



Agenda

Meeting: **LICENSING COMMITTEE**
Date: **18 MARCH 2013**
Time: **10.00AM**
Venue: **COMMITTEE ROOM**
To: **Councillors R Sayner (Chair), K Ellis (Vice Chair), Mrs S Duckett, Mrs P Mackay, Mrs C Mackman, B Marshall, Mrs K McSherry, Mrs S Ryder, R Sweeting and J Thurlow**

1. Apologies for absence

2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

3. Minutes

To confirm as a correct record the minutes of the proceedings of the meeting of the Licensing Committee held on 4 February 2013 and the Licensing Hearing held on 15 February 2013 (pages 4 to 12 attached).

4. Chair's Address to the Licensing Committee

5. Street Trader Consents

To receive the report of the Senior Solicitor L/12/18 (pages 13 to 37 attached)

6. Application for a Designated Public Places Order (DPPO) to Control Street Drinking in Monk Fryston Parish

To receive the report of the Senior Enforcement Officer L/12/19 (pages 38 to 59 attached)

7. Private Session

That in accordance with Section 100(A)(4) of the Local Government Act 1972, in view of the nature of the business to be transacted, the meeting be not open to the Press and public during discussion of the following item as there will be disclosure of exempt information as defined in Section 100(1) of the Act as described in paragraph 7 of Part 1 of Schedule 12(A) of the Act.

8. Application for a Private Hire Driver's Licence

To receive the report of the Senior Enforcement Officer L/12/20 (pages 60 to 68 attached)

9. Issue concerning the behaviour of a Licensing Hackney Carriage Driver

To receive the report of the Senior Enforcement Officer L/12/21 (pages 69 to 84 attached)

10. Application for a Private Hire Driver's Licence

To receive the report of the Senior Enforcement Officer L/12/22 (pages 85 to 93 attached)

11. Application for a Hackney Carriage Driver's Licence

To receive the report of the Senior Enforcement Officer L/12/23 (pages 94 to 101 attached)

**Martin Connor
Chief Executive**

Dates of next meetings
8 April 2013
13 May 2013

Enquiries relating to this agenda, please contact Palbinder Mann on:
Tel: 01757 292207 Email: pmann@selby.gov.uk

Minutes

Licensing Committee

Venue:	Committee Room
Date:	4 February 2013
Present:	Councillors K Ellis (Chair), Mrs S Duckett, Mrs C Mackman, B Marshall, Mrs K McSherry, D Peart (for Mrs P Mackay), Mrs S Ryder, and J Thurlow.
Apologies for Absence:	Councillors, Mrs P Mackay (substitute D Peart), R Sayner and R Sweeting.
Officers Present:	Caroline Fleming - Senior Solicitor, Tim Grogan – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer

42. DECLARATIONS OF INTEREST

None.

43. MINUTES

It was agreed that the grammatical error in paragraph two of item 36 should be amended to read as following:

- **The Committee then discussed the matter and considered their decision on whether the applicant was a ‘fit and proper’ person to hold a Private Hire Driver’s Licence.**

It was agreed that the grammatical error in the title of item 37 should be amended to read as following:

- **ISSUE CONCERNING THE BEHAVIOUR OF A LICENSED HACKNEY CARRIAGE DRIVER**

It was agreed that the grammatical error in the title of item 38 should be amended to read as following:

- **ISSUE CONCERNING THE BEHAVIOUR OF A LICENSED HACKNEY CARRIAGE DRIVER**

RESOLVED:

That the Committee receive and approve the minutes of the Licensing Committee on 7 January 2013 with the above amendments and that they be signed by the Chair.

44. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

The Senior Enforcement Officer reported that an appellant who had previously appeared before the Licensing Committee had appealed against the two months suspension imposed by the Committee at a hearing before Selby Magistrates Court on 24 January 2013. The Committee were informed that the decision of the Magistrates was to reduce the suspension to one calendar month.

The Senior Enforcement Officer requested that the next Licensing Committee be rescheduled from 4 March to 18 March due to administrative reasons. It was agreed that the meeting would be moved.

45. GAMBLING POLICY

The Senior Enforcement Officer presented the **Report L/12/17** which requested that the Gambling Policy submitted for consideration, be approved by the Committee.

A query was raised that the information relating to betting machines was repeated in different sections in the policy. The Senior Enforcement Officer stated that the information was related to the different sections and if people looked at a specific section in the policy then they would see the information more readily.

Concern was raised that there was no safeguarding in place for vulnerable people. The Senior Enforcement Officer stated that all premises were visited for inspection by the Gambling Commission and on occasion, officers from the Licensing Authority.

An error was pointed out at page 17 of the report as the phrase "preventing them from being in close proximity to gambling" was repeated and the Senior Enforcement Officer agreed to look further at this item and amend it where necessary.

RESOLVED:

- i) That the Committee receive and note Report L/12/17.**
- ii) That the Committee recommend the Gambling Policy for APPROVAL subject to the amendment on page 17 outlined above.**

The meeting closed at 10.30am

Minutes

Licensing Hearing

Venue:	Council Chamber
Date:	15 February 2013
Present:	Councillors Mrs C Mackman (Chair), Mrs S Ryder and J Thurlow.
Apologies for Absence:	None
Officers Present:	Kelly Hamblin - Senior Solicitor, Rachel Howden – Enforcement Officer, and Palbinder Mann – Democratic Services Officer
Public:	2

APPLICANT:

North Yorkshire Police Authority – Inspector Richard Abbot and PC Mick Wilkinson.

PREMISES:

Swan Public House, 1 Low Street, Sherburn-in-Elmet, Selby – Richard Taylor, Solicitor acting for Enterprise Inns Plc and Fran Painter, Enterprise Inns Plc.

REPRESENTORS:

Responsible Authorities

Licensing Authority – Tim Grogan, Senior Enforcement Officer, Selby District Council and Helen McNeil, Lead Officer, Enforcement, Selby District Council.

INTRODUCTIONS

Members and everyone present introduced themselves.

7. ELECTION OF CHAIR

Councillor Mrs Mackman was elected as Chair for the meeting.

8. APOLOGIES FOR ABSENCE

There were no apologies for absence.

9. DISCLOSURES OF INTEREST

There were no declarations of interest.

10. APPLICATION FOR A REVIEW OF PREMISES LICENCE – The Swan Public House, Sherburn-in-Elmet, Selby

The Sub-Committee considered an application from the North Yorkshire Police Authority for a review of the licence in respect of the Swan Public House, Sherburn-in-Elmet, Selby. Representations were also received subsequently from Trading Standards, Selby District Council Licensing Authority and Selby District Council Environmental Health Services as responsible authorities. Four representations were received from Interest Parties.

The Enforcement Officer presented the report. She advised that the application was for a review of a Premises Licence that sought the determination of the Licensing Sub-Committee.

The Sub-Committee heard representations from the Police and the Licensing Authority. It was explained that discussions had been held with the owners of the premises and an agreement had been reached on conditions to be imposed. The conditions were circulated to Members at the meeting and it was decided that the meeting would be adjourned to allow time for Members to read through the conditions. The meeting was adjourned at 10.20am and resumed at 10.40am.

The Solicitor for the premises owners, Enterprise Inns plc explained they ran a number of pubs across the country. Members were informed that the current premises was subject to a 20 year lease to the current Designated Premises Supervisor, Mr Michael Lavin however there was a condition in the lease that it would be released should the licence of the premises be in jeopardy. The Solicitor explained that the premises licence had now been removed from Mr Lavin and transferred to Enterprise Inns plc. The Solicitor stated that the premises owners agreed with the conditions recommended by the Police and suggested an additional condition be imposed that Mr Lavin be removed as Designated Premises Supervisor. It was also suggested that the current conditions on the licence be removed as they were out of date and difficult to enforce. The Police and Licensing Authority stated that they did not have any problem with this.

Members of the Sub-Committee and the parties present asked questions and received replies.

The Chair confirmed with all parties that they had had a fair hearing.

The members of the Sub-Committee retired together with the Democratic Services Officer and Legal Adviser to consider the application for review and the representations and proposals that had been made.

RESOLVED:

That, in view of the serious nature of the incident leading to the Review and other incidents on the premises including abusive insults, the concerns over underage customers, and noise from the premises, and evidence of mismanagement by Mr and Mrs Lavin (the previous Premises Licence Holders), the Sub-Committee resolve to:

- i) Remove Mr Michael Lavin as Designated Premises Supervisor**
- ii) Not to modify the existing conditions on the Premises Licence as they felt this required proper consideration through an application to modify the Premise Licence**
- iii) To impose the following conditions to overcome the concerns:**
 - i) Michael and Sue Lavin (the previous Premises Licence Holders) shall have no supervisory or managerial control at the venue in any capacity and shall not be employed at the venue whether for reward or otherwise.**
 - ii) Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol. For the purpose of clarity this will include all rooms, corridors and outside areas to which the public have access for licensable activities and where the public can consume alcohol.**
 - iii) It will be maintained, working and recording at all times when the premises are open.**
 - iv) The recordings should be of sufficient quality to be produced in Court or other such hearing.**
 - v) Copies of the recordings will be kept available for any Responsible Authority for 28 days.**
 - vi) Copies of the recordings will be made available to any Responsible Authority within 48hrs of request.**
 - vii) Copies of the recordings will display the correct time and date of the recording.**
 - viii) The only outside area where consumption of alcohol shall be allowed will be the rear garden area.**

- ix) The rear garden area shall be bound by a permanent fence and/or wall. (Note: planning permission may be required, and any such necessary planning permission should be obtained prior to erection).**
- x) The only access to the rear garden area shall be through the public house only. There shall be no access from Low Street or Moor Lane.**
- xi) Customers shall not be allowed to gather to either smoke, consume alcohol or congregate (other than by a formal queue to enter the premises) outside the front and side of the premises on Low Street or Moor Lane side of the venue.**
- xii) SIA Door Supervisors from a Door Company that has “Approved Contractor” status (ACS as authorised and defined by the SIA) shall be provided at the venue when licensable activities are provided after 2300hrs at a ratio of one Door Supervisor per 100 customers plus one additional Door Supervisor on the following evenings:-
 - i) Friday and Saturday evenings**
 - ii) Sunday and Monday on Bank Holiday weekends**
 - iii) any evening before a Bank Holiday**
 - iv) any evening that the venue intends to open beyond 2330hrs.****
- xiii) Standard one pint capacity, half pint capacity and “high ball tumbler” drinking glasses will be strengthened glass (tempered glassware) in design whereby in the event of breakage the glass will fragment and no sharp edges are left.**
- xiv) Customers shall not be allowed to leave the venue carrying glass vessels save to facilitate their movement from within the venue to the outside rear garden drinking area.**
- xv) Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the Premises Licence and the opening times of the venue.**
- xvi) Such training (referred to in condition 15) will be refreshed and documented every 6 months.**
- xvii) Such training records (referred to in condition 15) should be kept for at least 3 years.**
- xviii) Such training records (referred to in condition 15) will be made available for inspection upon request by any Responsible Authority.**

- xix) **An Incident Report Register will be kept. The Incident Report Register will contain consecutively numbered pages in a bound format and include the following:-**
 - i) **Full details of the SIA Door Staff when deployed as per Condition 12 above. This will include names and licence numbers of the Door Staff.**
 - ii) **Full details of the Personal Licence Holders when deployed as per condition 26 above.**
 - iii) **Details of all instances where staff have refused service to customers at the venue for any reason.**
 - iv) **Details of any incident involving crimes, anti-social behaviour, injury and ejections at the venue and will cover the following points:-**
 - a) **time/date**
 - b) **location within the venue**
 - c) **names of staff members or Door Staff involved in the incident**
 - d) **details of any Police Officer who attends the incident (the main Officer in the case will suffice should there be a number of Officers attend)**
 - e) **full details of any witnesses to the incident**
 - f) **full details/report of the incident in question**
- xx) **The above document (referred to in Condition 19) will be kept for at least 3 years.**
- xxi) **The above document (referred to in Condition 19) will be available for inspection upon request by any Responsible Authority.**
- xxii) **All OFF SALES shall be made in sealed containers save for those that are intended for consumption in the rear garden drinking area.**
- xxiii) **There shall be a personal licence holder working at the premises from 1800hrs every day save for in exceptional circumstances which must be notified to the police immediately prior to the absence.**
- xxiv) **That at no time should there be any benches or furniture of any description in the area to the front and side of premises where it abuts onto Low Street or Moor Lane.**
- xxv) **A challenge 21 Policy (minimum) should be adopted. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.**

- xxvi) **All refusals are to be recorded appropriate format, namely, a refusals log, which is to be made available to inspection at the request of the local authority, police and trading standards.**
- xxvii) **No external doors and windows to the room/s where regulated entertainment is being provided shall be open during the course of the entertainment, other than for normal access and egress.**
- xxviii) **Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises (between the hours of 2300hrs and 0700hrs) shall not be audible inside habitable rooms of noise sensitive properties in the vicinity.**
- xxix) **Prominent, clear notices shall be displayed (at all exits / in the beer garden) requesting customers and staff to respect the needs of local residents and leave the premises quietly.**
- xxx) **A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.**
- xxxi) **For 6 months from the date of re-opening an A3 sized poster with a luminous yellow background with black lettering covering the entire size of the poster stating “THESE PREMISES HAVE RECENTLY BEEN THE SUBJECT OF A LICENSING REVIEW. FURTHER ISSUES COULD RESULT IN THE PREMISES BEING CALLED TO REVIEW ON A SECOND OCCASION. PATRONS SHOULD BE MINDFUL OF THEIR BEHAVIOUR. TO BE DISPLAYED UNTIL DATE” shall be displayed within the premises.**

REASON FOR DECISION

To promote the following licensing objectives:

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

The meeting closed at 12.06pm.

Public Session

Report Reference Number: L/12/18

Agenda Item No: 5

**To: Licensing Committee
Date: 18 March 2013
Author: Kelly Hamblin
Lead Officer: Philip Devonald**

Summary:

The purpose of this report is for the Licensing Committee to determine whether to vary the terms of the Street Trader Consents issued for James Street, Selby by removing the authorisation to trade on Mondays.

Recommendations:

To determine whether to vary Street Trader Consents to remove authorisation to trade on Mondays. Options available to members are to resolve:

- a) to vary all street trader consents issued for James Street to remove authority to trade on a Monday from a set date, to be decided by the Committee;**
- b) to vary all street trader consents issued within Selby Parish to remove authority to trade on a Monday from a set date, to be decided by the Committee;**
- c) not to grant any new street trader consents for a Monday in James Street (allowing the existing trader[s] to continue operating until that trader[s] decides to stop trading and not to offer that consent to any new trader[s])**
- d) not to grant any new street trader consents for a Monday in the Parish of Selby (allowing the existing trader[s] to continue operating until that trader[s] decides to stop trading and not to offer that consent to any new trader[s])**
- e) not to vary any street trading consents in James Street or within Selby Parish, leaving all decisions to grant street trading**

consents to the appropriate delegated Officer, in accordance with current practises.

1. Introduction and background

- 1.1 On 21 October 1985 Selby District Council (“ the District Council”) resolved to adopt the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. As a consequence a number of streets within the district were designated as consent streets. A copy of the consent streets and resolution is attached as **Appendix 1**. Consent streets allowed street traders to operate in such streets provided they are authorised to do by the District Council.
- 1.2 These consent streets include the area of land at James Street (land between Morrisons and Abbey Vaults Public House) accordingly the Council authorise a number of traders to operate in this area.
- 1.3 Consents appear to have been issued for James Street since their adoption in 1985. There are currently 6 consents issued to traders to operate from James Street, however, only 5 of these are licensed to trade on a Monday.
- 1.4 On 6 September 2010 the Market Rights were transferred to the Town Council, which included a covenant that the District Council will not at any time hold any market in the parish of Selby.
- 1.5 A Market is defined as “a concourse of buyers and sellers...comprising not less than five stalls, stands, vehicles (whether movable or not)”. 5 of the 6 consents issued for James Street license the traders to operate on a Monday, of those 5 consents one is situated at the top of James Street adjacent to Wetheralls and the remaining 4 are on the land adjacent to the primary school/Morrisons. As only 4 traders are permitted to trade from the land adjacent to Morrisons the Council is not in breach of its covenant under the Market Transfer. Further, it is understood that one of the traders does not operate from James Street on a Monday as they have a stall on the Monday Market therefore there are currently only 3 traders operating in accordance with street trading consents on a Monday.
- 1.6 A meeting was held between Senior Officers of the Council, representatives from the Town Council and Town Councillors on 14 November 2012 at which the Town Council requested that the street trader consents for those operating on land adjacent to Morrisons (affecting 4 of the 5 consents) be varied to exclude trading on Mondays as they believed it creates unfair competition to the Monday Market (street trading consents being cheaper than a market licence). The Town Council advised the traders would be able to move on to the Market if there was space available and the nature of stall did not

already exist on the Market (the Town Council only permits one stall of each nature on the Market). The Town Council was advised that it would require a committee resolution to vary the consent.

1.7 By way of letter dated 21 November 2012 the Selby Town Council (“the Town Council”) requested that Selby District Council (“the District Council”) vary the terms of the existing Street Trader Consents issued by the District Council in respect of James Street (which includes the pedestrian area between the Abbey School and Morrisons) to exclude trading on Mondays. A copy of the letter is attached as appendix 2, a summary of the reasons given are set out below:

- The Town Council states that the traders operating from James Street have the benefit of capturing custom passing between some of the town centre car parks and the Monday Market. They claim that this has the effect of detracting from the Market and, with annual Consent fees being a fraction of the cost of Market stallage rates for stall holders operating in the Market, this amounts to unfair competition.
- The Town Council states that the number of Consents issued for James Street could give rise to a market (within the recognised definition) which, if it occurred, would amount to a breach of the covenants on the part of the District Council in the transfer of the Market Rights to the Town Council. Irrespective of the number of traders they feel that this amounts to a breach of the security and intention behind the transfer of the Market Rights and the covenant on the part of the District Council incorporated into that transfer.
- If street traders would wish to operate in Selby on Monday of each week, it would always be possible for them to contact the market manager to investigate the availability of space within the Market.
- The provisions of paragraph 7.6 of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 enable the District Council to vary the conditions of the existing consents to limit the trading to exclude Monday of each week as soon as possible rather than waiting for the renewal of each Consent as it occurs.
- The concerns of the Town Council and Town Councillors has not simply been prompted by the Town Council itself but at the request of stallholders who support the Market and who have expressed significant concern as to the position and tension that the issue of Consents in the vicinity of the Monday Market creates.

2. Consultation Responses

- 2.1 Following the Town Council's letter of 21 November 2012 the five traders holding a Street Trading Consent for James Street on a Monday and who would be affected by the proposed variation were consulted by letter dated 29 November 2012.
- 2.2 Of the five traders consulted four responses were received. A copy of the full consultation responses is attached as appendix 3 and a summary of the consultation responses are set out below:
- 2.2.1 One trader did not respond to the consultation.
- 2.2.2 One trader responded that whilst they have a Consent to operate on a Monday they do not use it as they pay to have a stall on the market and only have the Consent in case the Monday Market cancels for any reason.
- 2.2.3 One trader responded that they have been trading in James Street on a Monday for over 50 years and do not consider they are any competition to the Market traders and believe they attract more custom to the town. They state they only trade there six months of the year and the Council should help small businesses and not stop them trading on one of their busiest days.
- 2.2.4 One trader responded that there has been a catering van in the area including Mondays for the last 20 years without any problem and the Market flourished until the Town Council took over. They believe that the Market is failing due to the Town Council's mis management. They state that removing Monday trading would cause them hardship as Mondays and Saturdays are a source of much needed income to support them over the rest of the week.
- 2.2.5 One trader sent in copies of two articles concerning street Trading Consents in James Street together with a six page petition. The trader raised the following points in their consultation response:
- How does one stall detract from a complete market?
Different products
 - Unfair competition? Only one stall holder sells pet products. We do not specialise in the same areas.
 - Traders upset because they didn't have the initiative to do the same.
 - If you look at Doncaster or York they have umpteen street traders and pedlars, this creates bustle and atmosphere

and does not create unfair competition or detract from market

- Customers have the right to choose where to buy
- Had been trading on a Monday for sometime before being asked to stop due to Market Charter. I did not trade for 11 months the Market didn't suddenly improve it still plummeted.
- Town Council bought Market Rights and can not run business successfully.
- Street traders were stood prior to purchase
- Why does the Town Council think Selbians want the above
- Majority of customers are from Morrisons not Market
- Stress and worry due to losing a trading day is prolonged and unfair
- Monday is no busier for me than any other day
- Low income and cannot afford to lose Mondays
- Feel discriminated against
- Feels harassed by Town Council
- Town Council should be encouraging enterprise
- Brings more customers and traders to town
- Only one pet stall allowed on Market
- If lose Mondays can they be reinstated in 3 months if Market no better or 6 months when Market finished
- Most unfair competition to Market is from Wilkinsons, Home Bargains and supermarkets

3. The Report

- 3.1 The Selby Town Council has requested that all street trader consents issued for James Street be varied to exclude authorisation to trade on a Monday, a summary of the grounds is set out in paragraph 1.7.
- 3.2 Of the 5 traders who would be affected consultation responses were received from 4 traders, a summary of the consultation responses is set out in paragraph 2 of this report.
- 3.3 Should the committee resolve to vary the conditions to exclude Mondays there is nothing preventing street traders from applying for a consent to trade from another area within Selby Parish on a Monday.
- 3.4 It is a matter for the Committee whether to vary the conditions of the street trading consents issued for James Street, and whether any such variation should be extended to the whole of Selby Parish .

- 3.5 There is no right of appeal against the Committee's decision, however, it could be challenged by way of Judicial Review.

4. Legal/Financial Controls and other Policy matters

4.1 Legal Issues

The legal issues surrounding this matter are contained within the body of the report.

4.2 Financial Issues

Street Trading Consents are a fixed fee irrespective of how many days per week the Consent is issued for, therefore, there are no financial implications in connection with this report.

5. Conclusion

Councillors are asked to consider whether to agree to the Town Council request to vary Street Trader Consents to remove authorisation to trade on Mondays. Options available to members are:

- i. Resolve to vary all street trader consents issued for James street to remove authority to trade on a Monday from a set date;
- ii. Resolve to vary all street trader consents issued within Selby Parish to remove authority to trade on a Monday from a set date;
- iii. Resolve not to grant any new street trader consents for a Monday in James Street (allows the existing traders to continue but will not allow new traders)
- iv. Resolve not to grant any new street trader consents for a Monday in the Parish of Selby (allows all existing traders to continue but will not allow new traders)
- v. Resolve not to vary the street trader consents

6. Background Documents

1. Copy of all papers are available on the legal file

Contact Officer: Kelly Hamblin: khamblin@selby.gov.uk

1114 REPORT OF THE CHIEF ENVIRONMENTAL HEALTH AND HOUSING OFFICER
 CONTROL OF STREET TRADING WITHIN THE SELBY DISTRICT

The Committee considered the Report of the Chief Environmental Health and Housing Officer in respect of the proposal to control street trading within the Selby District, under the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. After discussion it was

RESOLVED: i) That after the procedure required by Schedule 4 has been followed, the District Council, by resolution, designate the following streets as consent streets:-

The A1, within the boundaries of Selby District

The A64, within the boundaries of Selby District

The A19, within the boundaries of Selby District

The A63, within the boundaries of Selby District

The A1079, within the boundaries of Selby District

The A166, within the boundaries of Selby District

Low Street, Sherburn in Elmet, plus the area of land in front of the shops in Low Street

Finkle Hill, Sherburn in Elmet

Kirkgate, Sherburn in Elmet

Moor Lane, Sherburn in Elmet

Micklegate, Selby, plus the area of land forming the Londesborough Arms Yard, the area of land adjacent to the Griffin Public House, and the area of land between the Co-operative Society Supermarket and Clark's Shoe Shop.

Gowthorpe, Selby

Market Place, Selby

Finkle Street, Selby

Water Lane, Selby

Church Hill, Selby

Church Lane, Selby

- Wren Lane, Selby
- Ousegate, Selby
- The Crescent, Selby
- Park Street, Selby
- James Street, Selby, plus the Abbey Vaults' Car Park
- Abbey Yard, Selby
- Back Park Street, Selby
- Market Lane, Selby
- New Lane, Selby
- Audus Street, Selby
- The Quay, Selby
- Millgate, Selby

ii) That the Chief Environmental Health and Housing Officer be authorised to grant consents and attach conditions to those consents, as appropriate, and that where it is recommended that an application be refused, it be referred to the Environmental Health (Licencing) Sub-Committee, for determination.

iii) That the fees to be charged in respect of consents for street trading be £500 per consent, per annum or £15 per consent for one occasion but that local registered charities be exempt from those fees.

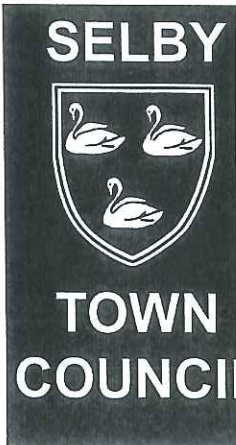
iv) That the recommendations of this Committee be drawn to the attention of the Environmental Health Committee.

Town Clerk
Ms K Mann

Direct Dial No: 01757 708449
E-Mail:

21 November 2012

Mr Jonathan Lund
Deputy Chief Executive
Selby District Council
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YO8 9FT



Selby Town Council
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Tel: 01757 708449
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Dear Jonathan

MARKET RIGHTS AND STREET TRADER CONSENTS

Following on from the meeting on 14 November 2012 and at your request made at that meeting, I write on behalf of the Town Council to request that Selby District Council takes steps to vary the term of the existing Street Trader Consents (Consents) issued by the District Council in respect of the Consent Street at James Street (which includes the pedestrian area between the Abbey School and Morrisons).

From the correspondence that has passed, it is understood that there are six Trader Consents for James Street, five of which provide consent to trade on Monday of each week. I think these numbers do not include Doubtfires which operates from the northern end of James Street near to the Market Place. Following the meeting the request for the District Council to vary the Consents would include the consent as issued to Doubtfires.

As you know, the Town Council took over the responsibility for the Monday Market in order to ensure not only the preservation of the Market but also to promote its development as part of the efforts overall to ensure that the Town Centre provides a thriving and attractive place to visit and in which to do business and which will encourage economic growth.

An unintended effect of the District Council issuing Consents in the vicinity of the Market for traders to operate on Monday of each week has been that those traders operating from James Street have the benefit of capturing custom passing between some of the Town Centre car parks and the Market itself. This has the effect of detracting from the market and, with annual Consent fees being at the fraction of the cost of Market stallage rates for stall holders operating in the Market, this amounts to unfair competition.

There is a risk that the number of Consents issued for James Street could give rise to a market (within the recognised definition) which, if it occurred, would amount to a breach of the covenants on the part of the District Council in the transfer of the Market Rights to the Town Council but whether there are six traders, or five or even four traders operating in James Street on the same day as the Monday Market this, it is felt, amounts to a breach of the security and intention behind the transfer of the Market Rights and the covenant on the part of the District Council incorporated into that transfer.

If street traders would wish to operate in Selby on Monday of each week, it would always be possible for them to contact the market manager to investigate the availability of stall space within the Market.

The provisions of paragraph 7.6 of schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 enable the District Council to vary the conditions of a Consent at any time and the Town Council would ask that such action is taken to vary the conditions of the existing Consents to limit the trading to exclude Monday of each week as soon as possible rather than waiting for the renewal of each Consent as it occurs.

At the meeting it was discussed and agreed that the misleading information which has, up until now, appeared on the District Council's website which confuses between Street Trader Licences and Consents, will be amended and the Town Council is reassured by the indication that these amendments will be made promptly.

The Town Council also notes the assurances given by you and by the District Council's solicitor that enforcement action is to be taken against the unlawful market trading which takes place in the car park at the Abbey Vaults (which itself is a Consent Street).

Please be assured that the concerns as expressed by the Town Councillors at the meeting on 14 November and in earlier correspondence has not simply been prompted by the Town Council itself but at the request of stallholders who support the Market and who have expressed significant concern as to the position and tension that the issue of Consents in the vicinity of the Monday Market creates.

It is noted that the action as requested may need to be approved by full members and it is on that basis that the Town Council asks you to act promptly and swiftly to ensure that a decision to vary the Consents as set out above can be made without delay.

I should be most grateful if you would keep me advised as to progress in connection with the variation of the street trader consents.

Yours sincerely

On behalf of The Town Council
Karen Mann, Town Clerk

30-12-12

Dear Ms K. Hamblin,

Consultation - Street Trading Consents

- * How does one stall detract from a complete market? Different products
- * Unfair Competition? Only one stall holder sells pet products. He DO NOT specialise in same areas.
- * Traders upset by my presence, are upset because they didn't have the initiative to do the same.
- * If you look at thriving markets eg. Doncaster or York. They have umpteen street traders and peddlers
- * This creates bustle and atmosphere
- * Does not create unfair competition or detract from market.
- * Customers have the right to choose where to buy.
- * And they will buy where they choose.

- * I Was happily trading on a Monday for quite sometime before was asked to stop.
- * initially was asked to stop trading because of old law/charter. (Proves this was irrelevant to myself.)
- * I did not trade for 11 months. Market didn't suddenly improve. It still plummeted.
- * Markets are not as popular as they once were. (Why I got street trading licence.)
- * Current climate (no money about)
- * extremely bad weather this year.
- * Bargains not to be had like they used to be. (Shops watch.)
- * Using 11 months trading on a Monday put me in serious financial difficulty.
- * Because Town Council bought market rights, and cannot run business successfully. Should look into other reasons. Not just one trader.
- * Street traders were stalled prior to purchase.
- * This should have been researched prior to purchase not a year or so later.
- * Ciu Bell told me she had the power to close all markets and carbooks in area if she so wished.

3/8

ironically Sat. car boot finished
brought up illegally trading on
Saturday. Which is gonna
outcost other traders and disperse
Market. (Trading in Abbey vaults)

* When ^{the} Shes removed Monday.

* next will be Saturday (already
in process)

* then every other day

* How does this help Seb

* Also why does the town ^{council} think
Serbians want the above.

* I have asked and surveyed
customers for what they want
and would like! Have the

* this is where shes/they are going
wrong

* Would put us plus others out of
work.

In these hard times?

* How can this be good for locals.

* Majority of my customers are
Moxison's customers not Market
customers. (Yes I have asked them

* The stress and worry I have had
due to losing a trading day is
prolonged and unfair.

* Monday is no busier for me than
any other day.

* Town Council say I should work
a different day. I do Mondays
(at present), Tues - V. quiet, Wed - 1

4/8

have to collect stock etc also quire
Thurs, I work at Selby James St
Fri, I work at Selby James St
Sat, I work at Selby James St
What other day can I work?

↳ I am on a very low income and cannot afford to lose Mondays.

* I have been dealt with unfairly.

* * I feel I have been discriminated against.

* Originally charter was to stop all traders within 6.6 miles.

* I was told, written to, was quoted in paper wasn't bothered about other traders just myself and Pedro's

One rule for one I said for others also.

Ⓢ I was told this was discretionary

No law or charter is discretionary

↳ This proves was being discriminated against.

* I and my husband were bullied and threatened to be removed in the street.

* This is harassment

I wrote to Town Council about both and other incidents. Nothing

↳ received a letter saying Cllr Bell was just doing her job.

ok She was not she was abusing her position. And as proven later

She was in the wrong not me.

* Cllr Bell should have gone through proper channels, finding out facts before accusing people in the streets.

* Not very respectful behaviour for a council representative.

* No never received apology for her behaviour, accusations.

or loss of 11 months of Monday trading.

* I wonder how much of Selby's Town people's money has been wasted on this petty affair.

* Would have been better using it for promoting market possibly?

* Town Council should be encouraging enterprise.

* More reason to come to town brings more customers and traders alike

* Only one per stall allowed on market (this excuse I am conflicting with Mark

Why 2 fruit + veg, 2 pies
2 butchers, 2 hats, gloves
2 shoes, 2 tools.
2 flowers, etc. etc. etc.
and unpleen clothes.

When I stood on Selby Market was 2 pers also.

* Originally down to old charter now they just sound like a petulant child

6/8

* We should all be working together

* This is my livelihood thought
licencing were backing me.

In Selby Post licencing backing me

* Selby Post backing me

* local Selbians backing.

attached - petition.

this was done in 2 days.. I know

this can be pushed if necessary.

* Town Council have to reveal any
information on freedom of information.

The Markets books will show
no downturn because of me. Like I
am sure they will show no upturn
when I was not allowed to trade
for 11 months.

Gill Bell is or salaried no
matter what with holiday pay etc.
unlike myself. not trading for 11
months - cos self employed no
hols pay.

wonder what she would do if I
took 46 days pay off her?

* When I did not (could not) stand
for 11 months there was umpteen
dipp. Per status on Monday Market
Shows couldn't make it pay when I
was NOT there.

* If I lose my Mondays can I have
them back in 3 months if market
no better or 6 months when market
finished.

7/8

* Most unfair Competition that detracts from Markets.
Wilkinsons - Sell all Market Lines.
Home Bargains - Selling things at cost
Supermarkets - all abuse.

* Can the Town Council close these on a Monday.

* again customers have the right to choose where to buy.

* I have enclosed Market Traders Magazine with article proving I am also backed by N.M.T.F. whom I am a member.

N.M.T.F. (National Market Traders' Federation)

* I believe if market was run by an enthusiastic manager. Rules equal to everybody. No matter how long traded, advertised and promoted. Trading incentives. Market would thrive better.

Some traders have 3 product lines on 1 stall. This is a loss of 2 rents or 2 new traders. Multiplied lost traders to no stalls, etc etc

* I have also decided to remain on James Street on a Saturday. Instead of Abbey Vaults. Certain traders believe I am to blame for their additional cost of a week

8/8

* I did not begin an argument with Cllr Bell, Karen ~~Bell~~^{By Mann} or the Town Council

* I stood up for my rights to earn a living. In these hard times against discrimination and harassment.

Thank you.

Yours Sincerely

P.S

~~***~~ I would just like to ask?

as street traders need a street trading licence

(Abbey vaults) Why do Saturday Market traders need a street trading licence to stand in the Abbey vaults. If Abbey vaults have a Market licence. They are Market traders.

If they need street trading licences Do;

Bank holiday Monday traders need a day street trading licence to stand bank holiday Mondays. This would also have to be purchased in advance?

Town Council will have to be notified

Nobody will win in the end we will all lose.

I do not want Monday or Saturday market to suffer.

If one does well, we all do well.

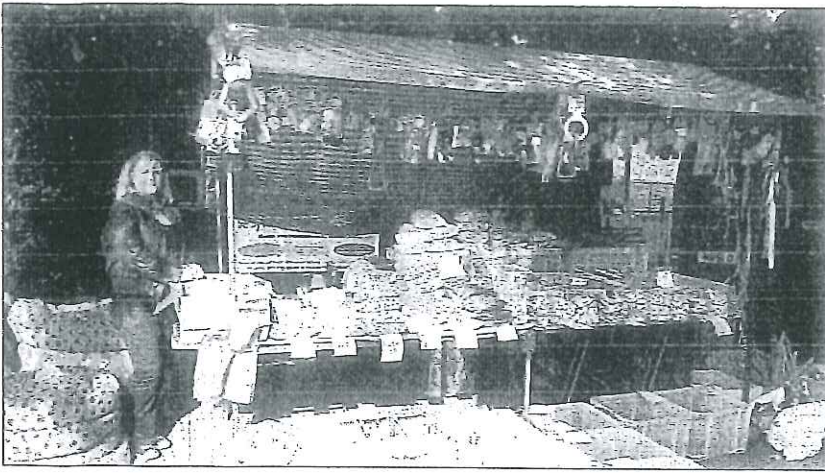
There is a charter 600+ year old States

Street trading licences were issued

because

"everybody has the right to earn a living"

* Why are they trying to take my rights away.



Street trader Nicola Firth with her stall (23-08-103 SP/KL).

Two Selby street traders have been banned from trading on a Monday after council bosses dug out a 700-year-old market charter to use against them.

Husband and wife Bob and Nicola Firth, who sell pet goods, have been trading outside the Abbey Vaults on James Street for about two years. Peter Cliff, who runs Pedro's food van next to Morrison's, has also been a regular on the patch. Both have been told they are no longer welcome because of an ancient charter which dictates that no 'market' should be within 6.6 miles of another market on the same day.

Selby Town Council says it is merely trying to protect Selby Market. But the James Street traders are aghast at the decision, claiming the charter is irrelevant as they are individual traders and not a separate market - the definition of which is five or more stalls.

Nicola has held her street traders' licence for more than 18 months. Before that she worked as a market trader for 10 years, including a spell on Selby Market. She said she was "furious" with the changes the council had made to her licence as the charter should not apply to her.

"I should not be classed as a market as I am only one stall," she said. "I use the same street traders' licence as many other stalls in the town, including Doubtfire's ice-cream van (at the junction of James Street and The Crescent), so I do not see why this should only affect me and one other stall."

"I have researched this situation thoroughly. I feel like I have been personally targeted and I am upset that I have lost my right to trade on a Monday when there are other stalls with the exact same licence as me who remain able to trade on this day."

"There are never any more than three stalls at one time near Morrison's. And there wouldn't be room for five. Therefore, we are not a market."

Nicola left Selby Market five years ago when she set up her own shop. She has since been offered another place at the market, which she

Monday ban on street traders row

turned down as she was happier with her street trader's licence.

Gill Bell, the council's market manager, believes Nicola's business conflicts with another stall selling pet goods at Selby Market on Mondays. But Nicola remains baffled by the council's decision. She added: "The charter was originally in Latin - and I would like to know how they have translated it."

Mr Cliff, who runs Pedro's food with his mother, said: "I feel really upset as this change will cost me nearly £250 a month. And there is a general outrage from my customers. It is sad because there has been a food van here since the early 1990s and that 20-year tradition has been ruined."

Selby Market was granted a Royal Market Charter by King Edward I. It protects the interests of the market traders operating on the market.

Ms Bell said: "When the previous pet stall left the town market, I offered Mrs Firth a place on the market site but she declined and now another trader has taken up the vacancy. I have since offered to put Mrs Firth on the waiting list."

"Mrs Firth may stand as a street trader on any other day of the week without affecting the market. This charter will affect other street traders who set up on a Monday and, even

though Mrs Firth is correct in saying one stall does not constitute a market, by allowing her stall we are opening ourselves up to other stalls standing with her, which would quickly become a market."

Traders that operate from the market pay much higher rents than Mrs Firth, she went on.

"Doubtfire's ice-cream van does not regularly operate on a Monday and, as there is no other ice-cream retailer on or around the market, this does not create any conflict."

The town council took over market operations last year and has since lowered rents for stall-holders in an attempt to revamp it.

updates
been
in
Selby
post
on
5 other
occasions

← NO she didn't

(v. contradictory etc)

Selby traders win Monday market battle

TWO Selby street traders have won a lengthy battle with the council after it barred them from trading on a Monday — with a little help from the NMTF.

Nicola Firth, who runs a pet stall with her husband Bob on James Street in the North Yorkshire town, and Peter Cliff, who has a catering van outside Morrison's, were shocked when Selby District Council told them they could no longer trade on Mondays.

Nicola said: "The licensing officer told us that Selby Town Council had been in touch to say that Selby's ancient market charter barred us from working on Monday which is the market charter day."

The town council, which operates the Monday and Saturday market, said they were invoking the royal charter to protect their market.

The pair agreed to cease trading on Mondays while the district council looked into the matter. But when Nicola's street trading licence was renewed she assumed



Nicola Firth

it had been settled in the traders' favour and she once again set up stall on a Monday.

"The town council then

intervened and were adamant that the charter meant we could not trade," Nicola said.

She contacted the NMTF's Field

Support Manager John Perriton who sent her the proof she needed to confirm her rights as a licensed street trader.

Controversial plans for Greenwich Market scrapped

TRADERS have welcomed news that controversial plans for historic Greenwich Market have been scrapped.

The plans included rebuilding the market and creating a 100-bed hotel above it. The scheme would have taken two years to complete and would have meant traders relocating to stalls on the Old Royal Naval College site while the work was carried out.

Now Greenwich Hospital, the naval charity landlords, have come up with a different approach involving a £10 million investment over the next decade to improve the market and the surrounding streets. The new plans include a covering for the market roof, relaying the

cobbled floor, improvements to the market entrances and new fixed seating. Work is due to start in February and will take place in two phases.

Traders have responded positively to the news. Uttama Walker from The Real Bakery Company said that plans had been hanging over the traders for a long time and they had been concerned that they would lose customers if they had had to move to a temporary location.

A spokesman for Greenwich Hospital said the recession had been a factor in the decision not to go ahead with the plans. The new investment would improve the market and the Greenwich Hospital estate.



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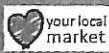


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Re; Consultation street trading

2nd December 2012

Dear Ms Hamblin,

With reference to your letter 29th nov.2012

My view is that this situation is ridiculous. As far as I can see it is a personal vendetta against a particular stall holder ,the consequence of this is we all suffer. There has been a catering van on this pitch, including mondays, for the last 20 years or so without any problems and the market flourished.until the Town council took over. Now what we have is a failing market due to the Town councils mis management and therefore using it against us. The market manager recently lost her case to try and get us evicted with an archaic market charter that she couldnt even find.

What right has the Town council got to try and stop something that is perfectly legal , bringing more variety to a dwindling public , the consequence of this would put us , my mother and I ,on the unemployment list. Mondays and Saturdays are a source of a much needed income to support us the rest of the week.

Have you also sent a letter to the numerous other street traders within a 5 mile radius of the market, there are at least two other catering vans trading within 1 mile of the town centre, also the icecream van in summer.

This is a disgusting waste of money that is coming from the pockets of Selby residents, money, time and thought could have been better spent on for instance on the Christmas market...it was a joke, no advertising , no stalls, no people.!

Selby used to be a bustling,vibrant little town and was a pleasure to shop there, now its neglected ,delapidated and depressing.This situation is going to make it worse.

Yours Sincerely,

10/42



04/12/12

Dear Ms.Hamblin,

Consultation- Street Trading Consents

I feel it would be a great shame if we were unable to trade in James Street on a Monday, as we have done so for over 50 years. We have probably been there longer than any other existing market trader at present.

I can't see that we pose any threat to anyone as non of the traders sell Ice cream infact many of them buy from us.

We also have customers who say they only come to Selby on a Monday to buy our Ice cream so in that respect we are attracting more custom to the town for everyone.

Surely the council are here to help local small businesses like myself not stop us trading on what is one of our busiest days of the week. Times are very hard for all of us.

We are only there six months of the year and I feel we are somewhat of a trade mark of the town and an asset to Selby Market causing no competition what so ever to other traders.

I would be very grateful if you would consider my views when making your decision as this would have a big effect on our business.

Thanking you in anticipation

FILE ATTENDANCE NOTE

Attendance Type: Tel. In Tel. Out Meeting File Work * (*tick)
 Other:

Date & time of attendance: <i>04/12/12</i>	Fee Earner: <i>K. Hambro</i>
Duration of attendance:	File no./Description: <i>1042</i>

Attendance with (name/s):

Details:

t/c from

- fruit & veg stall.

says have Mondays on licence but have never used it as they go on Market. Says only have it as a back up in case Market cancels on a Monday for any reason.

Sign/Initial



Date:

04/12/12



Report Reference Number: L/12/19

Agenda Item No: 6

To: Licensing Committee
Date: 18th March 2013
Author: Tim Grogan
Lead Officer: Helen McNeil

Title: Application for a Designated Public Places Order (DPPO) to Control Street Drinking in Monk Fryston Parish

Summary:

Licensing Committee is asked to consider an application submitted by Monk Fryston Parish Council to make a Designated Public Places Order (DPPO) to cover Monk Fryston Parish to control street drinking. This report seeks Committee approval to proceed to the public consultation stage after which a further report will be prepared for Committee to decide whether there is sufficient evidence to justify the making of such an order.

Local Authorities were given powers under Section 13 of the Criminal Justice and Police Act 2001 (as amended by Section 26 of the Violent Crime Reduction Act 2006) to designate an area where nuisance and annoyance to members of the public, or disorder is arising that is associated with consuming alcohol in public places.

The creation, amendment or revocation of a DPPO is not a function that can be dealt with by the Executive by virtue of the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 and is delegated to the Licensing Committee.

The prescribed procedure on how to implement a DPPO is set out in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007. This is summarised together with the subsequent enforcement powers at Appendix A.

If the Committee consider that sufficient evidence has been submitted the Local Authority has a duty to undertake a wider public consultation. Resources would be required to run the consultation process and there are also financial implications in relation to advertising of the proposals and if

approved the preparation of signs to be placed throughout the designated area.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and reasons for recommended action:

- i. **That Committee consider the evidence submitted and decide whether there are sufficient grounds that nuisance or annoyance or disorder is caused to members of the public or a section of the public which is associated with consumption of alcohol in those areas in Monk Fryston to authorise a statutory public consultation.**
- ii. **If so satisfied then the Committee authorise the Enforcement Section to carry out the required statutory consultation as prescribed by the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007 in the Monk Fryston area and then report back detailing the results of that consultation in order that Committee can consider approving the application by the granting of the DPPO.**
- iii. **Committee could decide that the evidence submitted is not sufficient to justify a consultation in the Monk Fryston area.**

1. Introduction and background

- 1.1 The Criminal Justice and Police Act 2001 introduced the power for Local Authorities to designate public places in which it becomes an offence for a person to carry on drinking alcohol when they have been requested to stop by a police officer. Powers of confiscation of alcohol (or anything which the officer believes to be alcohol) also apply to such areas.
- 1.2 Before the police can invoke these powers the Council must under Section 13 of the Criminal Justice and Public Order Act 2001, make an order (Designated Public Places Order (DPPO) that the land is a public place to which the legislation applies.
- 1.3 An order can **only** be made if the Local Authority is **satisfied that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place.** Local Authorities are required to make an assessment based on the

evidence submitted about the level of anti-social drinking and disorder before proceeding.

- 1.4 The restriction on public drinking will not apply to any premises or area covered by a licence allowing the consumption of alcohol, for example, the premises of licensed public houses, clubs or restaurants and beer gardens. Other exemptions such as festivals can be allowed through temporary event notices.
- 1.5 Furthermore there will be no restrictions upon public drinking where those drinking are not in any way concerned with nuisance, crime of disorder.

2. The Report

- 2.1 The Council have received an application from Monk Fryston Parish Council to create a DPPO for Monk Fryston. The application including police evidence is contained in Appendix B. A map showing the Monk Fryston parish boundary is marked Appendix C.

Points for Consideration

- 2.2 The introduction of a DPPO does not therefore impose a total ban on drinking alcohol in public places but does make it an offence to carry on drinking when asked to stop by a police officer. The order would therefore be used to tackle anti-social drinking.
- 2.3 The Police already have powers under the Confiscation of Alcohol (Young Persons) Act 1997 to confiscate alcohol from any person who is under 18 and dispose of that alcohol in an appropriate manner. In addition, from any person where a police officer reasonably suspects that they intend to supply a person under 18.
- 2.4 The Police also have powers under Section 6-8 of the Violent Crime Reduction Act 2006 to apply for a Drinking Banning Order in situations where an individual of at least 16 years of age has engaged in criminal or disorderly conduct while under the influence of alcohol and a court considers that such an order is necessary to protect the public.
- 2.5 Consultation with Legal Services has confirmed that from a legal perspective the key issue in reaching the decision for any DPPO is the evidence supplied, if due process is followed, and the evidence is sufficient then any decision in favour is unlikely to be challenged successfully in the Courts.

Assessment

- 2.6 The Act itself, the regulations governing the making of Orders and the associated Home Office Guidance are all written around the premise

that a local authority making a DPPO will identify and include in the Order as designated places, specific localised “trouble spots” within their area.

- 2.7 The first requirement for any proposed DPPO is evidence. The guidance clearly states that *“the evidence you will require for a DPPO is that there is an alcohol related nuisance or annoyance to the public in the proposed area/s. You should make an assessment as to the likelihood that the problem will continue unless these powers are adopted. In addition you must have the belief that the problem could be remedied by the use of these powers. Evidence should be based not just on information you obtained, but also from the police and members of the local community who have reported incidents of alcohol-related anti-social behaviour or disorder.”*

Areas to be designated

- 2.8 In order to satisfy the criteria described in sub section 13(2) specific locations are normally identified and designated. However, there is a growing trend for urban council areas to be designated in their entirety. Councils with significant rural areas currently have restricted designation to their urban areas as only the latter have been considered to be justified.
- 2.9 Designation of a wider area has the advantage of preventing displacement which is a recognised problem with small areas. As use of the powers within DPPOs is largely restricted to particular areas where there are perceived on –going problems (e.g. street drinking, young people drinking and involved in anti-social behaviour) the issue of ensuring enforcement across the whole of a large area cover by a DPPO needs to be considered but as this is seen as a “tool” has not been found to be a problem for police.
- 2.10 Parish wide DPPO’s are not specifically prohibited by the legislation however the following extract from the Home Office Guidance provides advice:
- “We would advise caution, as, in order for the DPPO to be proportionate, you need to ensure that there is evidence of alcohol related anti-social behaviour in each and every part of the borough. Any local authority considering a borough wide DPPO will need to satisfy themselves that they can justify their decision by pointing to evidence of alcohol related nuisance or annoyance in each and every part of the borough” (Guidance on Designated Public Place Orders for Local Authorities in England and Wales. (Home Office).
- 2.11 As part of the consideration it should be noted that the proportionality of a Parish-wide DPPO could be the subject of a legal challenge by an individual whereby it would be necessary for the Council to provide justification for the order. Legal Services, based on the summation that

there will be parts of the parish that have never had ASB (let alone it being alcohol related) e.g. rural areas have expressed their view that the designating of a Parish wide DPPO would seem unlikely.

- 2.12 Describing parish wide orders as not being “in the spirit of the act” and disproportionate was applicable when the legislation was first introduced and remains the case however, since that time there are now examples across the country where they are in place.
- 2.13 Recorded alcohol related crime and anti-social behaviour incidents alone cannot in themselves justify the need for a parish wide order. That being said the same has been acknowledged in areas where such orders are already in place.
- 2.14 A degree of “professional judgement” is required at this stage of the process, balancing the pros and cons of a parish wide application and Home Office caution in respect of the proportionality of parish wide orders.

Consultation

- 2.15 The Regulations specify the consultation that the Council is required to undertake. This includes consultation with the chief officer of police in order to seek the police’s view on the nature of the problem and the appropriateness of adopting the powers. It is also in recognition that it will be the police who will have the responsibility for enforcing the resulting restrictions on public drinking.
- 2.16 The Council is also required to consult with licensees of any licensed premises in “that place” and “taking reasonable steps to consult with the owners or occupiers of any land to be identified” (reg 3).

Risks and uncertainties

- 2.17 A summary of assessment is provided at Appendix D.

Conclusions

- 2.18 The Committee must be satisfied that the information submitted in the application and any additional information submitted during the hearing has established that there is an existing problem in Monk Fryston associated with the consumption of alcohol and that this causes a nuisance/annoyance or disturbance to local people, that would warrant a public consultation. The introduction of any DPPO needs to be proportionate and based upon clear evidence of alcohol related anti-social behaviour in all parts of the area to which it is applicable.
- 2.19 Once the Committee has decided the extent of the consultation areas Officers can conduct the consultation and report back the results so

that Committee may decide whether to approve the application by the granting of an Order.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

See body of the report.

3.2 Financial Issues

The resources required running the consultation process and the costs of advertising and purchase of signage if the application was approved would be absorbed within existing budgets.

4. Conclusion

That Committee consider the application.

5. Background Documents

S13 Criminal Justice & Police Act 2001
S26 Violent Crime Reduction Act 2006
Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2007
Home Office Circular 013/2007

Contact Officer: Tim Grogan - tgrogan@selby.gov.uk

Appendices:

- A Procedure and enforcement*
- B Parish Council application and police evidence*
- C Map showing Monk Fryston Parish boundary*
- D Summary of assessment*

Appendix A

DPPO Procedure & Enforcement

Regulatory Process to Establish a DPPO

Full consultation would need to be undertaken with the public and premises effected by the proposal and the results of this consultation considered prior to making a final decision on the implementation.

The process to be followed is detailed within specific regulations. The prescriptive process including:

- Consultation with;
 - The police and potential impact of a DPPO on any minority community/group
 - Licensees of any licensed premises in the proposed Designated Public Place
 - The owners or occupiers of any land identified which may be affected;
- Advertising via a legal notice in a local newspaper, identifying specifically the area the order will cover, setting out the effect of the order and inviting representation with 28 days for representations
- Following the making of the order a further notice must be placed in a local newspaper identifying the place, setting out the effect and the date of commencement
- Sufficient signs for the public to draw their attention to the place covered by the order must be displayed by the council (e.g. on lamp posts)
- A copy of the order must be sent to the Secretary of State and Police Commander for the area.

Enforcement

Under section 12, if a police constable reasonably believes that a person is, or has been, consuming alcohol in a designated public place or intends to do so, the constable may require such a person:

- Not to consume alcohol in that place
- To surrender to the Police Constable any alcohol or container for alcohol in his possession.

Failure by that person, without reasonable excuse, to comply with the Police Constable's requirement is a criminal offence.

From: @northyorkshire.pnn.police.uk]
Sent: 10 February 2013 09:35
To: Tim Grogan
Cc:
Subject: FW: Monk Fryston AEZ [NOT PROTECTIVELY MARKED]
Importance: High

Tim

Firstly up until January 2012 we only had isolated incidents in Monk Fryston and all was well with the school allowing youths to use the grounds on an evening. We did have a problem in 2011 when during the late summer youths from the area and the village camped out on the football field in Hillam causing damage to the field and generally walking around Hillam with alcohol.

However in 2012 the following happened and I shall outline the dates for you to get an idea that this is a seasonal thing centered around good weather when youths can get out on the street however here goes:

11/3/12 Youths reported as loitering around the Monk Fryston Playground area on Vicarage Lane

24/3/12 Report of 6 to 8 Youths hanging around Primary School

18/05/12 Group of 5 youths throwing bricks in Orchard Close, Monk Fryston

23/7/12 Report of youths around 6 causing disturbance around 2020hrs in Water Lane, Monk Fryston

23/07/12 Report of youths shouting at local residents for grassing them to police (see above report)

25/07/12 Report of youths at 2149hrs in Water Lane shouting and laying in the road and swearing

3/8/12 Report of group of 10 youths in Water Lane at 2048hrs who had been causing ASB all day in the location

5/8/12 Report to Police of information of large camp out in Hillam and youths to meet up at Monk Fryston. Police found organiser (local youth) via Facebook and stopped gathering.

8/8/12 Report of youths at 2133hrs in Water Lane shouting and screaming at passers by

25/8/12 Report of fight at 2152hrs in The Crescent, Monk Fryston involving five persons.

21/9/12 Report of approx 15 youths gathering on school field drinking and have had ongoing issues with broken bottles and cans on area

22/9/12 Report of concern to police of ongoing issues around Monk Fryston playground re broken bottles and cans due to gathering youths on an evening

29/9/12 Report at 2244hrs of 20 to 30 youths drinking and fight ongoing around community building and Playground area in Monk Fryston

30/09/12 Report by community member to Police of ongoing drinking issues around Community Centre where youths are arranging to meet up via Facebook

1/10/12 Report to Police of probable Facebook arrangements being made for meet up in Monk Fryston

15/10/12 Report of eggs being thrown from cars at local residents

Tim,

I have myself cleaned up the area around the playground whilst youths were there and even taken one youth home having picked him up from the floor drunk and taken him back to his parent in Burton Salmon. On this occasion the glass on the playground area was terrible.

They then frequent Hillam

I have also come across youths who are driving from Garforth and bring alcohol with them and meeting up with youths from Monk Fryston and then they sit in the school grounds obviously passing it around.

Hope this assists

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Please notify the sender if received in error. Unauthorised use or

disclosure of the content may be unlawful. Opinions

expressed in this document may not be official policy.

Thank you for your co-operation.

From:
Sent: 30 September 2012 12:05
To: Monk Fryston Parish
Subject: Fw: Facebook Crowd
Attachments: IMG_2540.JPG; IMG_2544.JPG

----- Original Message -----

From:
To:
Cc:
Sent: Sunday, September 30, 2012 11:44 AM
Subject: Facebook Crowd

Hi

Will you please put this before Tuesday's parish council meeting.

After last night's episode at the Community Centre and the school, with the crowds of young people from both villages and surrounding areas, it is evident that something will have to be done to deal with the problems raised by the "facebook gathering", Helpers spent over two hours on Sunday morning clearing cans, bottles, beer cartons and dealing with quantities of broken glass on the Centre play area, car park and school grounds.

This is the fourth time the group of young people have assembled in Monk Fryston and left the Community Association and the School to deal with the mess. The police are sympathetic but do not have the resources to stay around and keep an eye on the situation. As soon as the police arrive on the scene the crowd does a vanishing act and returns after the police have departed. There is no doubt that the mindless antisocial behaviour and vandalism is fuelled by alcohol. The police have limited powers to deal with the situation as it is not an offence to consume alcohol in public places in Monk Fryston or Hillam.

This problem has been effectively dealt with in Sherburn by the parish council passing a bylaw making Sherburn an alcohol free area where it is an offence to consume alcohol on the streets and public places. Unfortunately this has had the effect of moving the group to the Community Centre and school where there are no restrictions on the consumption of alcohol.

Attached are a couple of photos indicating the mess to be cleared up.

The purpose of this letter is to request the Parish Council to consider initiating a bylaw making Monk Fryston an alcohol free area.

Yours Sincerely

Neighbourhood Watch Coordinator
Community Association Honorary President





Tim Grogan

From: Monkfryston Parish Council Clerk [clerk@monkfrystonparishcouncil.net]

Sent: 08 October 2012 08:28

To: tim grogan

Cc:

Subject: Anti social behaviour in Monk Fryston

Attachments: DPPO Meeting.pptx

Dear Mr Grogan

Further to our recent conversation I can confirm that the initial meeting has been arranged for Tuesday 16 October 2012 at 7.30pm at the Community Centre in Monk Fryston. I have attached a copy of the notice that is being circulated notifying interested parties of the event.

The PC looks forward to receiving your address on the evening

Yours sincerely

Clerk and RFO
Monk Fryston Parish Council

Monk Fryston Parish Council Designated Public Places Order Meeting

Monk Fryston Parish Council has arranged a meeting at 7.30pm on Tuesday 16th October at the Community Centre at which the implications of a Designated Public Place Order (DPPO) in the village will be considered to curb alcohol related nuisance and annoyance in our village.

The purpose of the meeting is to explain the aims and implications of any Order and to solicit views on where any order should be applied.

Parties directly affected by the recent disorder have been invited and residents of the village will be welcomed.

The meeting will be addressed by Tim Grogan, the Senior Enforcement Officer at Selby District Council which is the authority with the power to make any designated order. NYCC Police will also be represented

Views expressed will assist the Parish Council in taking a decision to proceed or not with submitting a request for a DPPO and framing a proposal that is agreeable to affected parties prior to any submission to SDC for implementation..

From: Monk Fryston Parish
Sent: 13 November 2012 09:31
To: Tim Grogan
Cc:

Subject: Monk Fryston: DPPO

Dear Mr Grogan

I can confirm that the Parish Council agreed at the meeting on Tuesday 6th November that a DPPO should be created for the whole of the area within the parish boundary. *Minute 6 i*

Please can you therefore proceed accordingly through to implementation.

I have listed below the names and addresses of the interested parties should you need to contact them. If there are other organisations you need the details for please let me know.

Monk Fryston & Hillam Community Association,

Monk Fryston C of E Primary School, Chestnut Green, Monk Fryston, Leeds, LS25 5PN,

Monk Fryston Parochial Church Council, The Rectory, Main Street, Hillam, Leeds, LS25 5HH

The PC has also agreed to provide funding for the administration etc. Please can you tell me what expenditure will be incurred and when you are likely to need cheques etc so that I can arrange for them to be drawn accordingly.

Yours sincerely

Clerk and RFO
Monk Fryston Parish Council

Monk Fryston Parish Council

Minutes of Meeting held 6 November 2012 at the Community Centre, Old Vicarage Lane

Present: Cllrs Bill Holmes, Susan Woodhall, John Mountain, Mark Johnson, Nigel Spofforth, Philip Brook
Clerk; Philip Scott,

The Chairman Cllr Holmes opened the meeting at 7.30pm

Cllr M Johnson left the meeting at 9.04pm.

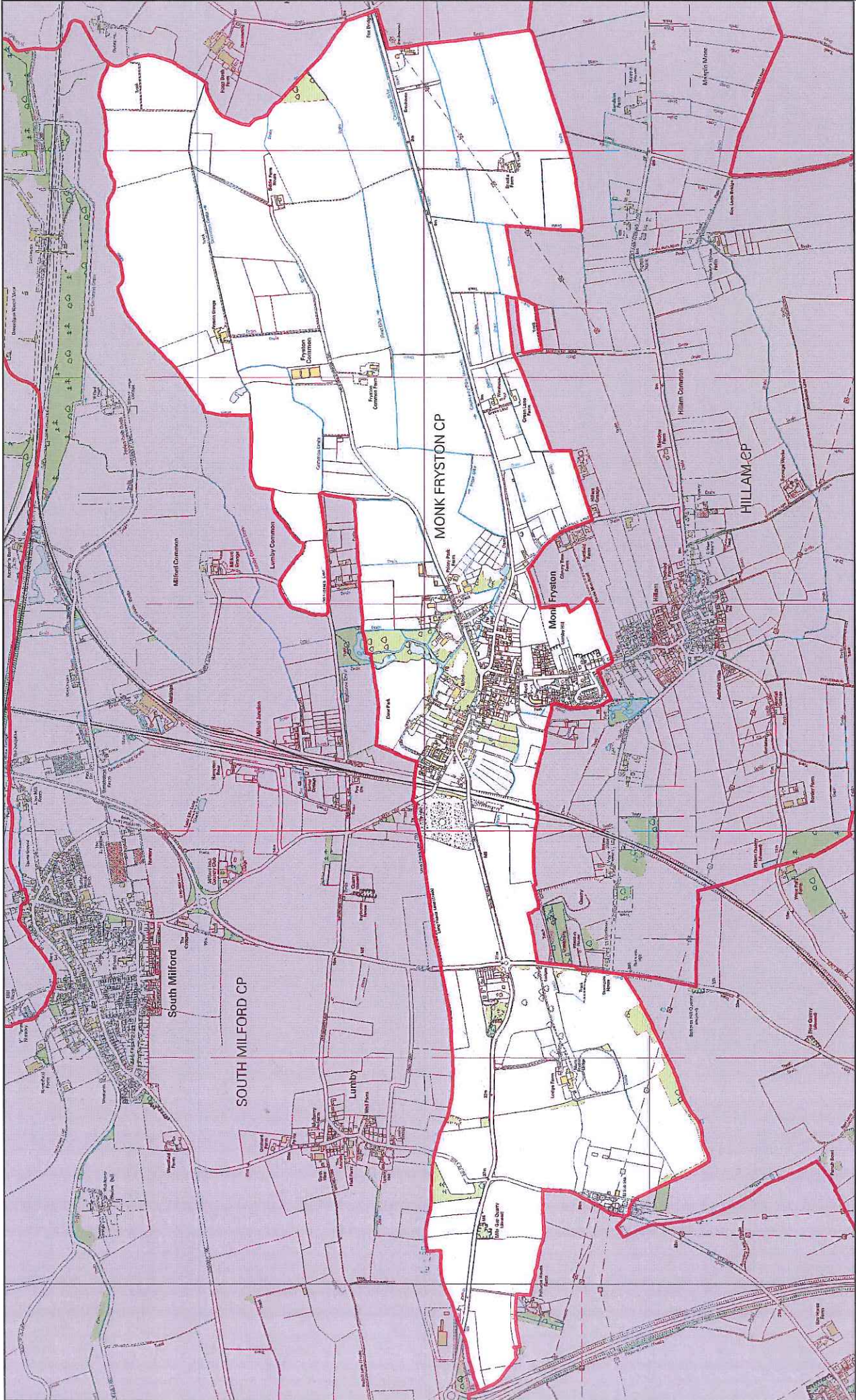
Item		Action
1	Apologies for absence; None received	
2	Declarations of interest; None declared	
3	To confirm the minutes of the meeting held on 2 nd October 2012. Agreed. Cllr BH to sign To confirm the minutes of the meeting held on 23 rd October 2012. Agreed. Cllr BH to sign	Cllr BH
4	Planning	Chair
	<p>a Consultation re erection of two detached dwellings following demolition of existing bungalow including creation of new access, The Bungalow, 8 Fryston Common Lane, Monk Fryston. Agreed no objection in principle to the proposal but concerns about a) the high water table and the effect on surrounding ditches and buildings b) the effect of foundations draining local ditches and water courses. (piled foundations should be used as elsewhere) c) the effect on surface water and foul drainage systems in the locality which are subject to overflow in high rainfall conditions d) site drainage will impact on the supporting habitat including water voles.</p> <p>b Consultation re conversion of former farm offices to residential use Siddle farm, Selby Road, Monk Fryston. Agreed no comments</p> <p>c Approval notice for application for change of use of existing public house to single dwelling and erection of a single dwelling and double garage, Blue Bell Inn, Monk Fryston. Noted</p> <p>d Notice of planning appeal decision (approval) for erection of detached dwelling and a detached single garage on land to the rear of 4 Lumby Lane, The Quarry, Lumby Lane, Monk Fryston. Noted</p> <p>e Notice of approval for 3 storey extension and internal alterations to form additional accommodation: demolition of existing garage and dormer to the rear elevation, Westgarth, Lumby Hill, Monk Fryston. Noted</p> <p>f Approval notice for application to fell an ash tree, Close House, 33 Main Street Monk Fryston. Noted</p> <p>g Appeal decision (refusal) of retrospective application for the erection of a privacy/ protection screening onto an existing wall, Peartree Cottage, 51 Main Street, Monk Fryston. Noted</p>	
5	Finances	Clerk
	<p>a Authorised payments since last meeting:</p> <ol style="list-style-type: none"> 1. Clerks SO salary payment 2. Payment for Clerks YLCA training course (£35) 	

Item		Action																						
	<p>b Current Account</p> <table border="0"> <tr> <td>Current Account as Statement to 18 October 2012</td> <td style="text-align: right;">£11236.58</td> </tr> <tr> <td>Previous Balance</td> <td style="text-align: right;">£4505.68</td> </tr> <tr> <td>Cash received</td> <td style="text-align: right;">£9073.60</td> </tr> <tr> <td>Cheques issued and cleared</td> <td style="text-align: right;">£10951.16</td> </tr> <tr> <td>Cheques not cleared</td> <td style="text-align: right;">£0.0</td> </tr> <tr> <td>Cash available when all cheques cleared</td> <td style="text-align: right;">£11236.58</td> </tr> </table> <p>c Savings Account</p> <table border="0"> <tr> <td>Savings Account balance (after July interest added)</td> <td style="text-align: right;">£3177.70</td> </tr> </table> <p>d Future Commitments / Income</p> <table border="0"> <tr> <td>Liabilities as set out in Balance Sheet schedule</td> <td style="text-align: right;">(-) £18</td> </tr> <tr> <td>Reclaimable VAT due</td> <td style="text-align: right;">(+) £1009.06</td> </tr> <tr> <td>Total Commitments (-) / Income (+)</td> <td style="text-align: right;">(+) £991.06</td> </tr> </table> <p>e Cash Book</p> <table border="0"> <tr> <td>Cash Book Balance at 28 October 2012</td> <td style="text-align: right;">£11236.58</td> </tr> </table> <p>f Current Account / Cash Book Reconciliation</p> <p>The 'Cash available when all cheques cleared' (b above) reconciles with the 'Cash Book balance when all cheques cleared' (e above)</p> <p>g Expenditure / Budget comparison</p> <p>The comparative expenditure through to the beginning of October was £10,632.50 against a forecast of £12,086.00.</p> <p>h A VAT claim has been submitted for a refund of £977.98</p> <p>i Councillors to confirm that they are satisfied that the above demonstrates that the PC is maintaining an effective system of audit and control including taking account of commitments and liabilities as required by the annual audit. Confirmed</p>	Current Account as Statement to 18 October 2012	£11236.58	Previous Balance	£4505.68	Cash received	£9073.60	Cheques issued and cleared	£10951.16	Cheques not cleared	£0.0	Cash available when all cheques cleared	£11236.58	Savings Account balance (after July interest added)	£3177.70	Liabilities as set out in Balance Sheet schedule	(-) £18	Reclaimable VAT due	(+) £1009.06	Total Commitments (-) / Income (+)	(+) £991.06	Cash Book Balance at 28 October 2012	£11236.58	
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6	Resolutions																							
	<p>a to make payments in accordance with the payments schedule .Agreed. Payment to Bill Holmes to be taken as Chairman's expense</p> <p>b to vote one co-opted councillor from the three submitted applicants. The vote to fill the vacancy was in favour of Shona McWhirter.</p> <p>c to organise and make representations to SDC for the creation of a Dedicated Public Place Order (DPPO).Proposed by Cllr BH, seconded by Cllr JM. Agreed</p> <p>d to agree that the DPPO should cover the whole of Monk Fryston parish boundary.Proposed by Cllr BH, seconded by Cllr MJ. Agreed</p> <p>e to agree to contribute a share of the cost involved in the formation of the DPPO up to a maximum of £600. Proposed by Cllr BH, seconded by Cllr MJ. Agreed</p> <p>f to consider and decide on grant applications received.</p> <p>After discussion it was agreed that grants should be awarded to the Arts Club (£250 with the tables purchased by the PC as a project), the Community Association (£126 with the sports equipment purchased by the PC as a project), the Luncheon Club (£150). The Arts club grant to be subject to confirmation that they can be stored in the Church Hall.</p> <p>Cllr BH proposed that the application by the Time Team should be put on hold subject to receipt of a clearer breakdown of timescale and expenditure. Seconded by Cllr SW. Agreed</p> <p>g to appoint Sandersons to assess the technical feasibility of installing a crossing as per the quotation received 7th June. The Clerk explained that a revised quotation dated 6 November</p>																							

Item		Action
	<p>was now to hand. Cllr MJ proposed an amendment to the resolution to include this quotation in lieu of the 7th June one and that Sandersons be appointed for the Stage 1 work only with the Stage 2 work being deferred for resolution at a future meeting. Seconded by Cllr BH. Agreed</p> <p>h to agree the terms of reference for the Planting Committee as document pc006 revision 1. Proposed by Cllr BH, seconded by Cllr PB. Agreed</p> <p>i to confirm Clerks pay scale to go from pt20 to pt21. To increase clerks hours from 20 to 24 per month. Proposed by Cllr BH, seconded by Cllr JM. Agreed</p> <p>j to relocate the litter bin on Ingthorpe Lane to Chestnut Green at the gate nearest to Water Lane. Proposed by Cllr BH. Agreed</p> <p>k to install dog litter bin on Water Lane opposite the gate to the Foundation Field. Proposed by Cllr BH. Agreed</p> <p>l to install 2 additional grit bins one at Church Lane at the 'Mount' end and one at The Crescent. Proposed by Cllr NS that this be amended to The Meadows because of its steep access onto the A63 in lieu of The Crescent. Seconded by Cllr JM. Agreed</p> <p>m Extraordinary meeting to be called on the 20th November. Proposed by Cllr BH that the purpose of the meeting should be to resolve the 2013/2014 precept and the update from the highways department on traffic calming proposals be deferred to the December meeting. Seconded by Cllr NS. Agreed.</p>	
7	Discussion Items	
	<p>a Should the PC own the website entitled 'Monk Fryston Parish Council'? The Clerk explained that there is an anomaly in that the website is not owned by the PC. It was set up by Cllr Holmes as a personal initiative and it is currently financed by him. The Clerk is of the opinion that there is an element of misrepresentation with this arrangement that should be addressed one way or the other. Discussed and agreed that this be subject to a proposal for the December meeting.</p>	
8	Updates	From
	<p>a. Burial Board. None. (Cllr BH to stand in the interim as the representative until a new member is appointed).</p> <p>b. Speed Signs Fryston Common Lane. Following lobbying by the PC and District Councillor C Mackman the proposal by NYCC that the limit should be extended to 300m beyond Priory Park Grove has been agreed by SDC</p> <p>c. A63 Traffic Calming. Proposals to be subject to a presentation by NYCC at the December meeting</p> <p>d. Aero club noise and disturbance. Nothing further despite Clerks request to the aero club for an update from</p> <p>e. A63/ Quarry land. The email correspondence from the adjoining owner about the presence of the knotweed was noted.</p> <p>f. Cost of reconnecting street light near Community Centre. Clerk to obtain CSR quote</p> <p>g. Planting Committee</p> <p>Initial meeting with residents has been held and winter plants have been planted. Terms of</p>	

Item		Action
	<p>reference for planting committee have been tabled for this meeting.</p> <p>h. Street lighting</p> <p>NYCC report received on condition. Separate PC meeting held to discuss and decide action plan for issues. Repairs and remedial works being put into place. Quote received from NYCC but still not to hand from CSR.</p> <p>* i. DPPO</p> <p>Following the Public meeting called by the council on 16/10/12 the residents who attended indicated the desire to have a DPPO introduced to cover the parish boundary. Resolution raised at this meeting for council to decide the way forward.</p>	
9	Correspondence	
	<p>a There were no aspects arising from previously circulated schedule of post received and issued since the last meeting.</p>	
10	Items For Next Meeting	All
	<p>To agree the revised Standing Orders</p> <p>Items to be with Clerk before 25 November for next meeting on 4 December</p>	

The meeting closed at 9.35pm



1:21,500

57 Monk Fyston Parish

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Appendix D

Assessment/Risk of the introduction of a Parish-wide DPPO

Pro's

In relation to ASB on which a DPPO is based:

- Provides additional powers to police (key partners in the safer Rotherham Partnership) to deal with those who persistently drink in public places and alcohol related anti-social behaviour.
- Overcomes within Parish displacement of public place drinking.
- Avoids the need for future individual DPPO applications with associated costs and potential confusion over which areas are covered
- Provides a consistent approach
- Reducing alcohol related litter
- The existence of separate orders could lead to.

Opportunity for communication

- Give a clear message about the unacceptability of anti-social behaviour
- Provides a simpler communication message with the public including expectations in terms of enforcement activity.

Links to other none ASB aspects

- Contribute to the range of actions which are being delivered to reduce alcohol misuse. Including reducing:
 - Disturbances in public places
 - Drunkenness in public places
 - Fear of crime
- Promote a sensible drinking culture within the Parish
- Improving the quality of life for residents and visitors to Parish.
- Combining tactical actions on enforcement with out reach support services.

Con's

Legal & Guidance Test

- Lack of evidence to satisfy that nuisance or annoyance to members of the public or disorder has been associated with the consumption of alcohol in that place (i.e. across the Parish)
- Home office guidance recommends a proportionate response
- A person prosecuted under the legislation could claim that a Parish wide order was not proportionate.

Reputation & Communication

- Potential negative perception and reputation of Monk Fryston via media
- There is a risk that the community will perceive the powers as a 'ban' and that this will raise an expectation that public drinking is illegal. This could have a negative impact where this was the expectation and the community did not see a response they deemed relevant.

- There is a risk that the powers may be used inappropriately, e.g. where alcohol is confiscated from those who are not causing, or are unlikely to cause, public disorder and hence lead to dissatisfaction with the police.