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| Meeting       | Decision Session - Cabinet Member for Transport, Planning and Economic Development, in consultation with the Cabinet Leader, Finance and Performance |
| Date          | 22 December 2014                                                                                                                                     |
| Present       | Councillors Levene and Williams                                                                                                                      |
| In Attendance | Councillors Steward, Warters and Watson                                                                                                              |

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### 35. **Declarations of Interest**

*[Reconvened meeting following the adjournment of the meeting on 11 December 2014]*

At this point in the meeting, the Cabinet Members were asked to declare any personal, prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda. No further interests were declared.

### 36. **Minutes [This item was dealt with on 11th December]**

### 37. **Exclusion of Press and Public**

Resolved: That it was agreed to exclude the press and public from the meeting during consideration of Annex B to agenda item 5 (Request for an Article 4 Direction relating to The Punch Bowl public house, Lowther Street, York) on the grounds that it contained information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. This information is classed as exempt under paragraph 5 of Part 1 of Schedule 12A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

### **38. Public Participation - Decision Session**

Nick Love spoke on behalf of York Campaign for Real Ale (CAMRA), the patrons of the Punch Bowl and as author of the Article 4 application. He expressed concern that the legal advice prepared for the meeting was exempt which prevented him from speaking to counter any advice provided for Members. He reiterated his previous comments stating that from his research he did not believe that the Council would be required to pay compensation should a decision be taken to grant the application. He asked Members to protect a vital community asset and make an Article 4 Direction.

Paul Crossman spoke on behalf of the licensing trade in the city asking Members to support the making of an Article 4 Direction in order to protect the Punch Bowl public house a valued community asset. He referred to the cautious advice provided by Officers but requested Members to make a stance for public houses in the city.

### **39. Request for Article 4 Direction - Punch Bowl Public House, York**

The Cabinet Member, in consultation with the Cabinet Leader, Finance and Performance, considered a request from the York branch of CAMRA for the Council to make an immediate Article 4 Direction in respect of the Punch Bowl public house in Lowther Street, York.

It was noted that the Decision Session on 11 December 2014 had been adjourned for receipt of the following additional legal advice in respect of CAMRA's request:

- Whether an Article 4 direction could be conditioned to state that the premises must be used as a community facility.
- The risks to the Council if it did determine that exceptional circumstances existed and made the Article 4 direction, but subsequently revoked the order before an application had been submitted.

Consideration was given to a privileged legal advice note prepared by the Council's Senior Solicitor in relation to the above request.

The Cabinet Members, whilst acknowledging the additional legal advice, referred to the numerous representations received from residents strongly opposed to the replacement of the public house with a convenience store. They also expressed their sympathy with residents and earlier speakers in respect of the valuable community asset the Punch Bowl provided. They had regard to the concerns of residents regarding the traffic impacts of a change of use to a shop and considered that in the circumstances such a change of use should be considered in more depth through the determination of a planning application. Following further discussion it was

Resolved: That the Cabinet Member for Transport, Planning & Economic Development, in consultation with the Cabinet Leader, Finance & Performance agree that exceptional circumstances exist and that a change of use of the premises would constitute a threat to the amenity of the area and agree to:

- (i) Use the Council's discretionary power to make an immediate Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995 to remove permitted development rights for the change of use of The Punch Bowl public house, Lowther Street, York from its existing use as a public house (Class A4) to a shop (Class A1).<sup>1</sup>
- (ii) Request Officers to prepare a report to assist with similar future requests outlining a longer term strategy for the Council.<sup>2</sup>

Reasons: (i) That exceptional circumstance exist to show that a change of use would harm the amenity and the proper planning of the area.

(ii) To provide a strategy to cover similar future requests for Article 4 Directions.

Action Required

1. Proceed with the making of an immediate Article 4 Direction.
2. Commence the preparation of a strategy to deal with similar future requests.

JC, AH

JC, AH

Cllr D Levene, Cabinet Member

[The meeting started at 5.40 pm and finished at 5.50 pm].