public nuisance and the submission of a representation under the same objective, the premises license holder and their legal representative and I have reached an agreement in relation to appropriate controls, which have also been agreed with the City of Durham Parish Council. To that end I would request that the following conditions are submitted to the Licensing Committee for their consideration at the hearing as they may wish to decide to modify operating schedule of the current license:

- No consumption of alcohol or any other drinks shall be permitted in the rear beer garden/terrace area after 2130 on Sundays to Thursdays or after 2200 on Fridays and Saturdays.
- No amplified sound / music or live music shall be played in the outdoor area to the rear of the premises at any time.
- With the exception of the times referred to above, the following shall be followed at all times when the premises are open to the public:
 1. The recommendations specified in Section 4 of the Noise Impact Assessment prepared by Nova Acoustics Ltd reference NP-010020 revision 01 dated 25/10/2023 shall be adhered to.
 2. The Noise Management Plan in Section 5 of the Noise Impact Assessment prepared by Nova Acoustics Ltd reference NP-010020 revision 01 dated 25/10/2023 shall be adhered to.

The above contains slight amendments to those submitted by the applicant and reflect consideration following the receipt of the Noise Impact Assessment; I would add that I have no objection to any of the other proposed conditions suggested by the license holder, with the observation that any reference to the provision of records, information and CCTV should be made available to any authorised officer of DCC, in addition to the police and licensing officers.

I trust that the above is acceptable for consideration by the committee, please note that I will be away from work until Monday 20/11/23.

Best regards

John

**John Scott Hayes MCIEH BSc(Hons) Environmental Studies PGDipIOA
Principal Environment Protection Officer**

Environment Protection Team
Community Protection Service

**ADDITIONAL INFORMATION FROM MR RICHARD TAYLOR ON
BEHALF ON THE LICENCE HOLDER**

Second Statement of Terence John Haley

1. I am making this second statement to supplement the statement that I made earlier in the review proceedings.
2. The purpose of this second statement is to update the members of the licensing sub committee who will determine the review application and give details of the agreement reached between the parties.
3. My original statement appended a list of conditions at Annex 3 which I had intended to invite the licensing sub committee to impose. These conditions incorporated the conditions proposed by John Hayes, the council's Principal Environmental Protection Officer save for my proposed conditions precluded the consumption of alcohol and other drinks in the rear beer garden terrace after 2200 on Sundays to Thursdays and 22.30 on Fridays and Saturdays.
4. Following further discussions with Mr Hayes who felt that these cut-off times were too late, I agreed to amend these cut-off times for drinking outside to 2130 on Sundays to Thursdays and 2200.
5. These agreed times were acceptable to Mr Hayes and to Adam Shanley, the applicant for review who confirmed to the licensing department that on the basis that the conditions agreed, the Parish Council, "*no longer views the need for a hearing necessary.*"
6. It was agreed that I would arrange for a minor variation to be submitted to add the newly agreed conditions in substitution for the existing outdated conditions and my solicitors would liaise with the parties and council to see if we could avoid the expense of a hearing now that matters were all agreed.
7. The minor variation was submitted on 7th November 2023. A copy of the proposed conditions is attached to this statement at Annex 1.
8. Unfortunately, the advice received back from the licensing department was that notwithstanding the fact that both the applicant for review and the council's Principal Environmental Protection Officer were content with the conditions and felt that a hearing was no longer necessary, the application could not be withdrawn and the hearing would still need to take place.
9. Following the submission of the minor variation, my solicitor received further contact from Mr Hayes requesting the following conditions be attached to the licence –
 - *No consumption of alcohol or any other drinks shall be permitted in the rear beer garden/terrace area after 2130 on Sundays to Thursdays or after 2200 on Fridays and Saturdays.*
 - *No amplified sound / music or live music shall be played in the outdoor area to the rear of the premises at any time.*
 - *With the exception of the times referred to above, the following shall be followed at all times when the premises are open to the public:*
 - (i) *The recommendations specified in Section 4 of the Noise Impact Assessment prepared by Nova Acoustics Ltd reference NP-010020 revision 01 dated 25/10/2023 shall be adhered to.*

(ii) The Noise Management Plan in Section 5 of the Noise Impact Assessment prepared by Nova Acoustics Ltd reference NP-010020 revision 01 dated 25/10/2023 shall be adhered to.

10. The first two bullet points are almost identically worded to the proposed conditions 5.3 and 5.4 that are attached at Annex 1 and which were part of the minor variation. I am happy for this alternative wording to be imposed.
11. The final bullet point makes sense as my original condition 5.5 (which was originally proposed by Mr Hayes) required that a noise management plan agreed with the Environmental Protection Team be submitted within a month. Mr Hayes pointed out that the Acoustic Report that I had commissioned and which was submitted with my original statement contained an acceptable noise management plan and his rewording would see the immediate adoption of this plan.
12. This makes perfect sense and I have instructed my solicitor to invite the committee on review to replace my original condition 5.5 with the new wording contained in My Hayes final bullet point above.

Signed:

Dated:

Second Statement of Terence Haley

Annex 1

Ye Old Elm – Proposed conditions – Minor Variation

1. CCTV

- 1.1. The Premises Licence Holder shall install and maintain a CCTV system at the premises giving coverage all entry points and areas to which customers have access. (with the exception of the toilets).
- 1.2. The CCTV system shall provide clear images in all lighting conditions.
- 1.3. The CCTV system shall continuously record whilst the premises are open for licensable activities and shall be capable of providing frontal identification of customers.
- 1.4. All CCTV recordings shall be retained for a minimum of 28 days and shall be date and time stamped.
- 1.5. CCTV recordings should be made available for inspection within 48 hours of the receipt of a request by the Police and Authorised Officer of the Licensing Authority.
- 1.6. A member of staff shall always be present on the premises whilst they are open who is capable of operating the CCTV system and able to facilitate immediate viewing of CCTV footage upon the request of the Police and Authorised Officer of the Licensing Authority.

2. Proof of Age

- 2.1. A Proof of Age Scheme, such as Challenge 25, shall be operated at the premises whereby the only acceptable forms of identification are a valid passport, UK driving licence, any form of identification containing the PASS hologram, military identification or any other form of identification time to time approved by the Secretary of State.

3. Incident Log

- 3.1. An Incident Record, whether kept in written or electronic form, shall be maintained at the premises and made available on request to the Police or an Authorised Officer of the Licensing Authority. The Incident Record shall record any complaints received in connection with the licensable activity committed at the premises, any faults with the CCTV system, any refusal to sell alcohol at the premises, and any visit to the premises by a Responsible Authority in connection with the licensable activity permitted at the premises.
- 3.2. The Incident Record shall be reviewed by a member of store management weekly to ensure that appropriate challenges are being made by staff.
- 3.3. The Incident Record shall be kept for a minimum of 12 months.

4. Training

- 4.1. All relevant staff shall be trained in relation to their responsibilities under the Licensing Act 2003.

- 4.2. Training Records shall be kept and made available for inspection upon receipt of request from the Police or an Authorised Officer of the Licensing Authority.
- 4.3. Refresher training shall be given at twice in every calendar year.
- 4.4. No member of staff shall be permitted to sell alcohol until such time as they have successfully completed their training as prescribed by Condition 4.1 above

5. Miscellaneous

- 5.1. A notice must be displayed in the premises explaining that a Challenge 25 policy is in operation at the premises.
- 5.2. Notices will be displayed in the rear beer garden/terrace area asking customers to use the area quietly to avoid nuisance being caused to neighbours
- 5.3. No consumption of alcohol or any other drinks will be permitted in the rear beer garden/terrace area after 2130 on Sundays to Thursdays or after 2200 on Fridays and Saturdays
- 5.4. No amplified sound/music or live music shall be played in the beer garden at any time
- 5.5. Within 1 month of the decision of the Licensing Authority, the premises licence holder shall produce and submit a suitable noise management plan, to be agreed in writing by the Environmental Protection Team, in relation to the outdoor seating area