

Licensing/Gambling Hearing

To: Councillors Galvin, Melly and Wann

Date: Monday, 13 June 2022

Time: 10.00 am

Venue: Remote Meeting

A G E N D A

1. Chair

To elect a Member to act as Chair of the meeting.

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members are asked to declare any disclosable pecuniary interest or other registerable interest they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests.

4. Exclusion of Press and Public

To consider excluding the Press and Public during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

5. Minutes

To approve the minutes of the Licensing Hearing held on 23 May 2022.

6. The Determination of a Section 18(3)(a) Application by Tesco Stores Ltd. for a Premises Licence in respect of 45 - 49 Gillygate, York, YO31 7EA (CYC-070642)

Democratic Services officer:

Name: Fiona Young

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For more information about any of the following, please contact the Democratic Services officer responsible for servicing this meeting:

- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

City of York Council

Committee Minutes

Meeting	Licensing/Gambling Hearing
Date	23 May 2022
Present	Councillors Galvin, Hook and Melly

41. Chair

Resolved: That Cllr Melly be elected to chair the hearing.

42. Introductions

The Chair introduced the Sub-Committee Members, the Legal Adviser and the Democratic Services officer, and invited the other parties present - the Senior Licensing Officer, the Applicant (Arthur Ferraioli and Daniel Ferraioli of Clifton Hotel Ltd.), the Applicant's solicitor, Counsel for the Applicant, and the Representors – to introduce themselves.

43. Declarations of Interest

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda, if they had not already done so in advance on the Register of Interests. No interests were declared.

44. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

45. Minutes

Resolved: That the minutes of the Licensing Hearing held on 11 April 2022 be approved as a correct record, to be signed by the Chair at a later date.

46. The Determination of a Section 18(3) (a) Application by Clifton Bridge Hotel Ltd. for a Premises Licence at Clifton Bridge Hotel, 23 Water End, Clifton, York, YO30 6LL (CYC-069581)

Members considered an application by Clifton Bridge Hotel Ltd. for a premises licence in respect of Clifton Bridge Hotel, 23 Water End, Clifton, York YO30 6LL.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.
2. The papers before it, and the written representations.
3. The Senior Licensing Officer's report, and her comments at the Hearing.

The Senior Licensing Officer outlined the report and the annexes, noting that the premises were not in the cumulative impact area (CIA) and confirming that the Applicant had carried out the consultation process correctly. She noted that the Applicant's previous application had been withdrawn in October 2021, that the current application was for the sale of alcohol only, and that there had been no representations from responsible authorities. She drew attention to the representations from local residents contained in Annex 4. Finally, she advised the Sub Committee of the options open to them in determining the application.

In response to questions from the Representors, the Senior Licensing Officer confirmed that:

- It would not be appropriate for Licensing to invite the Representors from the previous (withdrawn)

application to make representations in respect of this application.

- The former licence for the premises (*circulated to all parties before the hearing*) had been granted in 2005 and included conditions carried over from the 1964 Licensing Act.
- The proposed Designated Premises Supervisor (DPS), Daniel Ferraioli, held a personal licence.
- There was no smoking area marked on the plan.
- The proposed numbers of covers for the indoor and external areas were not shown on the plan.

In response to questions from the Panel, she further confirmed that:

- The Public Protection team had received no complaints about the premises since the former licence lapsed in 2018.
- The police had sent a 'no objections' response to the application; this was presumably because they were happy with the conditions in the operating schedule.
- Consumption of alcohol on the premises was not a licensable activity.
- Although the external area was included in the application, any proposal to place a permanent bar there would require a further application.
- No off-sales had been applied for.

In response to a question asked by a Representor regarding the previous (withdrawn) application, the Senior Licensing Officer later confirmed that the previous application had included 40 covers in the external area, late night refreshment, and alcohol sales on and off the premises. It had not included a requirement to serve alcohol only with a meal.

4. The representations made by Charles Holland, Counsel, on behalf of the Applicant.

Mr Holland stated that the application was for a long-established guest house that was in the process of becoming a small hotel. He stressed that the sub-committee must consider the application before it, and not make comparisons with any previous application. He noted that the Local Authority was satisfied that the legal consultation requirements had been complied with and

drew attention to the basis of the application as set out on page 20 of the agenda papers.

Mr Holland went on to say that the restaurant would seat up to 43 people indoors and up to 20 in the external area; the operation would be food-led, with alcohol to be served only with meals, and there would be no bar. The hotel was family-run; the Director, Arthur Ferraioli, was resident on the premises and had lived there for 17 years, so had a vested interest in ensuring that it was not the source of crime or disorder. Mr Ferraioli's son, Daniel, would be the DPS. The application sought only the supply of alcohol for consumption on the premises, as defined on the plan at page 45 of the papers, including the ground floor internal and external areas, from noon to 11 pm. This would provide more control of the operation, through regulation. The effect of conditions agreed with the police (page 42, under 'D') was that alcohol sales would cease at 10:30 pm and use of the external area would cease at 9 pm. There was also a ban on external speakers. The intention was to provide drinks for people having a meal on the premises, either hotel occupants or non-occupants, if they had booked a table. It was not intended to trade as a pub or nightclub, contrary to the impression given by the suggested conditions in some of the representations. For a venue of this size, the operating schedule (pages 39-43) was very extensive, with a comprehensive suite of conditions. These included the service of alcohol only with a meal (condition 3), and conditions suggested by the police in response to the previous application, some of which went beyond the requirements of the Licensing Act. In theory drinks could be served from a mobile bar on the terrace, but this would be a breach of condition 3.

In conclusion, Mr Holland submitted that there was no attempt to 'hoodwink' the sub-committee, that the restaurant capacity as set out was very modest and that the Applicant had accepted all the conditions suggested by the police in response to the previous, more extensive, application. There were no objections from the police, who under the s.182 guidance were the main source of advice on public disorder, nor from Environmental Health (in relation to the risk of patrons falling into the river), and he did not consider that any further conditions were necessary.

In response to questions from the Representors, Mr Holland stated that:

- The Applicant's business plan was a matter of commercial confidentiality unless it impacted on the Licensing objectives.
- A food-led restaurant serving alcohol was a conventional aspiration for a hotel that had previously been licensed.
- The definition of a 'meal' had deliberately not been given in the operating schedule to avoid becoming bogged down in arguments like those that had arisen during the pandemic.
- Traffic, parking and road safety were matters for planning, not licensing.

[The Legal Adviser confirmed that these matters were not relevant to the application as the restaurant could operate without a licence].

- He did not accept that this was a 'sensitive' area, and the DPS had a lot of experience of working at the hotel.

Daniel Ferraioli confirmed that he did not have experience of operating a licensed premises.

- The Applicant's policy was not to allow smoking anywhere on the premises, including the external area.

Arthur Ferraioli confirmed that there was an area in the car park where people could smoke, with a bin for disposing of cigarettes, but it was not within the red line on the plan.

- There was no intention to play music on the premises, except for background music.
- The condition suggested by one of the Representors (condition 6, p.76) was unworkable in a hotel with numerous external doors; there was no evidence of any noise breakout in the past and no representations from Environmental Health.
- The Applicant had no intention of putting on live music and the licence would be liable to review if he did.
- *In response to a question about how stag and hen parties would be excluded, Arthur Ferraioli stated that there would be security on the gate preventing large groups from entering, that it was a family*

oriented venture, and that a pre-booking system would be in place.

- The outside area by the front door was within the red line on the plan, but the Applicant did not want customers dining there - the intended dining area was marked on the plan.

Arthur Ferraioli confirmed that the front area was a garden.

- Although there was nothing to prevent people congregating around the front door, on a commonsense basis this was unlikely to be a frequent occurrence.
- In terms of consultation with local residents, the Applicant had complied with the legal requirements.

In response to questions from the Sub-Committee, Mr Holland stated that:

- The Applicant was unaware of the incidents of disorder mentioned by the Representatives; vulnerable people placed in the hotel for short-term accommodation sometimes arrived by police car, and this may have given the wrong impression.

Arthur Ferraioli confirmed that there had been no problems or incidents needing police attendance in 17 years; sometimes the police might attend in the course of their routine enquiries, but he could not prevent that.

- *In response to a question about seating in the 'smoking area' in the car park, Arthur Ferraioli confirmed that this was a free-standing garden trellis with 2 seats and could be removed if the neighbour so requested.*
- He was not sure why the ground floor bedrooms had been included in the application plan; there was no intention to supply alcohol in the bedrooms.
The Applicant's solicitor, Meghan Waldron, confirmed that the bedrooms could be excluded from the application.
- Whether it was appropriate to add further conditions (no vertical drinking outside, table service only outside, a cap on the number of covers) was a matter for the sub-committee.
- He had no instructions to accept any further conditions and did not feel any more were necessary to promote the Licensing objectives.

5. The representations made by Cllr Myers, Ward Member for Clifton, on behalf of Representors, including his fellow Ward Member, Cllr Wells.

Cllr Myers stated that he and Cllr Wells had received a large number of objections to the application from local residents and the wider community, based on the prevention of crime and public nuisance. From their work with residents, they were aware that noise and disturbance were already a problem in the area, including in recent years, and were concerned that this would worsen with the granting of the licence. There had been incidents, including fights, resulting in police involvement, and it was regrettable that the police were not present at the hearing. There was limited parking in the area, which was a Respark zone, and public safety along the riverside was also a serious concern. There was an anomaly in the application in relation to meals – how long could a meal last, and what was the definition of ‘meal’? The Applicant had offered no conditions in relation to this aspect, just an expression of goodwill.

Cllr Myers went on to say that, overall, residents felt that the application was inappropriate for the area. He understood that the hotel had advertised for stag and hen parties to make bookings. The council had focused on addressing the issue of stag and hen parties in the city centre but had not applied the same rigour to areas outside the centre. Residents were not taking an anti-business approach, but there was a lack of specific detail on issues including meals and smoking, and the Applicant had failed to engage with the community and allay their fears. Residents felt there were risks that crime in this quiet residential area would increase. For those reasons, the sub-committee should reject the application.

In response to questions from the Sub-Committee, Cllr Myers stated that:

- He accepted it was possible that an appeal to the magistrates’ court would succeed should the application be refused, but he believed there was a robust case in defence of the residents’ approach.

- He could not confirm whether parking restrictions in the vicinity were lifted at 6pm; there were various bays with different operating hours.
6. The representations made by Sandra Branigan, in a personal capacity, on behalf of one of the Representors.

Ms Branigan stated that, regarding the licence conditions, the test was what was appropriate to prevent public nuisance. The Applicant's intentions as set out in the operating schedule could be converted into precise, enforceable conditions. The prevention of vertical drinking was a standard condition and any questions regarding enforceability could be put to the Licensing officer. She confirmed that her representations related to public nuisance, the application being for an indoor and outdoor food and drink operation in a quiet residential street with no other licensed premises. She was not surprised that there were no objections from Public Protection, as their focus was on statutory noise nuisance. She was concerned that the Applicant had made no attempt to engage with residents, although they must be aware of the strong objections from those who would be close neighbours of the operation. The Applicant had demonstrated no real intention to be a good neighbour. She was very concerned that no risk assessment had been undertaken in relation to the smoking area, which was not part of the 'red line' area on the plan and therefore could not be subject to control. A number of people could be congregating, talking and smoking in the area, and in a quiet road even 2 people would sound like 20.

Ms Branigan went on to say that the relevant consideration for the sub-committee was the promotion of the Licensing objectives, including the prevention of public nuisance, and not commercial interests. There would inevitably be noise associated with the proposed use – loud voices, people coming and going, pick-ups and drop-offs, stag and hen parties, people loitering, doors slamming etc. There was a real likelihood that this would reduce the amenity and affect the environment of residents in this location. There would therefore be a material and negative effect upon residents. The operating schedule at page 39 of the papers was rather

vague, with nothing to prevent vertical drinking or noise and nothing to monitor the situation outside. Litter collection should be daily; the expression 'food-led' was very vague, and there was nothing to prevent having a bar outside. The external decked area was very large – it could easily accommodate the 40 covers requested in the previous application, and there was nothing to restrict numbers to 20. The schedule was not robust, and it would be appropriate to convert it into robust and precise conditions.

In response to questions from the Sub-Committee, Ms Branigan stated that:

- She did not consider that any conditions could be imposed that would prevent nuisance in this location; there would inevitably be noise, nuisance and reduction in residential amenity, and this was an inappropriate location for licensed premises.
- The license would result in additional noise and footfall because people would be attracted due to the service of alcohol, the premises advertised for stag/hen parties and took pre-bookings for meals, and when people drank they talked more loudly and congregated in groups.
- It was usual for external areas to be closed to customers after 9pm, rather than as indicated in the operating schedule (*under heading 'D'*).

The Representors and the Applicant were each then given the opportunity to sum up.

Cllr Myers summed up, re-iterating the points made in his representations and stating that the evidence had become stronger as the hearing went on, and that he hoped this was clear to the sub-committee.

Ms Branigan summed up, stating that the sub-committee had heard that the DPS had no experience of running licensed premises, let alone in a sensitive area. There had been no attempt to engage with residents before submitting the application, which raised concerns about the Applicant's general approach and whether they would be a considerate neighbour. There had been no risk assessment regarding the smoking area and the character of the location had not been considered. The proposal to

operate until 11pm on 7 days per week would create unacceptable noise problems and reduce the amenity of those living in close proximity, which was a public nuisance under the Housing Act. Residents in the area had an expectation of quiet enjoyment – this was not a city centre location or an area like Bishopthorpe Road, and there were no other commercial properties in the vicinity. Promoting the interests of the local community was a relevant consideration and she did not consider it possible to impose conditions that would prevent noise nuisance in this location.

Mr Holland summed up for the Applicant, stating that this was a long established hotel which had been trading under the Applicant for nearly 20 years and had a long history of being licensed. Those objecting were treating the application as if it were a completely novel suggestion, when the intention was to restore what had previously existed for many years. There were no objections from the police, and the Applicant was the only person with any personal experience who had spoken at the hearing. No dates or descriptions had been provided of any adverse events, therefore the sub-committee should infer that there was no evidence of crime, disorder or public nuisance. There were no objections from Environmental Health. River safety was a very serious issue but not a matter to be dealt with by excluding the Applicant. The objections at the hearing had been made through a catastrophic lens and residents' fears had been 'hyped up'. It was unreasonable to suggest that a 14-bedroomed hotel seeking to offer what it used to in the past would be the cause of nuisance in the style of a nightclub and be a risk to public safety. The legal test was what would be reasonably appropriate in the area. The matter could be brought back to the sub-committee under review. With regard to conditions, whatever the Applicant offered would not be enough. The recent pandemic had shown the unreality of trying to define what a 'meal' was. The Applicant had accepted the police suggestions and the conditions offered had gone far enough.

Members of the Sub-Committee sought and received clarification from the parties on a number of points, as follows:

- Mr Holland confirmed that the Applicant would be happy for the ground floor bedrooms to be excluded from the licence, but he did not wish to submit a revised plan.
- Mr Holland confirmed that there was nothing in law to prevent the hotel to continue operating a restaurant without a licence, taking bookings from members of the public as well as from hotel guests.
- The Senior Licensing Officer confirmed that Public Protection were aware that the hotel was used to accommodate vulnerable people and had made no representations.
- Ms Waldron confirmed that Arthur Ferraioli would monitor the external area in conjunction with his manager and staff, and there would be clear signage; Mr Ferraioli clarified that the area would be locked off after 9 pm.
- The Representors clarified that residents' concerns did not relate to any specific day of the week, but to the constant noise of the operation and its effects on resident amenity.
- Mr Holland confirmed that the operation would be food-led and alcohol would be served with a meal; he did not consider 'hair splitting' in terms of defining a meal to be appropriate at this stage.
- Ms Waldron clarified that the hotel currently served breakfast, lunch and dinner.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

- Option 1: Grant the licence in the terms applied for. This option was **rejected**.
- Option 2: Grant the licence with modified/additional conditions imposed by the sub-committee. This option was **approved**.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was **rejected**.

Option 4: Refuse to specify a person on the licence as premises supervisor. This option was **rejected**.

Option 5: Reject the application. This option was **rejected**.

Resolved: That Option 2 be approved and that the licence be granted with modified and additional conditions, as set out below:

Activity	Timings
Supply of alcohol – on the premises	Monday to Sunday 12:00 – 23:00
Opening hours	Monday to Sunday 12:00 – 23:00

The modified conditions are as follows (*amendments in italics*):

1. The PLH/DPS will prominently display notices which inform customers that open bottles or glasses may not be taken off the premises, *or into the car park*.
2. Appropriate background checks on all potential staff will be carried out before offering them employment. The Licensee will report any child related concerns to the police *they have* about potential staff, existing staff and customers.

The additional conditions are as follows:

1. The sale of alcohol shall only be by waiter/waitress service to seated customers.
2. No more than 43 covers to be provided inside the premises for customers dining, and no more than 20 covers to be provided outside the premises for customers dining.

No conditions have been removed from the operating schedule submitted by the Applicant.

Reasons:

- (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council's own Statement of Licensing Policy.
- (ii) The Sub-Committee notes that the premises is not located within the Council's cumulative impact assessment area (CIA), and that there were no objections to the application from either North Yorkshire Police, or the Council's Public Protection Team.
- (iii) The Sub-Committee has considered very carefully the representations of the Applicant, both those contained within the papers and those made in person on his behalf by Mr Holland at the hearing, and gives great weight to the business operation as described, the period of time the Applicant has been resident at the premises, the period of time the applicant has been operating a guest house in that location, the size of the premises, the limiting of the application to on sales, the consultation which has taken place with the North Yorkshire Police regards the conditions set out in the operating schedule, the hours of operation both indoors and outdoors, the lack of external speakers, their intention to serve alcohol only to patrons dining at the premises, their proposed use of the outside areas, and the use of the guest house as short-term accommodation for some vulnerable persons resulted in occasional police attendance to assist these guests and / or as part of routine police enquiries.
- (iv) The Sub-Committee has considered very carefully the representations of Cllr Myers on behalf of his Ward Members, both those contained within the papers and those made in person at the hearing, in particular that they were concerned there would be an increase in noise and disturbance in the area, there were concerns around public safety issues and the river and the lack of engagement with the neighbouring properties.

(v) The Sub-Committee has considered very carefully the representations of Ms Branigan on behalf of Representor 10 in the papers, both those contained within the papers and those made in person at the hearing, in particular that the operating schedule needed to be more precise, with additional restrictive conditions such as a restriction on the number of diners in the indoor and outdoor areas, the lack of engagement with the local residents, lack of risk assessment regards the smoking area, the increased noise such as voices, car doors and traffic to / from the premises, its greater impact in a quiet area, and the effect on the local residents.

(vi) The Sub-Committee has noted the written representations by those persons who did not attend the hearing or instruct another to speak on their behalf, (Agenda Annex 4.

(vii) The Sub-Committee notes that there is no evidence either contained within the papers or from the representations made in person at the hearing that there have been incidents of violence and / or disorder resulting in police involvement either at / in the vicinity of the premises.

(viii) The Sub-Committee are satisfied from the information contained in the papers and the representations at the hearing that, with the two modified conditions and two additional conditions set out above, the premises will operate without undermining the licensing objectives.

(ix) The Sub-Committee therefore agree to grant the licence with the modified, additional and mandatory conditions referred to above which are appropriate and proportionate in the circumstances to promote the licensing objectives.

Cllr R Melly, Chair

[The meeting started at 10.05 am and finished at 1.12 pm].



Licensing Act 2003 Sub Committee**13 June 2022**

Report of the Director of Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for Tesco, 45 – 49 Gillygate, York, YO31 7EA**Summary**

1. This report seeks Members' determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC - 070642
3. Name of applicant: Tesco Stores Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a new Tesco Store at 45 – 49 Gillygate:

Proposed Activity	Timings
Supply of Alcohol – on the premises	Mon – Sun 06:00 – 00:00
Opening hours	Mon – Sun 06:00 – 00:00

Background

6. A copy of the application can be found at Annex 1, including a plan(s) of the premises.
7. The premises is described in the application as a retail premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises.
9. This premises is currently licensed and ran as a fish and chip restaurant licensed for the sale of alcohol for consumption on the

premises and ancillary to a table meal. The licence was suspended in March 2022 due to non-payment of the required annual fee. The new operator has advised they do not wish to transfer the current licence.

Promotion of Licensing Objectives

10. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

11. General

- Tesco is a large national operator with a range of head office and local support. The company has devised policies, procedures, systems and training to ensure that they sell alcohol in a responsible manner.
- There is a detailed programme which ensures that comprehensive training is provided to employees having regard to their role and the responsibilities and such training is regularly reviewed, and records kept.

12. The Prevention of Crime and Disorder

- We will have a digital CCTV system that covers the premises, including the main area which will be used for display of alcohol. Images will be retained for 31 days.
- A member of the management team will be on the premises all the times the store is open. This colleague will have responsibility for the premises and will be the initial point of contact for any issues that may arise.

13. Public Safety

- The premises licence holder is fully aware of its responsibilities under a range of health and safety related legislation and has policies and procedures in place to be confident of complying with the relevant obligations which arise.

14. The Prevention of Public Nuisance

- The company has a “good neighbour” ethos which seeks to ensure that the premises plays an active part in the local community

15. The Protection of Children from Harm

- The premises will operate a Think 25 policy. The checkouts will be programmed to prompt the customer assistant when an alcohol product is scanned at the checkout to follow the Think 25 policy.
- All colleagues will receive training in relation to the underlying law and Tesco policy, systems, and procedures. This training will be documented, and refresher training will be provided on a regular basis.

Special Policy Consideration

16. This premises is not located within the cumulative impact area.

Consultation

17. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
18. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

19. North Yorkshire Police made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule and have added several conditions. The agreed conditions can be found at Annex 2. Therefore North Yorkshire Police have withdrawn their representation.

Summary of Representations made by Other Parties

20. There have been 2 relevant representations received from other persons. The list of representors is attached at Annex 3.
21. The representations are predominantly based on the grounds of the prevention of crime and disorder, and prevention of public nuisance

objectives. They state that these objectives will be undermined if the application is granted.

22. A copy of all the representations are attached at Annex 4.
23. A map showing the general area around the venue is attached at Annex 5.
24. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at Annex 6. The Legislation and Policy considerations can be found at Annex 7.

Options

25. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
26. Option 1: Grant the licence in the terms applied for.
27. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
28. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
29. Option 4: Refuse to specify a person on the licence as premises supervisor.
30. Option 5: Reject the application.

Analysis

31. The following could be the result of any decision made this Sub Committee:-
32. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
33. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 4: This decision could be appealed at Magistrates Court by the applicant.

36. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

37. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
38. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

39.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

40. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They

are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.

41. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

42. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

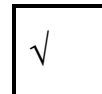
Lesley Cooke
Licensing Manager

Chief Officer Responsible for the report:

James Gilchrist
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report
Approved**



**Date
13.05.22**

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form, plans & operating schedule
- Annex 2** - Agreed conditions with North Yorkshire Police
- Annex 3** - List of other persons (CONFIDENTIAL)
- Annex 4** - Other persons representations
- Annex 5** - Map
- Annex 6** - Mandatory conditions
- Annex 7** - Legislation and policy considerations

Application for a premises licence to be granted under the Licensing Act 2003**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Tesco Stores Limited

(Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
45-49 Gillygate, York YO31 7EA			
Post town	York	Postcode	YO31 7EA
Telephone number at premises (if any)		01707 940740	
Non-domestic rateable value of premises		£42,500.00 https://www.tax.service.gov.uk/business-rates-find/valuations/19161794000	

Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- | | | |
|--|-------------------------------------|-----------------------------|
| a) an individual or individuals * | <input type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i as a limited company/limited liability partnership | <input checked="" type="checkbox"/> | please complete section (B) |
| ii as a partnership (other than limited liability) | <input type="checkbox"/> | please complete section (B) |
| iii as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |
| c) a recognised club | <input type="checkbox"/> | please complete section (B) |
| d) a charity | <input type="checkbox"/> | please complete section (B) |

- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒

I am making the application pursuant to a

statutory function or ☐

a function discharged by virtue of Her Majesty's prerogative ☐

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth		I am 18 years old or over <input type="checkbox"/> Please tick yes			
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth			I am 18 years old or over <input type="checkbox"/> Please tick yes		
Nationality					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name Tesco Stores Limited
Address Tesco House Shire Park Kestrel Way Welwyn Garden City Hertfordshire AL7 1GA
Registered number (where applicable) 00519500

Description of applicant (for example, partnership, company, unincorporated association etc.) Private Limited Company
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please give a general description of the premises (please read guidance note 1)

Retail premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises. Sales of alcohol for consumption off the premises are made from the supermarket sales floor as shown on the enclosed plan.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N/A

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- | | |
|---|--------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I)



Supply of alcohol (if ticking yes, fill in box J)



In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Wed			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Thur					
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue					
			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 5)		
Wed					
Thur					
			<u>Non-standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			
Thur			
Fri			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon					
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
Day	Start	Finish			Both <input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
Day	Start	Finish			Both <input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 4)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5)		
Fri					
Sat			<u>Nonstandard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sun					

I

Late-night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 4)		
Mon	23:00	00:00			
Tue	23:00	00:00			
			<u>State any seasonal variations for the provision of late-night refreshment</u> (please read guidance note 5)		
Wed	23:00	00:00			
Thur	23:00	00:00			
			<u>Non-standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 6)		
Fri	23:00	00:00			
Sat	23:00	00:00			
Sun	23:00	00:00			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	06:00	00:00			
Tue	06:00	00:00			
Wed	06:00	00:00			
Thur	06:00	00:00	Nonstandard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)		
Fri	06:00	00:00			
Sat	06:00	00:00			
Sun	06:00	00:00			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name Mr. Steven Nicholas Andrzejuk	
Date of birth _____	
Address 	
Postcode	_____
Personal licence number (if known) NHPER/1869	
Issuing licensing authority (if known) North Herts District Council	

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

We have no applicable activities intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children.

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			<u>State any seasonal variations</u> (please read guidance note 5)
Day	Start	Finish	<u>Nonstandard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 6)
Mon	06:00	00:00	
Tue	06:00	00:00	
Wed	06:00	00:00	
Thur	06:00	00:00	
Fri	06:00	00:00	
Sat	06:00	00:00	
Sun	06:00	00:00	

M

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)

Tesco is a large national operator with a range of head office and local support. The company has devised policies, procedures, systems and training to ensure that they sell alcohol in a responsible manner.

There is a detailed programme which ensures that comprehensive training is provided to employees having regard to their role and the responsibilities and such training is regularly reviewed, and records kept.

b) The prevention of crime and disorder

We will have a digital CCTV system that covers the premises, including the main area which will be used for display of alcohol. Images will be retained for 31 days.

A member of the management team will be on the premises all the times the store is open. This colleague will have responsibility for the premises and will be the initial point of contact for any issues that may arise.

c) Public safety

The premises licence holder is fully aware of its responsibilities under a range of health and safety related legislation and has policies and procedures in place to be confident of complying with the relevant obligations which arise.

d) The prevention of public nuisance

The company has a "good neighbour" ethos which seeks to ensure that the premises plays an active part in the local community.

e) The protection of children from harm

The premises will operate a Think 25 policy. The checkouts will be programmed to prompt the customer assistant when an alcohol product is scanned at the checkout to follow the Think 25 policy.

All colleagues will receive training in relation to the underlying law and Tesco policy, systems, and procedures. This training will be documented, and refresher training will be provided on a regular basis.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. ☒
- I have enclosed the plan of the premises. ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☒
- I understand that I must now advertise my application. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15). ☐


IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Declaration	<ul style="list-style-type: none"> • [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). • The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or
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	her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	
Date	14/04/2022
Capacity	Hardish Purewal – Licensing Manager

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Tesco Licensing Team, 5 Falcon Way (Maldon), Shire Park			
Post town	Welwyn Garden City	Postcode	AL7 1TW
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

- any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
- 3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
- 4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
- 5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
- 6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
- 7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
- 8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
- 9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
- 10. Please list here steps you will take to promote all four licensing objectives together.
- 11. The application form must be signed.
- 12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
- 13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
- 14. This is the address which we shall use to correspond with you about this application.
- 15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the

person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
 - evidence of the applicant's own identity – such as a passport,
 - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
 - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:

- (i) working e.g. employment contract, wage slips, letter from the employer,
- (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
- (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
- (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

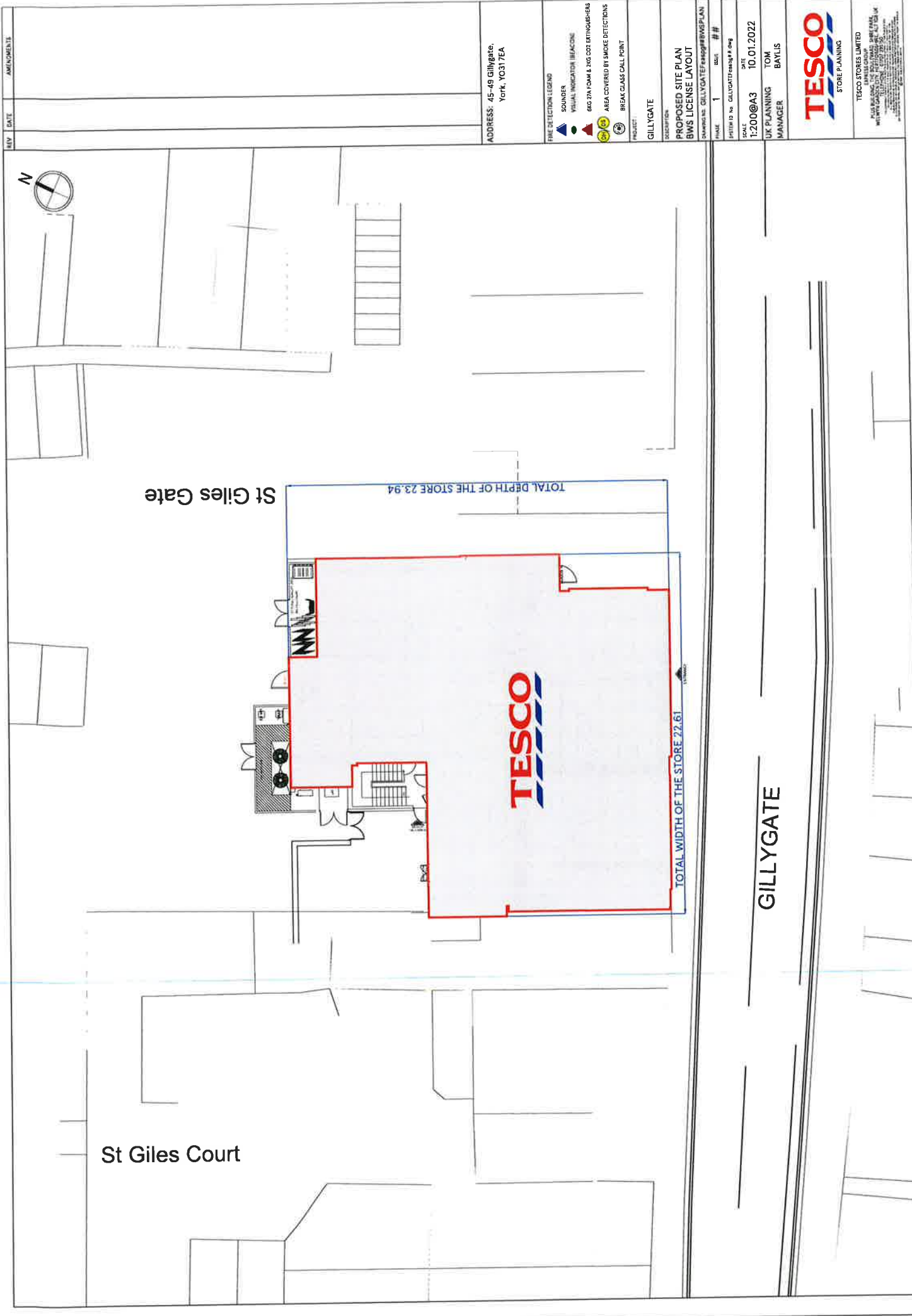
Home Office online right to work checking service

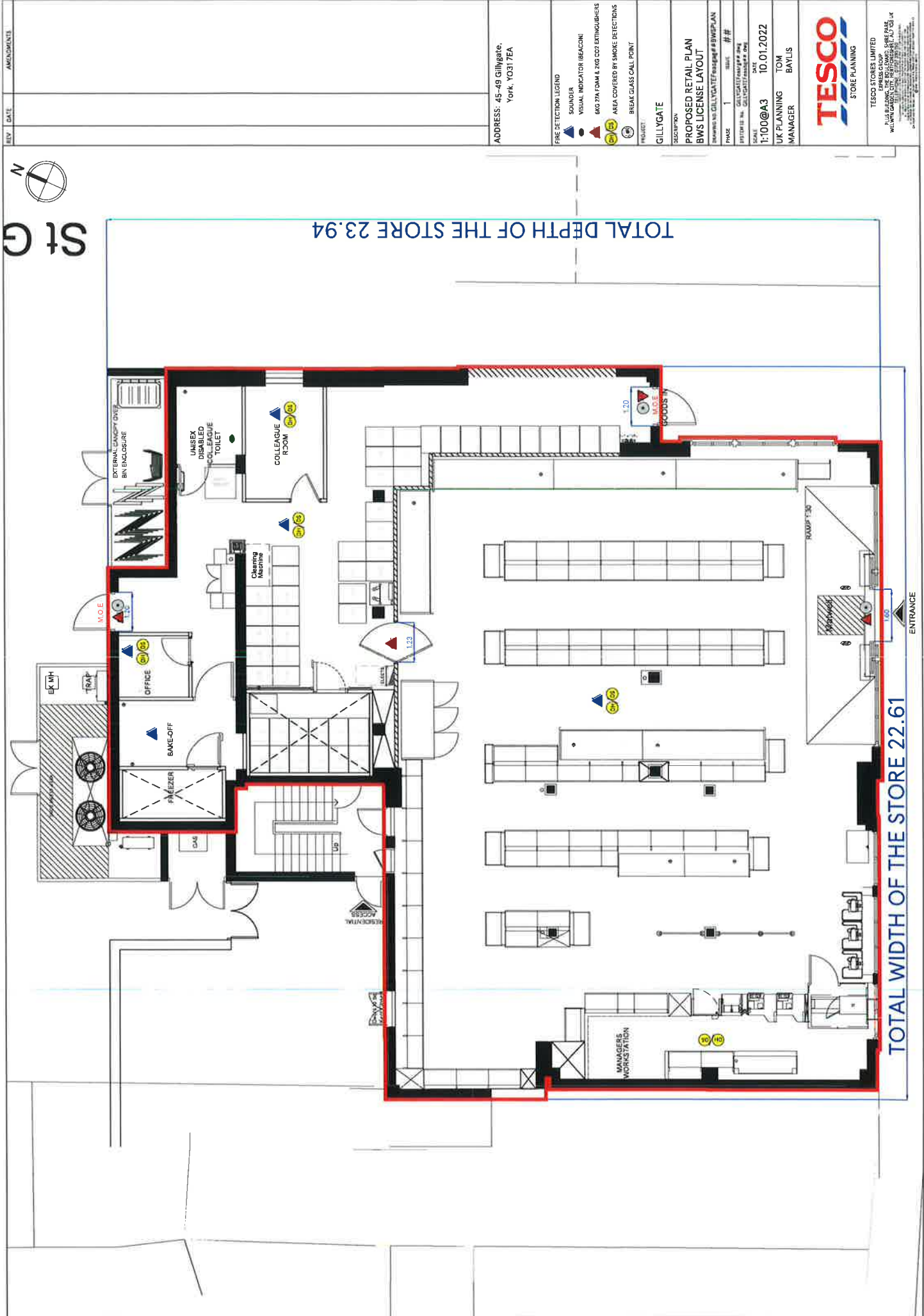
As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.





ANNEX 2

Additional condition agreed with North Yorkshire Police

1. There shall be no sale of single cans of beer, lager or cider from the premises and no sales of single bottles of beer, lager or cider in vessels of less than 500ml with the exception of premium or craft products.

2. There will be no display of alcohol within 5 metres of the store entrance.

3. The Premises Licence Holder or designated premises supervisor is responsible for risk assessing the need for door staff at the Premises. Where, engaged, door staff shall be licensed by the Security Industry Authority.

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Sefton, Helen

From: Gillygate
Sent: 11 May 2022 14:06
To: licensing@york.gov.uk
Subject: New Premises Licence Tesco Stores Ltd 45-49 Gillygate, York

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

I am writing to express concern about the proposed opening hours particularly those for the sale of alcohol and late night refreshment at these premises.

I live directly opposite and my bedrooms overlook the street side. I am concerned about the disturbance having a late night supermarket opposite will create.

Gillygate is a residential street with houses and flats in front of, behind and next to the premises. There is no CCTV on the street and there have been drink and drug related incidents in the area. A shop selling alcohol late into the night will do nothing to improve the situation.

If the store is allowed to sell alcohol late into the evening it is likely to attract late night drinkers including students from York St John University and the residents of the Ark Light Hostel and the numerous stag and hen parties which are now prevalent in York.

The Coop in Clarence Street is open until 10am and the opening hours for Tesco should be no later than this.

Thank you.

C.
Gillygate
York

Tel: '

Sent from Samsung Mobile on O2

Sefton, Helen

From: [REDACTED]
Sent: 10 May 2022 15:55
To: licensing@york.gov.uk
Subject: OBJECTION to the Application for New Premises Licence: Tesco, Gillygate. YO31 7EA

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

We wish to object to a particular aspect of the application for a new premises licence as requested by Tesco Stores Ltd for the premises they are about to open on Gillygate, York YO31 7EA.

Like many properties in Portland Street and on Gillygate, our house is close to the proposed Tesco Store: over 200 people have their homes within 100m of the site.

Gillygate is not a quiet street at night and a lot of noise comes from revellers returning from an evening spent in the city centre. The state of the pavements in Gillygate bear witness to this the morning after, with litter, vomit, urine and sometimes considerable damage to premises, all caused by people unable to control their drinking.

We also have the ongoing problem of the disadvantaged alcoholics staying at 'Changing Lives' in Clarence Street, who can be seen in the area begging for money to buy alcohol which they then drink in public spaces within our vicinity. Public order issues occur with them on a regular basis (despite parts of the area being flagged up as no-alcohol zones).

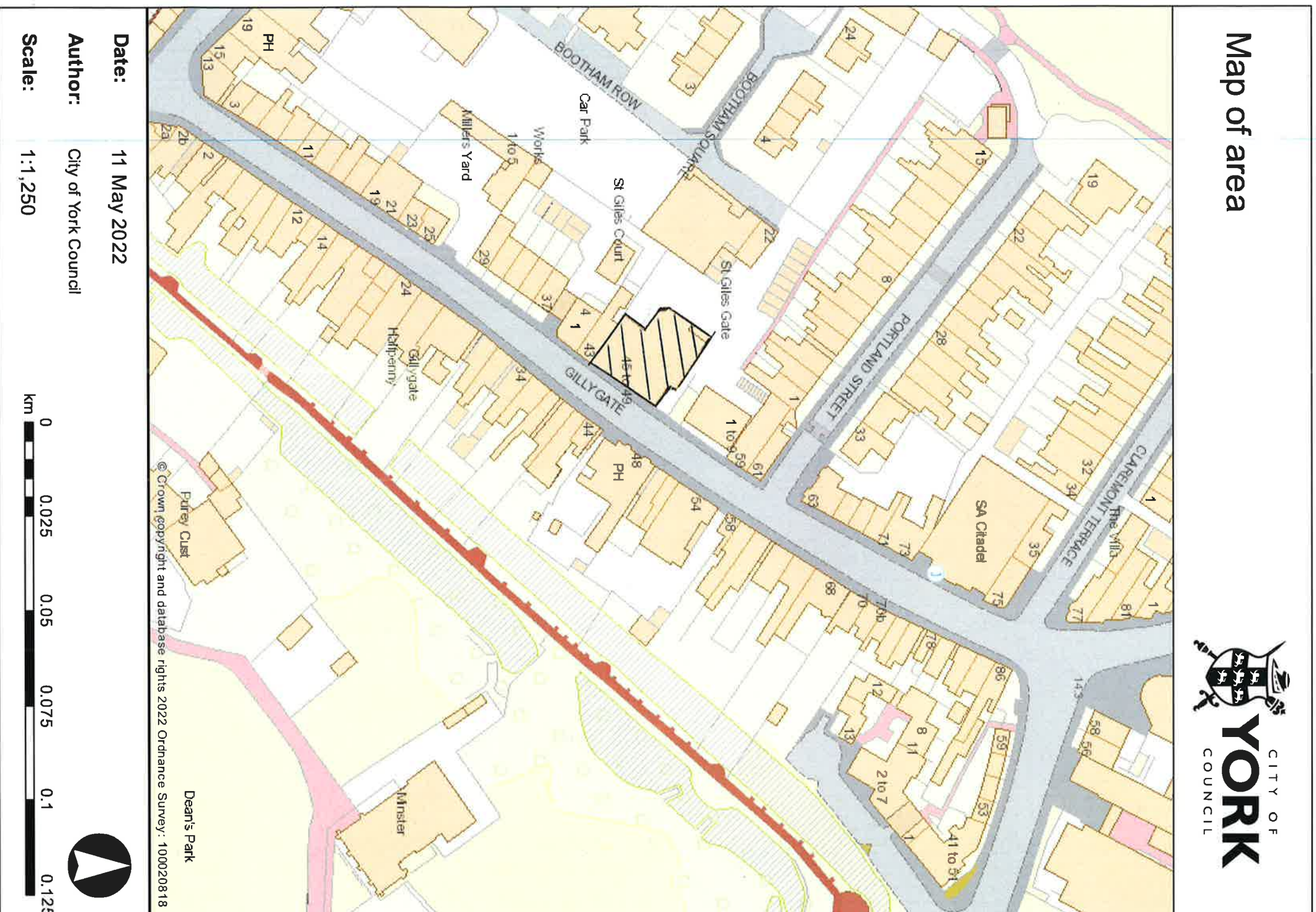
Whereas we have little problem with the sale of alcohol up until the regular closing time for licensed premises, we do envisage increased noise and public order problems arising from alcohol being still available for sale after this time. The opportunity to "top up" on off-sales late at night for those already inebriated will be extremely attractive and doing so will only exacerbate the raucous noise, refuse and public order problems residents already have to endure.

For this reason we are requesting that the sale of alcohol at the new Tesco premises be limited to normal closing hours - usually 11.00pm - and not midnight.

The Tesco store will be a valued addition to the retail environment of Gillygate, but unwelcome if the services it offers make life more disruptive, onerous and unpleasant for the people who actually live here.

Portland Street
YORK
YO31 7EH

ANNEX 5



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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE
LICENSING ACT 2003**

MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
 - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
- (iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION: ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);

(b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

where –

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to -
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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Legislation and Policy Considerations

1. The following provisions of The Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s17 application for premises licence; s18 determination of application for premises licence; s23 grant or rejection of application; ss19, 20 and 21 mandatory conditions; The Licensing Act (Mandatory Licensing Conditions) Order 2010; and The Licensing Act 2003 (Mandatory Conditions) Order 2014.
2. The following provisions of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications
3. The following provisions of the Secretary of State's guidance apply to this application: Section 2 The Licensing Objectives; Section 9 Determining applications; Section 10 Conditions attached to premises licences and club certificates; and Section 14 Statements of licensing policy.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 5.0 Applications for Premises Licences, Club Premises Certificates and Variations; 6.0 Guidelines for Applicants; 7.0 Saturation and Cumulative Impact and 8.0 Licensing Hours.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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