

Licensing/Gambling Hearing

To: Councillors Galvin, Mason and Norman

Date: Thursday, 4 July 2019

Time: 10.00 am

Venue: The Thornton Room - Ground Floor, West Offices (G039)

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 personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

4. The Determination of an Application by Marston's PLC to Vary Premises Licence [Section 35(3)(a)] in respect of Corner Pin, 17 Tanner Row, York, YO1 6JB (CYC-008996) (Pages 7 – 116)

Democracy Officer:

Name: Angela Bielby

Contact Details:

- Telephone – (01904) 552599
- Email - a.bielby@york.gov.uk

For more information about any of the following, please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- 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 مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

Distribution:

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

Press, Library.



LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS

Introduction

The procedure adopted at the licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below:-

The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. No matter how strong local opinion may be, Committee Members can only make decisions in the context of the licensing objectives as set out in legislation as follows:

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

The hearing will be in public session and this involves the publication of all paperwork relevant to the hearing on the Council's website. This includes letters of representation either in support or objection. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted. The Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

In view of the requirement to hold hearings within specified timescales (usually 20 working days from the last date for representations), the Licensing Authority is unable to enter into discussions to identify dates convenient to all parties concerned. In

exceptional circumstances, the Licensing Authority will consider applications to hold hearings at a later date.

Representations at Licensing Hearings

The Applicant may speak at the hearing. Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. The Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. **Each party will have 10 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.**

For the avoidance of doubt, if there is more than one individual making representations either for or against an application, this is classed as one party and consideration should be given to nominating a spokesperson. If necessary, the 10 minutes may be divided up between a number of people.

The Sub-Committee may take into account any documentary evidence or other information in support of the application or representations either before the hearing or, with the consent of all other parties, at the hearing.

If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written objection. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length. The Applicant and Representors cannot raise

substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.

Any person behaving in a disruptive manner will be asked to leave the hearing.

Procedure prior to the Hearing

The Members sitting on the Sub-Committee will have a briefing prior to the hearing, usually in the meeting room where the hearing is to take place. They will only be accompanied by the Democratic Services Officer and the Council's Legal Advisor. During the briefing, attention will only be drawn to the nature of the application and the premises or person to which it relates and any procedural matters.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until called into the meeting room. Please arrive 15 minutes before the advertised start time.

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and Officers and welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will ask if this procedure document has been read and understood by all parties and clarify if necessary.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.

6. The Licensing Officer outlines the application and gives an update on any recent changes.
7. The Chair will invite all present to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Applicant (or their representative) will present their case and may call any witnesses to support their case *[maximum 10 minutes]*.
9. The Chair will invite the Representors to ask questions of the Applicant in the following order *[maximum 5 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
10. The Chair will invite the Committee Members to ask questions of the Applicant
11. The Chair will invite the Representors in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 10 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
12. The Chair will invite the Applicant to ask questions of each Representor and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
13. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
14. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*

- (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
15. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
16. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.
17. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

Procedure after the Hearing

18. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
19. If possible, and for all hearings under:-
- section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37)
 - section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
 - section 105(2)(a) (counter notice following police objection to temporary event notice)
 - section 167(5)(a) (review of premises licence following closure order)
 - paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
 - paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)

- paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing. The Legal Adviser and Democratic Services Officer will remain present during the decision making process. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

20. If the decision has been made, all the parties will be invited back into the committee room by the Democratic Services Officer. The Chair will announce the decision including details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not) within 5 working days of the hearing. There can be no further questions or statements.
21. For all other hearings not listed above, if the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 5 working days of the decision being made.
22. The notification will include information about the rights of appeal against the determination made.



Licensing Act 2003 Sub Committee

4 July 2019

Report from the Assistant Director – Planning & Public Protection

Section 35(3) (a) Application for variation of a premises licence for The Corner Pin, Tanner Row, York, YO1 6JB

Summary

1. This report seeks Members determination of an application for the variation of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-008996
3. Name of applicant: Marston's PLC
4. Type of authorisation applied for: Variation of Premises Licence
5. Summary of application: The variation seeks to extend the licensable hours on Fridays and Saturdays until 03:00, closing 30 minutes later. The variation also seeks to extend all licensable activities by one hour on the commencement of British Summertime.

Licensable Activities	Existing Hours	Proposed Hours
Sale of Alcohol (On and Off the premises)	Mon to Weds 10:00 – 00:00 Thurs to Sat 10:00 – 01:00 Sun 11:00 – 00:00	Fri & Sat 10:00 – 03:00 All other days to remain unchanged
Films Indoor sport Live music Recorded music Performance of dance	Mon to Weds 10:00 – 23:30 Thurs to Sat 10:00 – 00:30 Sun 11:00 – 23:30	Fri & Sat 10:00 – 03:00 All other days to remain unchanged
Late night	Mon to Weds	Fri & Sat

refreshment	23:00 – 00:15 Thurs to Sat 23:00 – 01:15 Sun 23:00- 00:15	23:00 – 03:00 All other days to remain unchanged
Opening Hours	Mon to Weds 10:00 – 00:30 Thurs to Sat 10:00 – 01:30 Sun 11:00 – 00:30	Fri & Sat 10:00 – 03:30 All other days to remain unchanged

Background

6. A copy of the application to vary the licence is attached at Annex 1.
7. A copy of the current licence is attached at Annex 2. The plan of the premises remains unchanged and is included at Annex 2 for information only.

Promotion of Licensing Objectives

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

General

I have undertaken my own risk assessment and propose to take the following steps.

The variation is not anticipated to adversely affect the four licensing objectives and the conditions to remain on the licence are assessed to be sufficient for the proposals.

No new steps have been identified in the relation to the four licensing objectives save as below

The prevention of crime and disorder

No further risks have been identified which need to be addressed

Public Safety

No further risks have been identified which need to be addressed

The prevention of public nuisance

No further risks have been identified which need to be addressed

The protection of children from harm

The restrictions set out in the Licensing Act 2003 will apply. No unusual or additional risks of harm to children have been identified

Cumulative Impact Assessment Area

10. This premises is located within the cumulative impact assessment area approved by full Council on 21 March 2019. Detail of the assessment can be found at Annex 3.

Consultation

11. 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.
12. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

13. North Yorkshire Police have made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application. However the representation has been withdrawn as the police and applicants have agreed to additional conditions. The agreed conditions can be seen at Annex 6.

Summary of Representations made by Other Parties

14. There was one representation received from 'other persons' mainly on the grounds that the 'prevention of public nuisance' licensing objective will be undermined if the variation is granted. The details of the representor are included in the list attached at Annex 4. A copy of their representation is attached at Annex 5.
15. A map showing the general area around the venue is attached at Annex 9.

Planning Issues

16. There are no outstanding planning issues.

Options

17. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
18. Option 1: Grant the licence in the terms applied for.
19. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
20. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
21. Option 4: Reject the application.

Analysis

22. The following could be the result of any decision made this Sub Committee:-
23. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
24. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
25. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
26. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

27. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
28. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

29.

- **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

30. 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.
31. 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

32. Members determine the application.

Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

Lesley Cooke
Licensing Manager

Tel No. 01904 551515

Chief Officer Responsible for the report:

Mike Slater
Assistant Director for Planning and Public
Protection

**Report
Approved**



26 June
2019

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Micklegate



For further information please contact the author of the report

Background Papers:

Statement of Licensing Policy and Cumulative Impact Assessment

https://www.york.gov.uk/info/20169/business_licences/1208/yorks_licensing_policy

Annex 1 - Application form

Annex 2 - Current licence and plans

Annex 3 - Special Policy - Cumulative Impact Assessment

Annex 4 - List of representors

Annex 5 - Other persons representation

Annex 6 - Police representation with agreed conditions

Annex 7 - Mandatory Conditions

Annex 8 - Legislation and Policy Considerations

Annex 9 - Map of area

Application to vary a premises licence 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.

We Marston's PLC being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises Licence Number

CYC - 008996

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description

Corner Pin, Tanner Row

Post town
YorkPost code
YO1 6JB

Telephone number of premises (if any)

Non-domestic rateable value of premises

£31,300 (band B)

Part 2 – Applicant Details

Daytime contact telephone number

Email address
(optional)Current postal
address if
different from
premises address

Marston's House, Brewery Road

Post Town

Wolverhampton

Postcode

WV1 4JT

Part 3 – Variation

Do you want the proposed variation to have effect as soon as possible?

Please tick π yes

☒

If not do you want the variation to take effect from

Day Month Year

--	--	--	--	--	--	--	--

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N/A

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

(Please see Guidance Note 1)

yes ☐ no ☒

Please describe briefly the nature of the proposed variation (please read guidance note 2)

These premises are presently licensed for films, indoor sports, live music, recorded music, performance of dance, late night refreshment and the sale of alcohol for the following hours:

Films, indoor sports, live music, recorded music and performance of dance

- Monday to Wednesday: 10.00 – 23.30;
- Thursday to Saturday: 10.00 – 00.30; and
- Sunday: 11.00 – 23.30.

Sale of alcohol by retail

- Monday to Wednesday: 10.00 – 00.00;
- Thursday to Saturday: 10.00 – 01.00; and
- Sunday: 11.00 – 00.00.

Late night refreshment

- Sunday to Wednesday: 23.00 – 00.15; and
- Thursday to Saturday: 10.00 – 01.15.

Hours open to the public

- Monday to Wednesday: 10.00 – 00.30;
- Thursday to Saturday: 10.00 – 01.30; and
- Sunday: 11.00 – 00.30.

The variation seeks to extend the permitted hours for licensable activities on Fridays and Saturdays and add a non-standard timing relating to British Summertime as further detailed below.

1) Extension of trading hours on Fridays and Saturdays

The variation principally seeks to extend the terminal hour for licensable activities on Fridays and Saturdays by until 03.00 the following mornings with the premises closing to the public 30 minutes thereafter.

2) British Summertime

It is proposed that an additional non-standard timing be included to extend all licensing hours by 1 hour on the commencement of British Summertime to replace the hour lost.

Please note that there is no intention to change the layout at these premises and therefore no plans are included.

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Please tick π yes

Provision of regulated entertainment (Please see guidance note 3)

- | | |
|---|-------------------------------------|
| a) Plays (If ticking yes, fill in box A) | <input type="checkbox"/> |
| b) Films (If ticking yes, fill in box B) | <input checked="" type="checkbox"/> |
| c) indoor sporting events (If ticking yes, fill in box C) | <input checked="" 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 checked="" type="checkbox"/> |
| f) recorded music (If ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (If ticking yes, fill in box G) | <input checked="" 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)
☒
Sale by retail 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 8)			Will the performance of a play take place indoors or outdoors or both – please tick {Y} (please read guidance note 4).	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 5)	Both	
Tue					
Wed					
Thur			State any seasonal variations for performing plays (please read guidance note 6)		
Fri					
Sat					
Sun			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 (please read guidance note 7)		

B

Films Standard days and timings (please read guidance note 8)			Will the exhibition of films take place indoors or outdoors or both – please tick {Y} (please read guidance note 4).	Indoors	π
Day	Start	Finish		Outdoors	
Mon	As existing	As existing	Please give further details here (please read guidance note 5) As per the existing licence	Both	
Tue	As existing	As existing			
Wed	As existing	As existing			
Thur	As existing	As existing	State any seasonal variations for the exhibition of films (please read guidance note 6) N/A – save as below		
Fri	As existing	03.00			
Sat	As existing	03.00			
Sun	As existing	As existing	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 (please read guidance note 7) Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.		

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details</u> (please read guidance note 5) As per the existing licence
Day	Start	Finish	
Mon	As existing	As existing	
Tue	As existing	As existing	
Wed	As existing	As existing	<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6) N/A – save as below
Thur	As existing	As existing	<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 7) Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.
Fri	As existing	03.00	
Sat	As existing	03.00	
Sun	As existing	As existing	

D

Boxing or wrestling entertainment Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick {Y}</u> (please read guidance note 4).	Indoors	
Day	Start	Finish		Outdoors	
Mon				Both	
Tue					
Wed			<u>Please give further details here</u> (please read guidance note 5)		
Thur			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Fri					
Sat					
Sun			<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 7)		

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both – please tick {Y} (please read guidance note 4).	Indoors	π
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 5) As per the existing licence.		
Mon	As existing	As existing			
Tue	As existing	As existing			
Wed	As existing	As existing	State any seasonal variations for the performance of live music (please read guidance note 6) N/A – save as below		
Thur	As existing	As existing			
Fri	As existing	03.00			
Sat	As existing	03.00	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 (please read guidance note 7) Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.		
Sun	As existing	As existing			

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick {Y} (please read guidance note 4).	Indoors	π
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 5) As per the existing licence		
Mon	As existing	As existing			
Tue	As existing	As existing			
Wed	As existing	As existing	State any seasonal variations for playing recorded music (please read guidance note 6) N/A – save as below		
Thur	As existing	As existing			
Fri	As existing	03.00			
Sat	As existing	03.00	Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed in the column on the left, please list (please read guidance note 7) Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.		
Sun	As existing	As existing			

G

Performances of dance Standard days and timings (please read guidance note 8)			<u>Will the performance of dance take place indoors or outdoors or both – please tick {Y}</u> (please read guidance note 4).	Indoors	π
				Outdoors	
				Both	
Day	Start	Finish			
Mon	As existing	As existing	<u>Please give further details here</u> (please read guidance note 5)		
			As per the existing licence		
Tue	As existing	As existing			
Wed	As existing	As existing	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 6)		
Thur	As existing	As existing	N/A – save as below		
Fri	As existing	03.00	<u>Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat	As existing	03.00			
Sun	As existing	As existing	Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.		

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			<u>Please give a description of the type of entertainment you will be providing</u>		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick {Y}</u> (please read guidance note 4).	Indoors	
				Outdoors	
				Both	
Mon					
Tue			<u>Please give further details here</u> (please read guidance note 5)		
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 6)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of 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 7)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (Y) (please read guidance note 4).	Indoors	π
Day	Start	Finish		Outdoors	
				Both	
Mon	As existing	As existing	Please give further details here (please read guidance note 5) As per the existing licence		
Tue	As existing	As existing			
Wed	As existing	As existing	State any seasonal variations for the provision of late night refreshment (please read guidance note 6) N/A – save as below		
Thur	As existing	As existing			
Fri	As existing	03.00	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 (please read guidance note 7) Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.		
Sat	As existing	03.00			
Sun	As existing	As existing			

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption (Please tick box Y) (please read guidance note 9)	On the premises	
Day	Start	Finish		Off the premises	
				Both	π
Mon	As existing	As existing	State any seasonal variations for the supply of alcohol (please read guidance note 6) N/A – save as below		
Tue	As existing	As existing			
Wed	As existing	As existing	Non-standard 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 7) Non-standard timings to continue as per the existing Premises Licence except: 1) addition of a non-standard timing to extend licensable activities by 1 hour on the commencement of British Summertime to replace the hour lost.		
Thur	As existing	As existing			
Fri	As existing	03.00			
Sat	As existing	03.00			
Sun	As existing	As existing			

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 10)

None.

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variation (please read guidance note 6) N/A – save as below
Day	Start	Finish	
Mon	As existing	As existing	
Tue	As existing	As existing	
Wed	As existing	As existing	
Thur	As existing	As existing	
Fri	As existing	03.30	
Sat	As existing	03.30	
Sun	As existing	As existing	

Non standard timings. Where you intend to use the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)

The premises will close 30 minutes after the end of the non-standard timings identified in box J above.

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

None.

Please tick ☒ yes

I have enclosed the premises licence



I have enclosed the relevant part of the premises licence



If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence

M

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 11)

I have undertaken my own risk assessment to take the following proposed steps.

The variation is not anticipated to adversely affect the four licensing objectives and the conditions to remain on the licence are assessed to be sufficient for the proposals.

No new steps have been identified in relation to the four licensing objectives save as below.

b) The prevention of crime and disorder

No further risks have been identified which need to be addressed.

c) Public safety

No further risks have been identified which need to be addressed

d) The prevention of public nuisance

No further risks have been identified which need to be addressed.

e) The protection of children from harm

The restrictions set out in the Licensing Act 2003 will apply. No unusual or additional risks of harm to children have been identified.

Annex 1

- I have made or enclosed payment of the fee; or ☒
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy. ☐
- I have sent copies of this application and the plan to responsible authorities and others where applicable ☒
- I understand that I must now advertise my application ☒
- I have enclosed the premises licence or relevant part of it or explanation ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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.

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent. (Please read guidance note 13). **If signing on behalf of the applicant please state in what capacity.**

Signature: John Gaunt & Partners

Date: 1st May 2019.....

Capacity: Solicitors.....

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent. (Please read guidance note 14). **If signing on behalf of the applicant please state in what capacity.**

Signature: John Gaunt & Partners

Date:

Capacity: Solicitors.....

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)

John Gaunt & Partners
Omega Court
372 Cemetery Road

Post town
Sheffield

Post code
S11 8FT

Telephone number (if any)

If you would prefer us to correspond with you by email your email address (optional)

Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. 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 of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. 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.



LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Part 1 Premises details

Premises licence number
CYC - 008996

Postal address of premises:

17 Tanner Row

Post town: **York**

Post code: **YO1 6JB**

Telephone number: 01904 629946

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Films
Indoor sporting events
Live Music
Recorded Music
Performances of Dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:

FILMS

Indoors

Monday
10:00-23:30

Tuesday
10:00-23:30

Wednesday
10:00-23:30

Thursday
10:00-00:30

Friday
10:00-00:30

Saturday
10:00-00:30

Sunday
11:00-23:30

INDOOR SPORTING EVENTS

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

LIVE MUSIC
Indoors

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

RECORDED MUSIC
Indoors

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

PERFORMANCES OF DANCE
Indoors

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

LATE NIGHT REFRESHMENT
Indoors

Monday 10:00-00:15	Tuesday 10:00-00:15	Wednesday 10:00-00:15	Thursday 10:00-01:15
Friday 10:00-01:15	Saturday 10:00-00:15	Sunday 11:00-00:15	

SUPPLY OF ALCOHOL

Monday 10:00-00:00	Tuesday 10:00-00:00	Wednesday 10:00-00:00	Thursday 10:00-01:00
Friday 10:00-01:00	Saturday 10:00-01:00	Sunday 11:00-00:00	

Non Standard Timings for Films, Indoor Sporting Events, Live Music, Recorded Music and Performances of Dance:

Christmas Day 11:00-22:30

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

Non Standard Timings for Late Night Refreshment:

Christmas Day 11:00-23:15

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

Non Standard Timings for Supply of Alcohol:

Christmas Day 11:00-23:00

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

The Opening Hours of the Premises

Monday 10:00-00:30	Tuesday 10:00-00:30	Wednesday 10:00-00:30	Thursday 10:00-01:30
Friday 10:00-01:30	Saturday 10:00-01:30	Sunday 11:00-00:30	

Non Standard Timings:

Christmas Day 11:00-23:30

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Part 2**Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:**

Name: Marston's Plc

Address: Marston's House
Brewery Road
Wolverhampton
WV1 4JT

Telephone number: 01902 711300

Email address: www.marstonstaverns.co.uk

Registered number of holder, for example company number, charity number (where applicable):

31461

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Name:

Address: York

Telephone number: None

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

Kirklees Council

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE 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;
 - 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.
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).

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

General

1. Risk assessments undertaken.

Prevention of Crime & Disorder

2. Any person exercising a security activity (as defined by paragraph 2(1)(a) of the Private Security Industry Act 2001) shall be licensed by the Security Industry Authority.
3. Such a person will be employed at the premises at the discretion of the designated premises supervisor/holder of the premises licence.
4. Any person as defined in condition (1) will clearly display his name badge at all times whilst on duty.
5. No persons apparently carrying open bottles upon entry shall be admitted to the premises at any time the premises are open to the public.
6. Where CCTV is installed with recording facilities such recordings shall be retained for a period of 30 days and made available within a reasonable time upon request by the police.
7. Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.

Public Safety

8. To comply with the reasonable requirements of the fire officer from time to time.
9. To comply with the reasonable requirements of the building control officer.

Public Nuisance

10. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
11. Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

Protection of Children from Harm

12. The restrictions set out in the Licensing Act 2003 will apply.
13. Children under the age of 16 shall not be permitted to enter the premises after 19:00 hours.

Annex 3 – Conditions attached after a hearing by the licensing authority

1. All alcohol sales shall cease 30 minutes before closing time on any and every day.
2. The external area of the premises shall be cleared, cleaned and vacated by 23:30 hours on any and every day.
3. All regulated entertainment consisting of films, indoor sporting events, live music, recorded music and performances of dance shall terminate one hour before closing time on each and every day.
4. The external speakers shall be removed from the premises and not replaced, and no other public address system shall be installed in the external area.

5. Recordable CCTV shall be installed inside the premises in accordance with the Data Protection Commissioners Guidelines.
6. All glasses in which drinks are served shall be of strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left.
7. The provision of late night refreshment shall cease 15 minutes before closing time on each and every day.
8. All off sales of alcohol shall be in sealed containers.
9. All external windows shall be closed by 23:00 hours on each and every day.
10. Planters shall be positioned adjacent to the external wall of number 7A Tanner Row, to prevent customers leaning on this wall.

Annex 4 – Approved Plan

Plan Number 91540/001

For and on behalf of
The Director of Communities
& Neighbourhoods

Licensing Services
Hazel Court EcoDepot
James Street
York

Date: 09/08/2005
27/09/2016 (DPS Variation)

Phone: 01904 552512
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing



YO10 3DS

PREMISES LICENCE SUMMARY**Part B****Part 1 Premises details**

Premises licence number CYC - 008996

Postal address of premises:

17 Tanner RowPost town: **York**Post code: **YO1 6JB**

Telephone number:

Where the licence is time limited the date:

This licence has no expiry date.

Licensable activities authorised by the licence:

Films
 Indoor sporting events
 Live Music
 Recorded Music
 Performances of Dance
 Late Night Refreshment
 Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:**FILMS****Indoors**

Monday
10:00-23:30

Tuesday
10:00-23:30

Wednesday
10:00-23:30

Thursday
10:00-00:30

Friday
10:00-00:30

Saturday
10:00-00:30

Sunday
11:00-23:30

INDOOR SPORTING EVENTS

Annex 2

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

LIVE MUSIC
Indoors

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

RECORDED MUSIC
Indoors

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

PERFORMANCES OF DANCE
Indoors

Monday 10:00-23:30	Tuesday 10:00-23:30	Wednesday 10:00-23:30	Thursday 10:00-00:30
Friday 10:00-00:30	Saturday 10:00-00:30	Sunday 11:00-23:30	

LATE NIGHT REFRESHMENT
Indoors

Monday 10:00-00:15	Tuesday 10:00-00:15	Wednesday 10:00-00:15	Thursday 10:00-01:15
Friday 10:00-01:15	Saturday 10:00-00:15	Sunday 11:00-00:15	

SUPPLY OF ALCOHOL

Monday 10:00-00:00	Tuesday 10:00-00:00	Wednesday 10:00-00:00	Thursday 10:00-01:00
Friday 10:00-01:00	Saturday 10:00-01:00	Sunday 11:00-00:00	

Non Standard Timings for Films, Indoor Sporting Events, Live Music, Recorded Music and Performances of Dance:

Christmas Day 11:00-22:30

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

Non Standard Timings for Late Night Refreshment:

Christmas Day 11:00-23:15

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

Non Standard Timings for Supply of Alcohol:

Christmas Day 11:00-23:00

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

The Opening Hours of the Premises

Monday 10:00-00:30	Tuesday 10:00-00:30	Wednesday 10:00-00:30	Thursday 10:00-01:30
Friday 10:00-01:30	Saturday 10:00-01:30	Sunday 11:00-00:30	

Non Standard Timings:

Christmas Day 11:00-23:30

New Years Eve 10:00 to New Years Day - terminal hour as proposed

To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 7 days prior notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Name and (registered) address of holder of premise licence:

Name: Marston's Plc
Address: Marston's House
Brewery Road
Wolverhampton
WV1 4JT

Registered number of holder, for example company number, charity number (where applicable):**Name of designated premises supervisor where the premise licence authorises the supply of alcohol:****State whether access to the premises by children is restricted or prohibited**

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.

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.

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.

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).

The restrictions set out in the Licensing Act 2003 will apply.

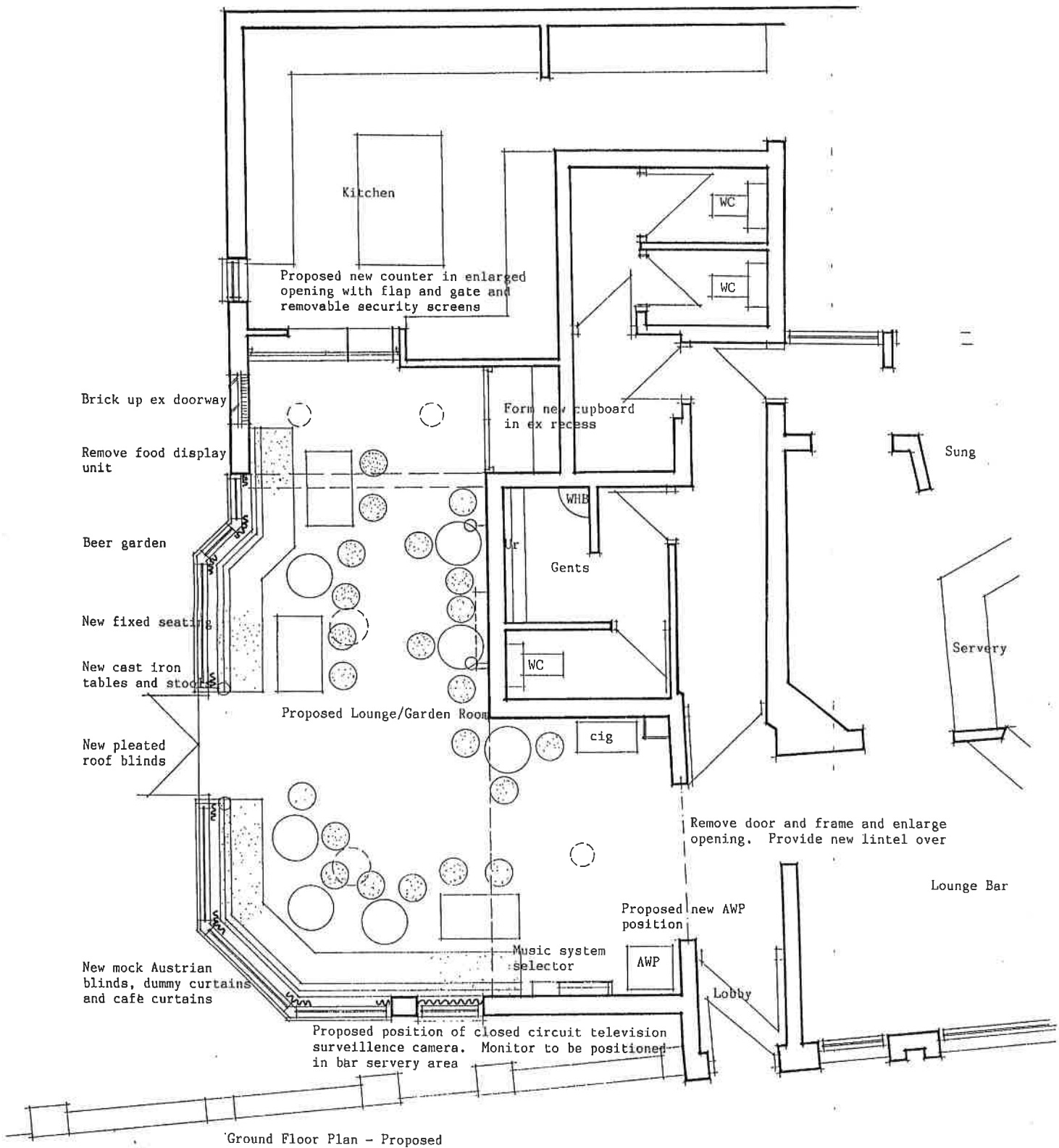
Children under the age of 16 shall not be permitted to enter the premises after 19:00.

For and on behalf of
The Director of Communities
& Neighbourhoods

Date: 09/08/2005
27/09/2016 (DPS Variation)

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

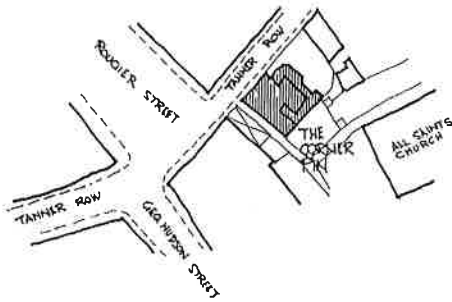
Phone: 01904 552512
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing



THE CORNER PIN
TANNER ROW
YORK

Scale: 1:50
Date: June 1991
Drawn: D W Endacott

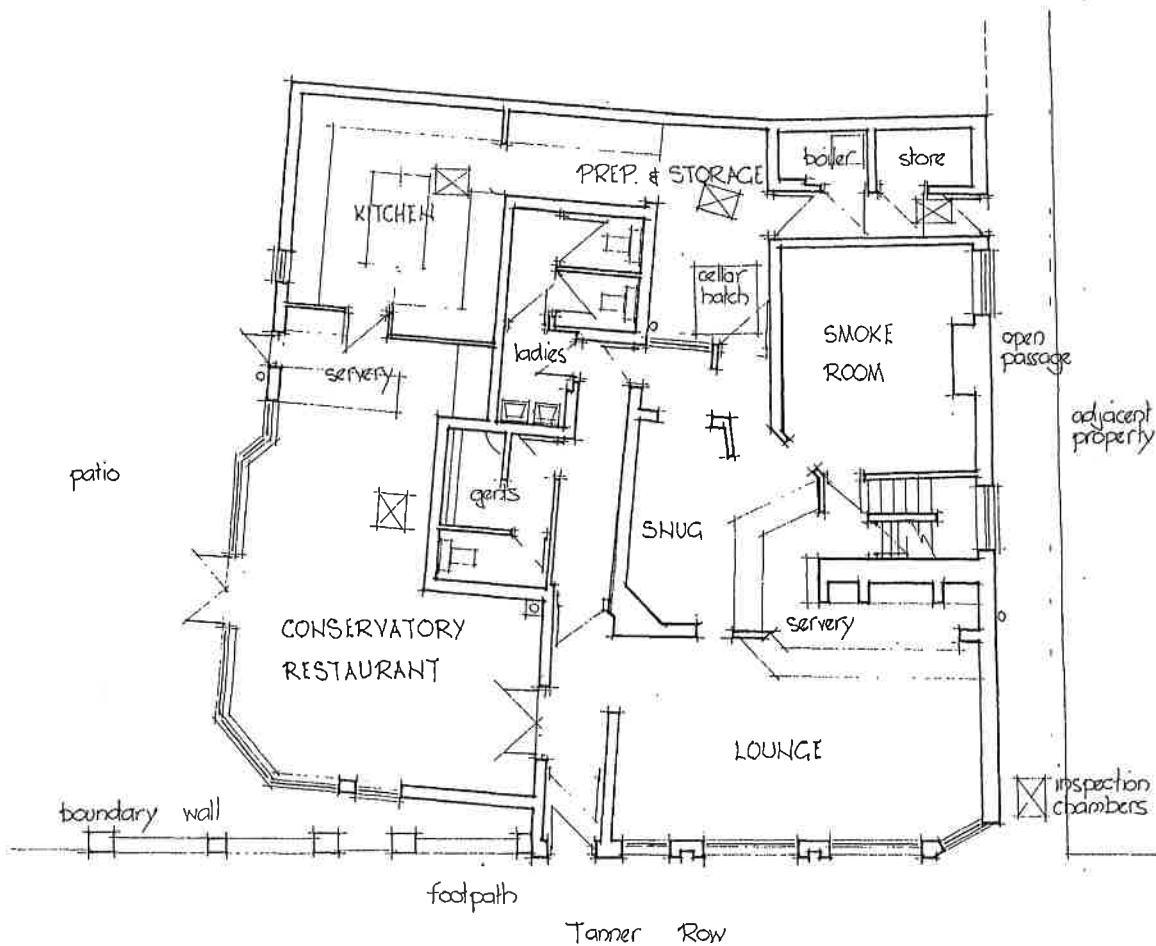
Mansfield Brewery PLC
Properties Department



GROUND FLOOR PLAN & LOCATION

THE CORNER PIN - YORK

Location Plan
scale 1:1250



Plan as Existing
scale 1:100

Cumulative Impact

1. Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
2. Relevant authorisations means:
 - premises licence
 - club premises certificate
3. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
4. The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

Cumulative Impact Assessment

5. As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
6. As required by the Act the Council has formally consulted on the assessment.

7. By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation, with the reasons for departing from the Policy.
8. Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
9. Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
10. The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.
11. The Statement of Licensing Policy and Cumulative Impact Assessment were approved by the City of York on the 21 March 2019.

Cumulative Impact Area

12. The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area

continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:

- prevention of crime and disorder
- prevention of public nuisance

13. North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:

- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
- entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
- late night refreshment premises – takeaways; and
- off licence premises – supermarkets and convenience stores.

14. A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.

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Cumulative Impact Assessment 2018

Licensing Act 2003

1. Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Licensing Act 2003.
2. In April 2018 the Police and Crime Act 2017 introduced a new provision within the Licensing Act 2003, Section 5A. This provision provides that a licensing authority may, in appropriate circumstances, publish a document, cumulative impact assessment (Assessment), stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the Assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
3. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
4. The Assessment must set out the evidence for the authority's opinion, must be consulted upon before it is published, it must be reviewed at least every three years to consider whether it remains of the opinion stated in the Assessment, a review must be consulted upon and any revisions must be published along with the evidence. Following the introduction of Section 5A of the Act, and in accordance with the Section 182 Statutory Guidance, the Council's previous approach and policies have been reviewed.
5. By publishing an Assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the Assessment when determining or revising the Statement of Licensing Policy. The Assessment does not change the fundamental way that a licensing decision is made, as each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the Assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation.
6. Where no relevant representations are received an application will be granted in terms consistent with the operating schedule.
7. An applicant wishing to obtain a new licence or vary a licence for premises, within the

cumulative impact area, must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.

8. The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly, with those authorities, or through the Council's Licensing Section.

Cumulative Impact – York City Centre

9. City of York Council (the Council) has included a Cumulative Impact Policy (known as the cumulative impact zone CIZ) within its Statement of Licensing Policy since 2005, following the receipt of evidence provided by North Yorkshire Police (the Police) and the Council's Public Protection Service (noise), in relation to an area identified within York city centre. This area was reviewed in accordance with the requirements of the Act. Due to the changes within the city centre, mainly the changing locations where licensed premises were predominately operating and following the receipt of further evidence from the Police and Public Protection this area has increased on two occasions over the years.

Cumulative Impact Assessment – York City Centre 2018 Review

10. As required by the Act the Council has reviewed the cumulative impact area. The Police have provided statistical data for the area, which includes crime associated with the consumption of alcohol and Public Protection has provided data relating to noise associated with the operation of licensed premises. The Council, in consultation with the Police, has developed its first draft Assessment in relation to an area that has been identified in York city centre. This area includes a red zone area.
11. This cumulative impact area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
 - prevention of crime and disorder
 - prevention of public nuisance
12. The Assessment relates to applications for the grant and/or variation of premises licences, club premises certificates or the issue of provisional statements. Throughout this Assessment a general reference to a premises licence, will include a club premises certificate and/or provisional statement.
13. The variation of premises licences relates to:
 - changing the style of operation;
 - extending the premises/licensed area;

- increasing capacity; and
- extending the licensed hours.

York City Centre Area

14. The key findings from Public Protection (noise) were:

- Overall noise complaints with the CIZ have increase 27% in 2017/18 compared to 2016/17. 24 complaints were received in 2016/17, and 33 were received in 2017/18.
- The complaints relate to noise from either music from licensed premises, people at or in the vicinity of licensed premises or deliveries/collections to and from licensed premises.
- The locations of the complaints are as follows:

Location	No Complaints 2016/17	No Complaints 2017/18
Blossom Street / The Crescent	0	3
Micklegate	3	9
George Hudson Street	2	1
Tanner Row / Toft Green	2	4
Low / High Ousegate	2	1
Clifford Street	2	5
Cumberland Street	2	0
Piccadilly	1	1
Pavement	1	0
Fossgate	2	5
Goodramgate	3	1
Low Petergate	1	0
Shambles Market	1	0
Kings Square	1	0
Coffee Yard	1	2
Little Stonegate	0	1

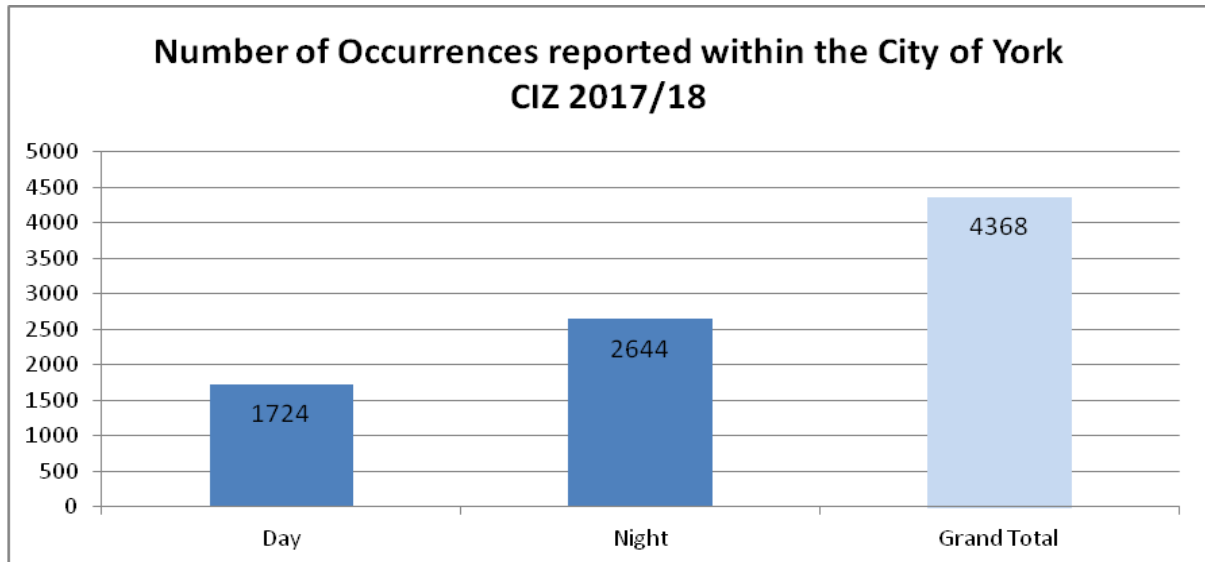
15. The key findings from the Police were:

- Whilst the majority of incidents within the current City of York Cumulative Impact Zone (CIZ) area are reported during the night-time economy period there is an identified period during Saturday afternoons.
- Overall, levels of Anti-Social Behaviour (ASB) have decreased by 10% in 2017/18 compared with 2016/17.
- ASB Nuisance is the most prevalent occurrence type representing no change compared with 2016/17. Almost half of occurrences (47%) are reported across the weekend; over two-thirds of weekend incidents are reported during the night-time economy period.

- Crime Violence occurrences also feature highly with an increase evident compared with 2016/17. Correspondingly, alcohol related Crime Violence also shows an increasing trend. Similar to ASB Nuisance, half of occurrences are reported across the weekend with three-quarters of violent weekend incidents reported during the night-time economy period.
- Violence Against the Person, Arson & Criminal Damage together with Public Order crimes predominate. Violence Against the Person and Public Order offences have increased this year compared with the last.
- Within the Violence Against the Person category, Assault Occasioning Actual Bodily Harm (AOABH) and Common Assault feature most highly - no change from 2016/17. Both offences have increased this latter year. Over half of offences are reported across the weekend - primarily during the night-time economy period.
- Racial/Religious assaults are also evident and have almost doubled compared with 2016/17, increasing from seven reports to 13.
- The highest concentration of occurrences is within areas where footfall is high. These zones encompass a higher concentration of public houses, off-licenses, late night eateries and cafes as well as hotel and retail premises.
- Micklegate, Blake Street and Clifford Street are consistently highlighted as areas with high levels of crime and ASB.
- Calls for police service are at their highest on weekends; Saturday and Sunday. This is consistent with previous years.
- Overall, reports are highest between 1400 and 1900 followed by a further increase between 2300 and 0400 - the traditional night-time economy period - and this pattern is mirrored across both years.
- Saturday afternoons also feature with increased visitation to the city by revellers, particularly from the North East and South Yorkshire, which has proven to impact on police and partner resources as well as affecting the perception of tourists and local families when visiting York during this period.
- Reported occurrences in 2017/18 are highest in March/April and July through to September. Isolated increases are also evident in October and December. Increased reporting during these periods is likely influenced by increased footfall to the city from tourists/visitors during school and bank holidays, York Races and other sports fixtures together with seasonal festivities such as the traditional Christmas Fair.

Occurrences

16. The majority of incidents reported within the City of York CIZ are during the Night-Time Economy period (NTE).



17. 4368 occurrences have been reported within the CIZ in 2017/18. The top tier of occurrence types is exemplified within the table below.

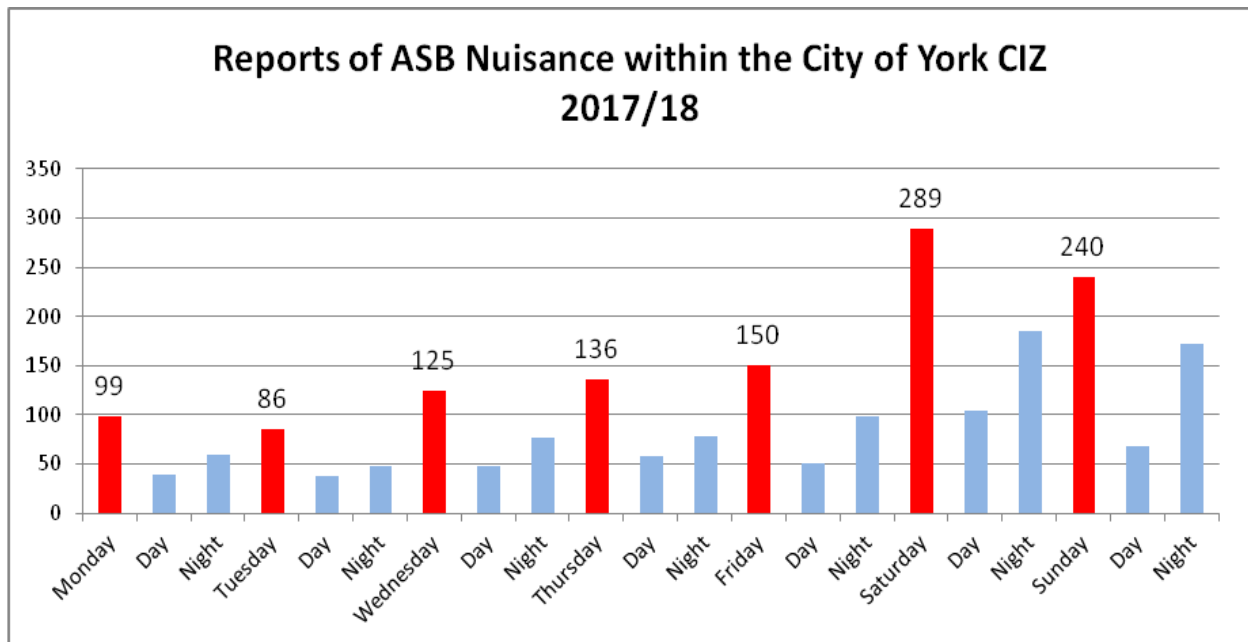
OCCURRENCE - Top 5 Reported Types	Count
ASB Nuisance	1125
Crime Violence	710
PSW ¹ Concern for Safety/Collapse/ Injury/Illness/Trapped	592
PSW Suspicious Circumstances/Insecure Premises/Vehicle	534
Admin Duplicate	205

18. ASB Nuisance continues as the most prevalent occurrence type representing no change from 2016/17 with almost half of occurrences (47%) reported across the weekend². Over two-thirds of weekend incidents are reported during the night-time economy period. These reports encompass complaints of begging and vagrancy, urination in public places and rowdy behaviour for example fighting, verbal abuse and youth related

¹PSW: Public Safety Welfare

² Saturday and Sunday

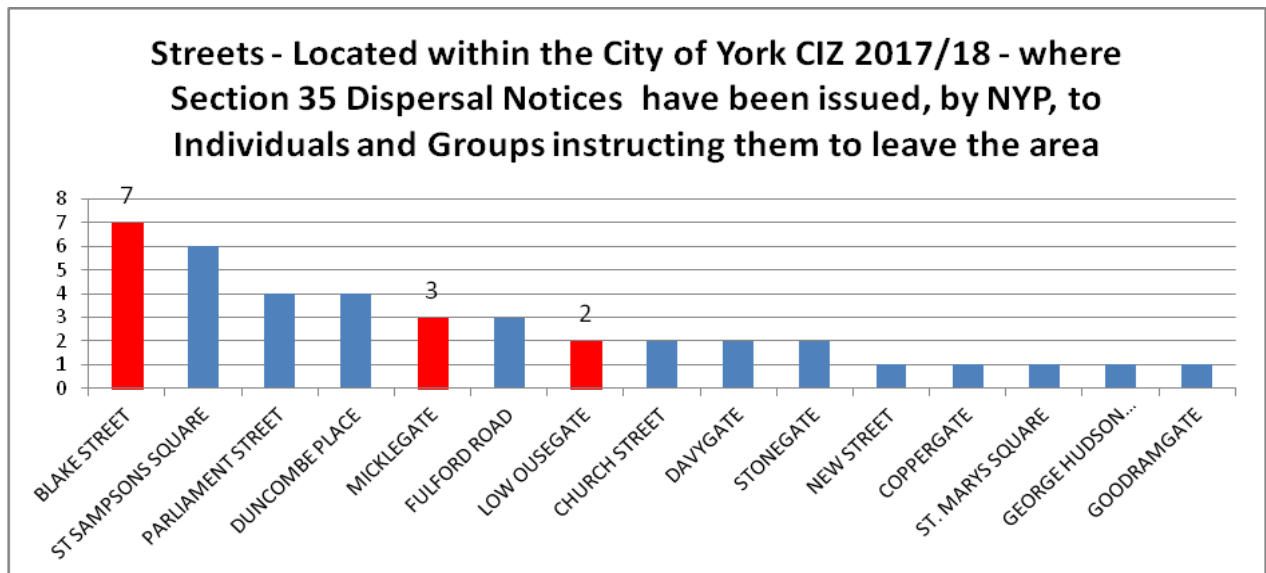
activity. It is estimated that 45% of ASB Nuisance occurrences are thought to be alcohol related although this is likely to be a conservative figure.³



19. ASB Dispersal Notices⁴ are also included within the ASB Nuisance category. Forty 'Section 35 Dispersal Notices' were issued by police officers for behaviour related incidents within the CIZ during 2017/18 where individuals, and groups, were instructed to leave the city. This represents a 29% increase compared with 2016/17 (31). Almost three quarters (70%) were issued across the weekend period (day and night) and 30% issued within the top five streets highlighted within the 'Location' section of this document.

³ National Incident Category List (NICL Code) specified as 'Alcohol' within the occurrence/crime data

⁴ Under the Anti-Social Behaviour, Crime and Policing Act 2014, Officers can disperse people who they believe are likely to commit crime or disorder, or behave anti-socially.



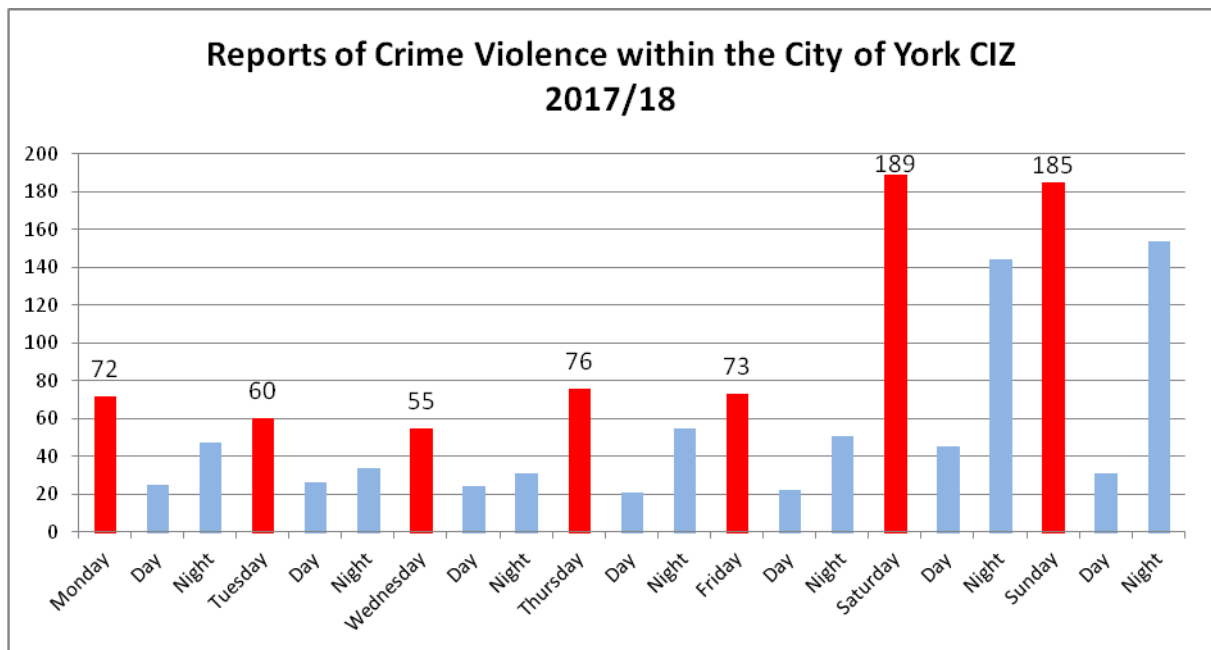
20. Overall, levels of ASB Nuisance, ASB Personal and ASB Environment have decreased this year compared with 2016/17.

ASB OCCURRENCE TYPE	2016/17	2017/18
ASB Nuisance	1237	1125
ASB Personal	98	76
ASB Environmental	55	47

21. The police and City of York Council (CYC) Community Safety Hub - co-located within the council offices - generally manage ASB complaints. The introduction of this Hub in 2014, together with the introduction of CYC Neighbourhood Enforcement Officers (NEOs) and York Business Improvement District (BID) Street Rangers has likely contributed towards the decrease in overall ASB.
22. Similar to 2016/17, Crime Violence continues to feature highly with an increase evident compared with the previous year (+24%).

OCCURRENCE TYPE	2016/17	2017/18
Crime Violence	572	710

23. Over half of Violence occurrences (52.7%) are reported across the weekend. 80% of weekend violence incidents are reported during the night-time economy period. It is estimated that almost half (47.7%) are likely to be alcohol related with an increase in related reports from 250 to 339 in 2017/18.



24. In addition to ASB Nuisance and Crime Violence, PSW Concern for Safety and PSW Suspicious Circumstances are also recorded within the top tier of occurrences. Levels remain relatively stable compared with 2016/17. Calls for Concern predominate and relate to people with vulnerabilities - adults and youths - by way of mental health problems or people in drink or affected by drugs and those potentially vulnerable because of circumstances such as rough sleeping or apparent injury.

OCCURRENCE TYPE	2016/17	2017/18
PSW Concern for Safety/Collapse/Injury/Illness/Trapped	608	592
PSW Suspicious Circumstances/Insecure Premises/Vehicle	502	534

Crime

25. 1127 crimes have been reported within the CZ in 2017/18. The top tier of Crime Groups exemplified within the table below account for 91.7% of crimes reported.

OCCURRENCE - Top 5 Crime Groups	2016/17	2017/18
Violence Against the Person	502	665
Arson & Criminal Damage	141	128
Public Order Offences	108	116
Drug Offences	46	79

Sexual Offences	39	46
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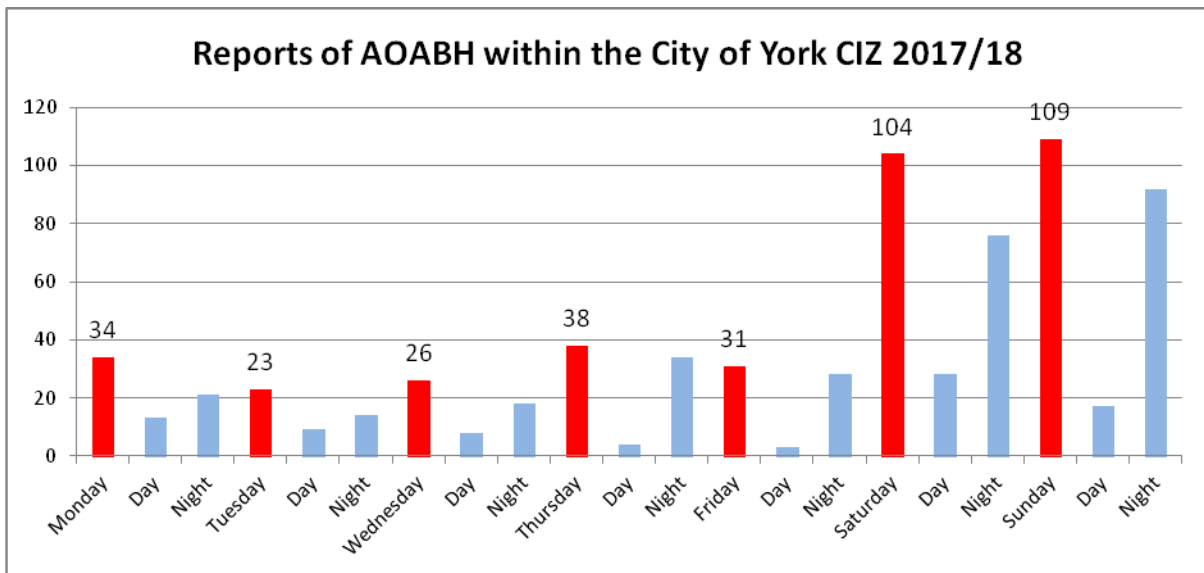
26. The most reported crime types within the CIZ are;

OCCURRENCE - Top 5 Crime Types	2016/17	2017/18
Assault Occasioning Actual Bodily Harm (AOABH)	250	365
Common Assault and Battery	175	205
£5000 or under - Criminal Damage to a building other than a dwelling	82	73
Having Possession of Cannabis	16	36
Fear or Provocation of Violence	24	34

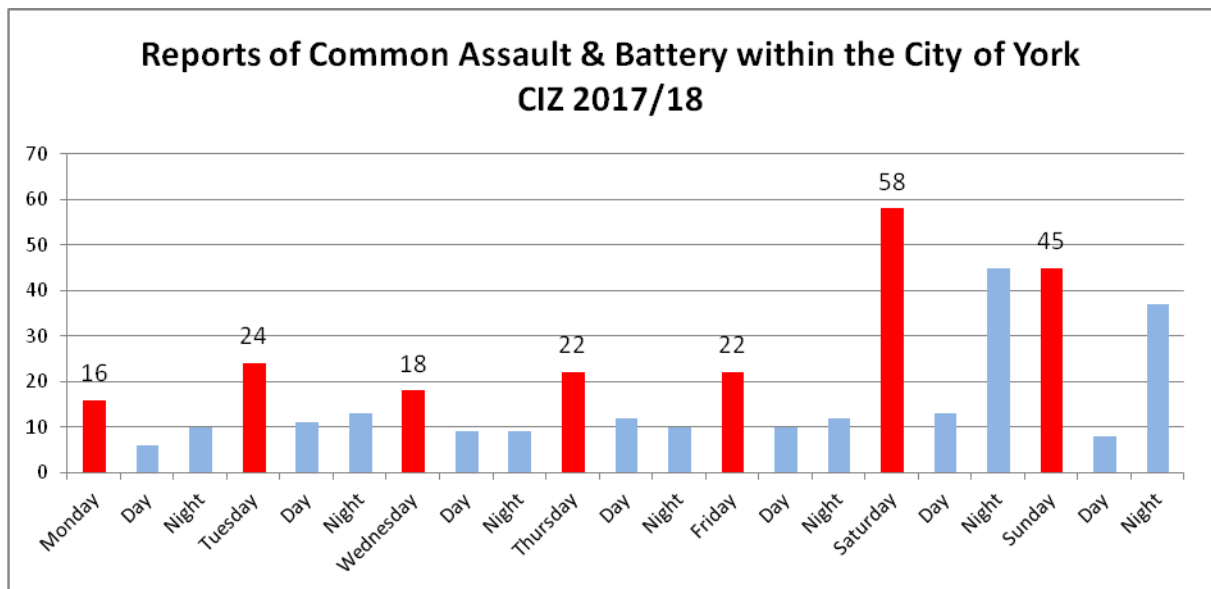
27. The most reported crime types within the CIZ are:

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£5000 or under - Criminal Damage to a building other than a dwelling	82	73
Having Possession of Cannabis	16	36
Fear or Provocation of Violence	24	34

28. Recorded alcohol related crime has increased from 351 to 439 occurrences in 2017/18.
29. Violence Against the Person offences have increased notably (+163) when compared with 2016/17 and this is reflected by corresponding increases in AOABH and Common Assault. Both crime types have featured highly across previous years. Over half of these violence offences are reported across the weekend - primarily across the night-time economy period.



30. Racial/Religious assaults are also evident - occurrences have almost doubled compared with 2016/17, increasing from seven reports to 13.

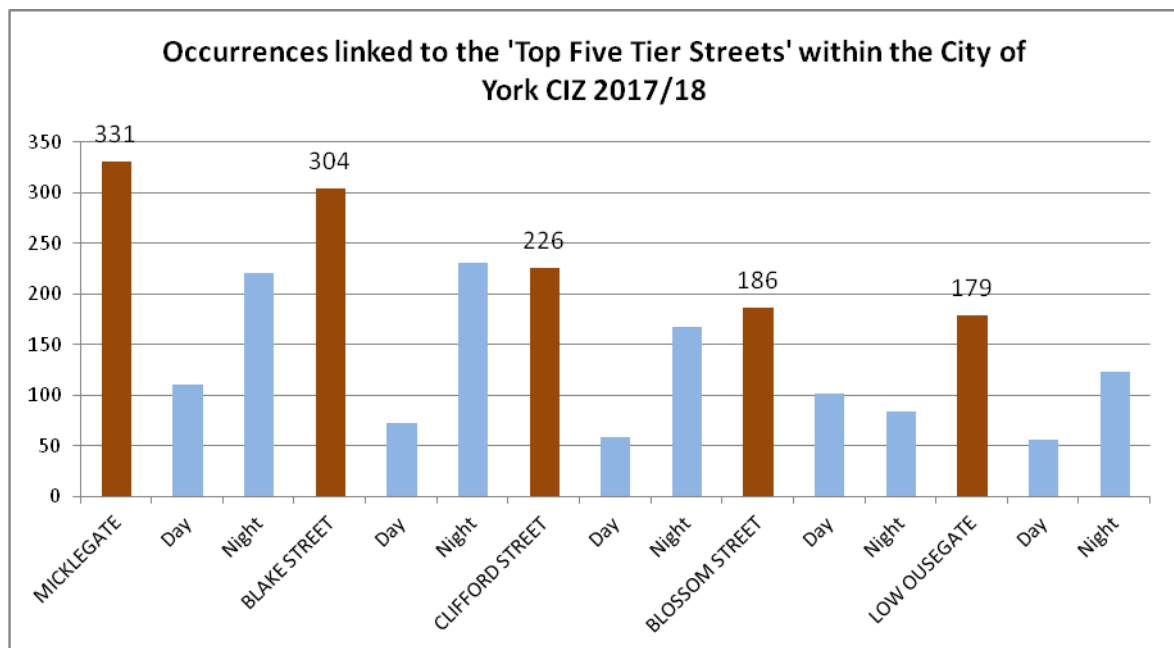


31. Public Order offences comprise primarily of Section 4, Section 5 and Affray offences (85%) which are committed mainly during the night-time period. These offences encompass behaviour in a public place including verbal abuse, verbal threats, spitting, shouting and swearing, urination and on one occasion, walking a seagull on a lead down a main thoroughfare.
32. Sexual offences have also recorded an increase compared with 2016/17 albeit the increase is in singular figures (+7). Reports of Sexual Assault on a female account for the highest level of offences within this crime group (21) followed by Rape of a Female aged 16 or over (13). Sexual assaults are reported primarily across the weekend period

specifically on Saturdays (day and night) with remaining reports across the week in general. Reported offences of Rape show no specific pattern and are consistent throughout the week.

Location

33. The 'Top Five Tier Streets', within the CIZ, that record the highest level of occurrences, are evidenced within the graph below. Micklegate, Blake Street and Blossom Street have been highlighted across previous years. These localities encompass a high concentration of licensed premises, off-license express supermarkets, late night eateries and cafes as well as hotel and retail premises. Consequently footfall is high.

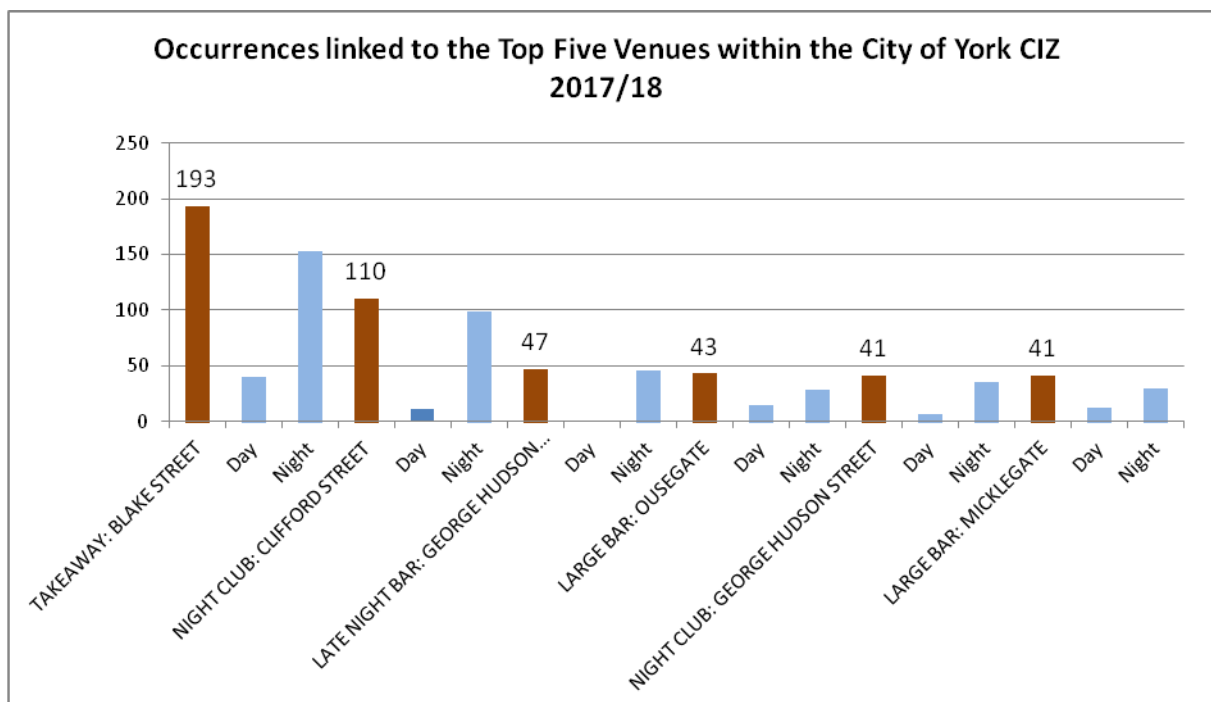


34. The level of reported occurrences, within the above localities, is highest during the night-time economy period on weekends.
35. Local, anecdotal information suggests that high footfall in Micklegate is partly attributable to large crowds of pedestrians congregating outside a licensed premises, encouraged – in most part – by the hole-in-the-wall ATM machine. Additionally, two licensed premises located along this street are highlighted within the 'Top Five Venues' for 2017/18. Both factors are likely to have contributed to the high level of occurrences recorded.
36. Blake Street is consistently highlighted for high levels of occurrences. A takeaway restaurant is situated within this area and this premise also features within the 'Top Five Premises' list. Police resources have frequently been called to the area this year by recurring incidents of disorder and ASB from gangs of youths travelling into the city from

outside of York and North Yorkshire. These gangs of youths have also caused disorder along High Ousegate in the vicinity of a local restaurant and this is also likely to have impacted on the level of occurrences in this street, highlighting it as a top tier location for 2017/18. ASB Dispersal Notices have been utilised on a number of occasions to address this specific issue.

37. Similar to Micklegate, a nightclub located on Clifford Street - and listed within the top 'Top Five Premises' list - is likely to have impacted on the level of occurrences reported within this locality. High footfall drawn by these venues results in increased demand for service from both the police and partners.

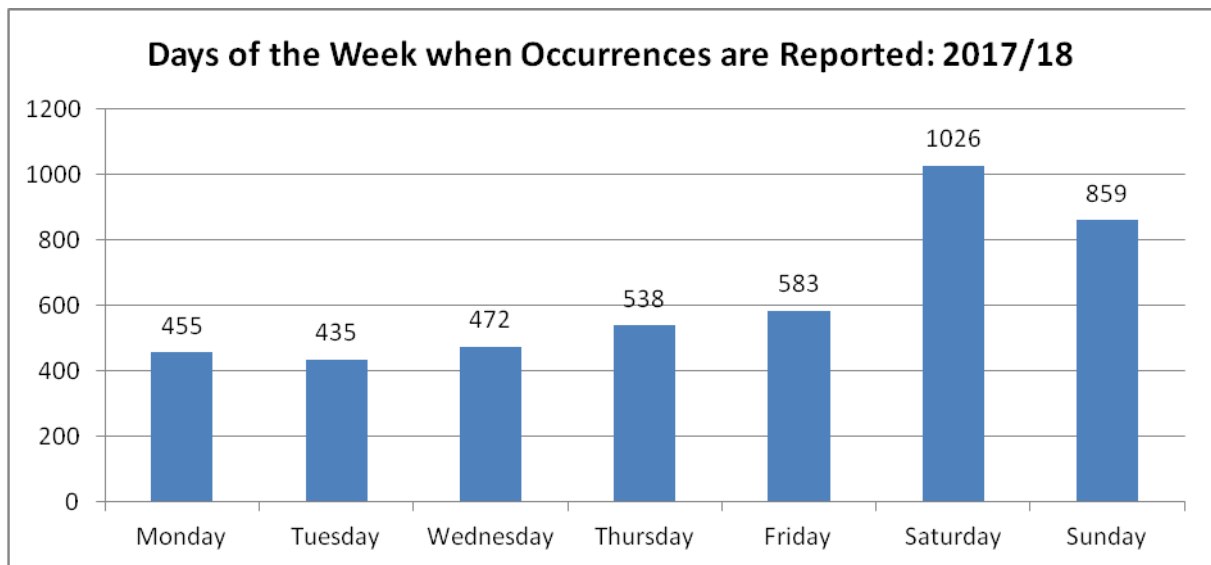
PREMISES TYPE & LOCATION - Top 5 Premises	2017/18
Takeaway: Blake Street	193
Nightclub: Clifford Street	110
Late Night Bar: George Hudson Street/Micklegate	47
Large Bar: Low Ousegate	43
Nightclub: George Hudson Street	41
Large Bar: Micklegate	41



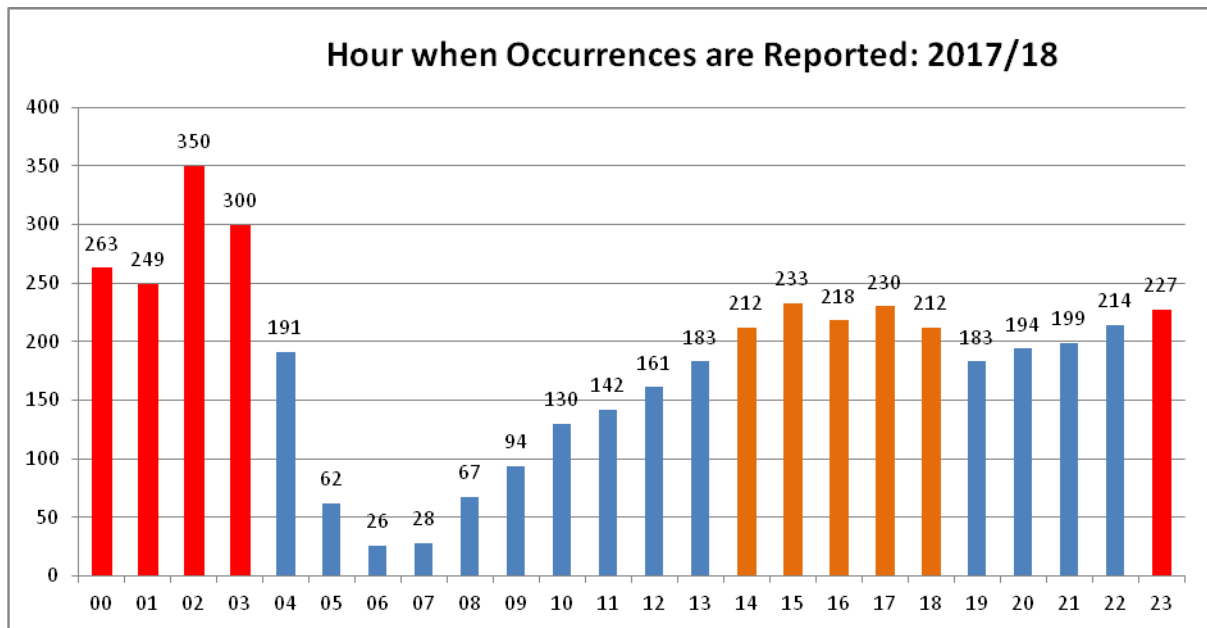
38. Occurrences in Blossom Street – in contrast with the remaining four ‘top tier’ streets – are reported mainly during the day-time economy period, likely influenced by reports linked to a local drug and alcohol integrated recovery service together with a cinema, newsagent and pharmacy. Several licensed premises and takeaway venues are also located along this street.

Temporal Information

39. Calls for police service are at their highest on weekends; Saturday and Sunday. This is consistent with previous years.



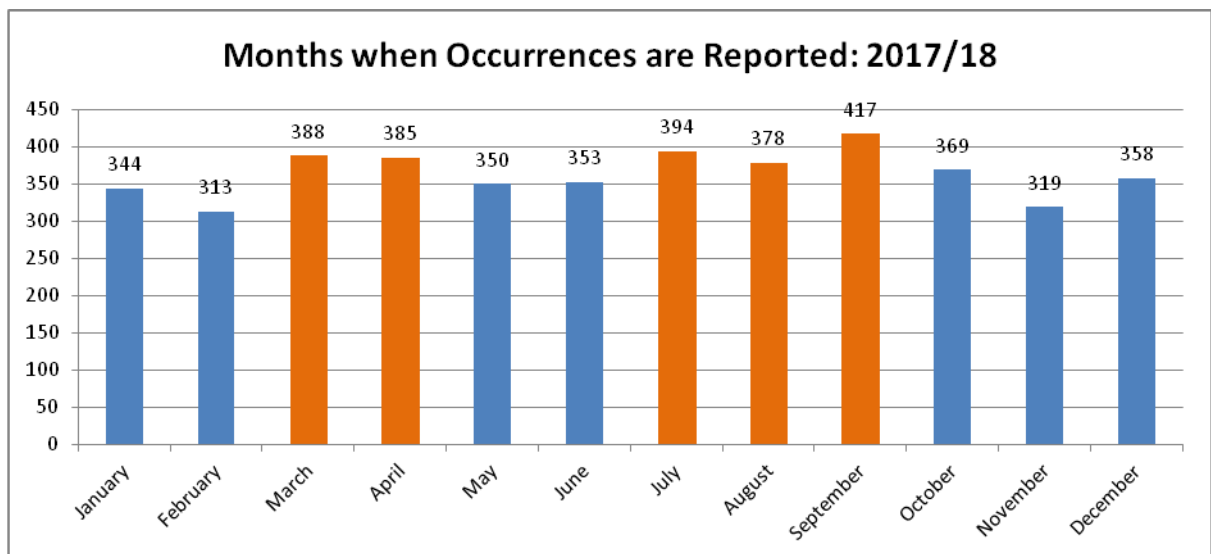
40. Overall, occurrences are at their minimum between 0500 and 1000 and this is mirrored across both years. During the daytime, the peak period for reported occurrences is between 1400 and 1900 followed by a further peak period between 2300 and 0400 - the traditional night-time activity period.



41. The daytime pattern can be attributed to a specific influx of revellers travelling in from other regions such as the North-East of England and South Yorkshire to enjoy the leisure facilities/activities offered in York during this time. These revellers include Hen and Stag parties. Revellers generally arrive at York Railway Station late morning and return back to their home towns during the evenings. Licensed premise representatives have previously reported a lull after the departure of these visitors until local revellers begin to emerge later in the night to enjoy activities and this pattern supports this theory.
42. The consequence of this temporal pattern means that traditional night-time economy hours have been superseded by a greater influx of visiting revellers into the City of York during Saturday afternoons which has resulted in traditional shopping activities of families and tourists - on a weekend - being affected by the ASB activities of the revellers as well as increasing resource implications for, not only NYP, but also partner agencies including British Transport Police (BTP) and respective train companies. External research in 2014 by Planning Express⁵ indicated that standards of behaviour in the city centre, whilst not reported as ASB or constituting a crime, can be perceived by residents and visitors as inappropriate.
43. Similar to many other towns and cities in England and Wales, a pre-loading culture also exists in the City of York and this includes consumption of alcohol on many of the trains bringing revellers into the city from surrounding counties albeit periodic 'dry trains' have been implemented on Saturdays by the rail networks in an attempt to control behaviour prior to arrival in York.

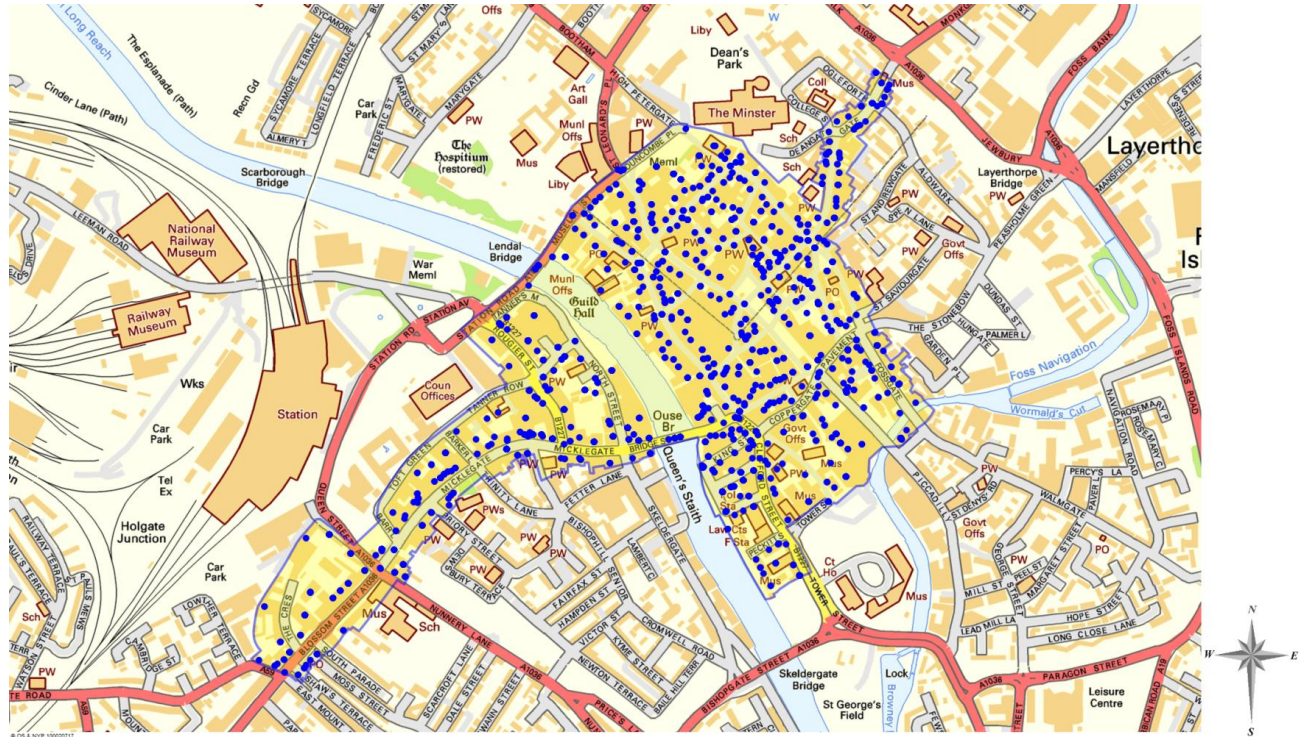
⁵ North Yorkshire Police and Crime Commissioner (NYPCC) Report 'Reducing the Risk of Harm to Vulnerable People in York's NTE, 28 October 2014

44. Operation Erase and Operation Safari - led by NYP - continue to operate within the city centre on Saturday afternoons and during the night-time economy period.
45. Reported occurrences in 2017/18 are relatively consistent across all months with increases evident March - April and July - September. Isolated increases are also evident in October and December.
46. The months highlighted above incorporate school and Bank Holiday periods and - commencing May - the onset of the seasonal increase in tourists/visitors to the City attending recurrent events such as York Races. Increases during December are likely influenced by increased footfall to the city attending events such as Christmas Fairs and other associated festivities as well as increased social activities at licensed venues as a consequence of Christmas and New Year.

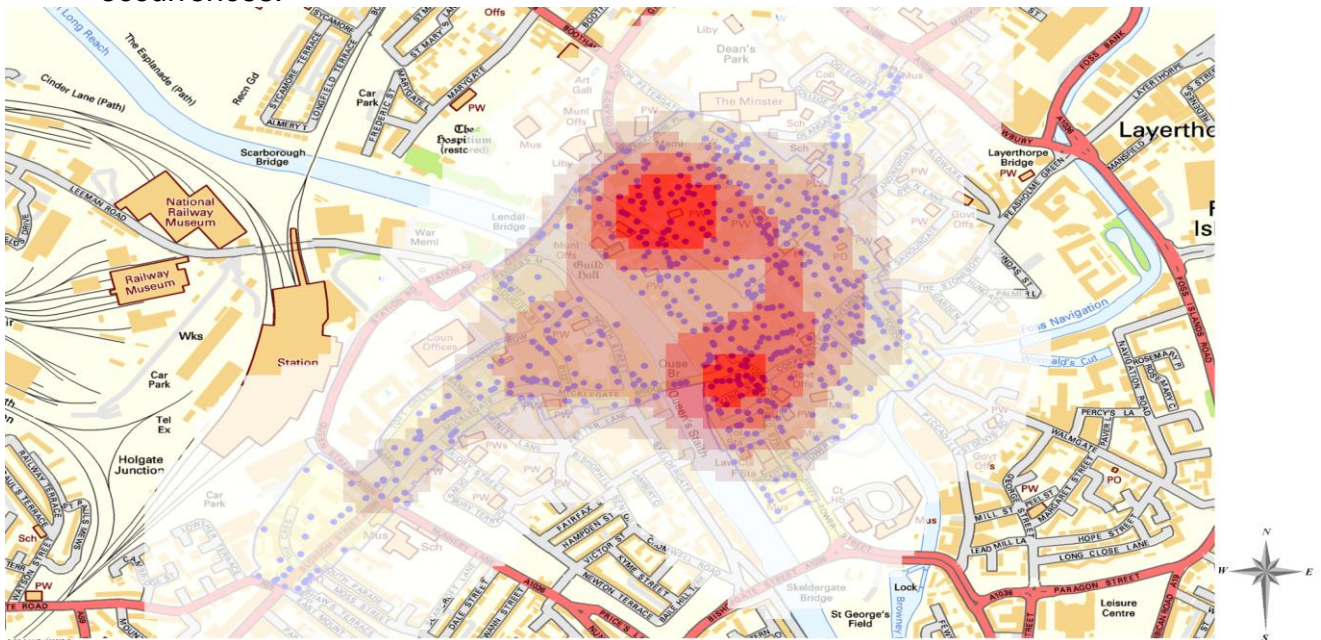


Maps

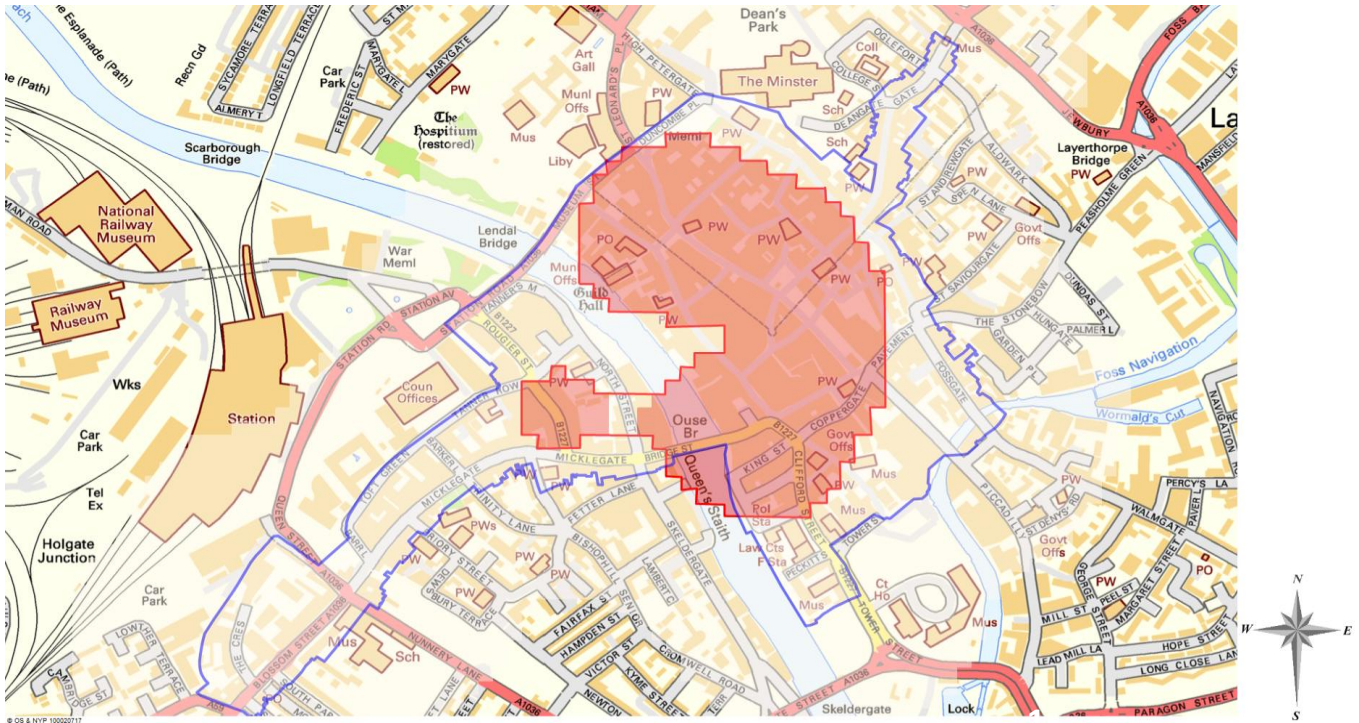
47. Map of the City of York showing the Cumulative Impact Zone as indicated by the blue boundary lines together with all occurrences and crimes (represented by blue dots) committed within the CIZ between 01/04/2017 and 31/03/2018.



48. Hot Spot Map showing the concentration of occurrences within the City of York Cumulative Impact Zone between 01/04/2017 and 31/03/2018. Red shading indicates highest density and graduating red / pink / white shading showing lowest density of occurrences.



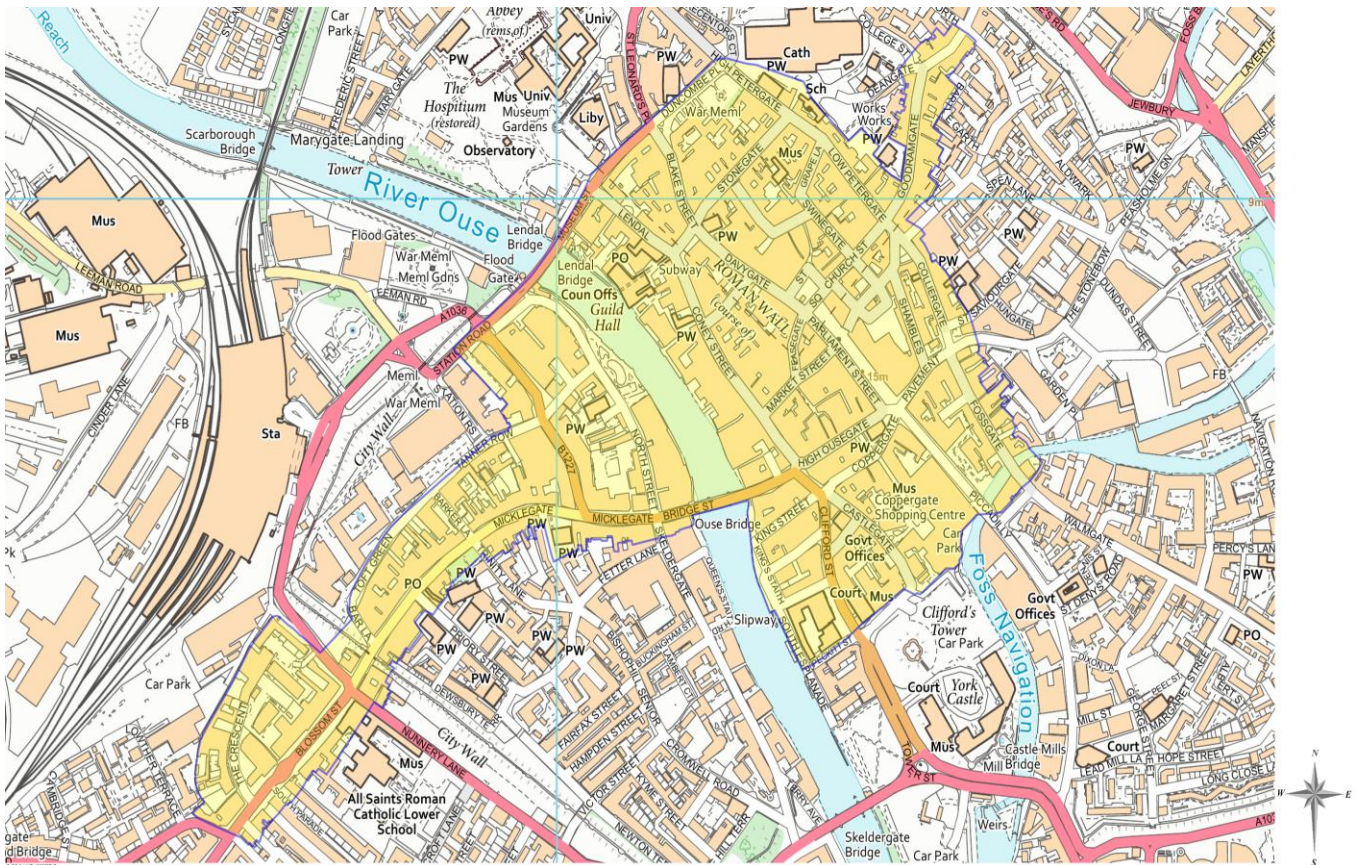
49. Hot Spot Map showing the concentration of occurrences within the City of York Cumulative Impact Zone between 01/04/2017 and 31/03/2018. Red shading indicates highest density of occurrences.



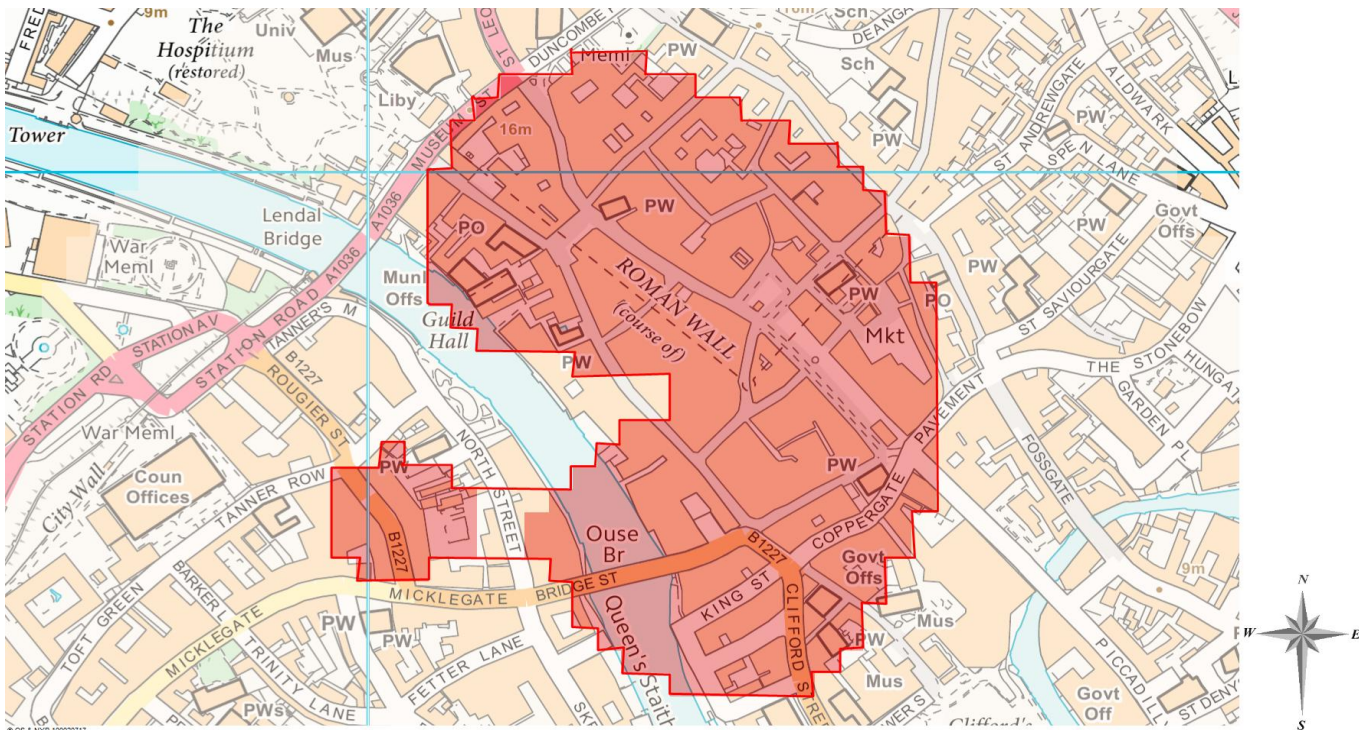
Conclusion

50. The Assessment has been carried out in accordance with the Section 5(a) of the Licensing Act 2003. This Assessment has been published because the Council considers that the number of relevant authorisation in respect of premises in one area described in the assessment is such that it is likely that it would be inconsistent with the Council's duty under the Act to grant any further relevant authorisations in respect of premises in that part.
51. Based on the statistical data evidence above and the hot spot map, the Council has determined that an area of the city centre should remain as a cumulative impact area. The area should be altered (reduced) to match the 'Top Five Tier Streets' identified at paragraph 32 and the area identified on the hot spot map at paragraph 46. A red zone area is to be introduced, this is the area identified on the hot spot map at paragraph 47 which shows the highest density of occurrences.

52. The cumulative impact area is defined in the map below:



53. The red zone area is defined in the map below:



By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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10/06/2019

Mail - cobra 321 - Outlook

Fri 07/06/2019 21:36
licensing@york.gov.uk

F.A.O.

I am writing to object to the application to vary the Premises Licence for the Corner Pin on Tanner Row, York, YO1 6JB.

I feel that the application to extend the opening hours to 3.00am plus 1/2hr to closing to the public is contrary to the conditions which were applied previously due to the close proximity of my home.

The noise emanating from the premises is clearly audible in my lounge and 2 bedrooms on that side of the house. The conservatory doors are constantly left open and even held open by a "hook" so I can plainly hear the questions on quiz nights from within my lounge!

The current conditions are not adhered to and I have evidence of this which can be presented at any subsequent hearing.

For 19 years I have enjoyed the good relationship between the previous pub landlords and myself but, unfortunately, this relationship has been soured by the appointment of a new manager who seems to think he is above the rules and has no respect for local residents.

I have to suffer constant noise past the allowable hours and the additional lighting in the beer garden is left on all night illuminating the side of my house and the 2 bedrooms - he had the audacity to tell me he could not switch them off since a refurbishment! There is also a CCTV camera now facing my house wall and presumably my bedroom windows.

The new lighting strung across the outside area has also meant that my window cleaners cannot now access the 2 bedroom windows for cleaning.

Although there is a condition not allowing the use of outside speakers, 2 have been fitted recently which are directed at my house - I pointed this out to the previous manager and he said they would never be switched on and kept to his word but the current manager, even though I have mentioned it on several occasions, continually plays music through them which is audible in my house!

His reply is "what about the music from Flares? That has nothing to do with the problem - especially on a Sunday afternoon - but he seems to think it is ok for him to decide if and what the conditions should be and not those applied by the council.

I have been intimidated by him on several occasions when I have been outside the premises - on 1 occasion when I was reading the Application notice which was tied to a gate which is always left open so it cannot be seen anyway and more recently when reading the 2nd notice - which has only just been displayed - on a gate at the side of the premises which is recessed back from the pavement and is nothing to do with the Corner Pin!

The manager suddenly appears in front of me - he obviously sees me on video monitor behind the bar - and objects to me reading the notices - and is usually followed by another member of staff or somebody from the kitchen who is obviously trying to intimidate me.

I feel that there is a definite attempt to intimidate me and I will not be bullied by the manager or licensee.

If the council would like to see the evidence to prove what I am saying I am willing to present it at a hearing.

10/06/2019

Mail - cobra 321 - Outlook

The manager also told me today, Fri 7/06, that the council had already approved the application to extend the hours and there was nothing I could do about it!

I look forward to your response,

York

SIGNED -

Sefton, Helen

From: [redacted]
Sent: 30 May 2019 12:19
To: licensing@york.gov.uk
Subject: Corner Pin, York - Full variation Agreed Conditions

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.

Good afternoon Licensing,

Please see the below agreed condition in respect of the Full variation for the Corner Pin, Tanner row, York. As a result of this agreement no formal Police representation will be submitted for this application.

- "On Fridays and Saturdays two SIA registered door staff will be deployed from 22:00 until the premises closes to the public but only when the premises is open to provide licensable activities after 01:00. At all other times, door staff will be deployed on a risk assessed basis. When on duty, SIA door supervisors will wear high visibility armbands and sign in and out of the premises providing their full name and SIA number".

< – For you records. Thank you.

Kind Regards

Alcohol Licensing Unit
Partnership Hub
North Yorkshire Police
Mobile:
'Committed to the code of ethics'

From: [redacted]
Sent: 28 May 2019 14:36
To: [redacted]
Subject: Corner Pin, York - Full variation

Good afternoon

I have now taken instructions from the Area Manager and have been authorised to put forward the below condition which is fairly in keeping with your proposal except for door staff commencing at 22:00 rather than 21:00 – please let me know if you have an issue with that.

In addition, just to give a bit of background, it is not necessarily intended that the premises will be traded regularly to the times proposed, it is more trying to avoid the need for Temporary Event Notices etc.

As such, my client is happy to commit to the deployment of door staff but the preference would be to protect the current position so that there would be no legal requirement for deployment (although they would risk assess the need) unless the premises took the benefit of the later hours – this is worked into the below condition:

- "On Fridays and Saturdays two SIA registered door staff will be deployed from 22:00 until the premises closes to the public but only when the premises is open to provide licensable activities after 01:00. At all other times, door staff will be deployed on a risk assessed basis. When on duty, SIA door supervisors will wear high visibility armbands and sign in and out of the premises providing their full name and SIA number".

Can you please let me know if you are happy with that condition.

Kind Regards

Associate
Sent by

k | www.john-gaunt.co.uk

T: | M: | F:



Omega Court | 372-374 Cemetery Road | Sheffield | S11 8FT

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From

Sent: 28 May 2019 10:33

To: f ...

Subject: RE: Corner Pin, York - Full variation

Good Morning

Hope you are well.

Have we got any update about the proposed condition as yet? I have not yet received from the Licensing authority any update to say the rep date has been pushed back and as such it does mean I will need to put in my representation this week.

If there is any update from your client this would be appreciated. I am on leave tomorrow just for the day but I will write the Police representation on Thursday on my return should there be no confirmation of agreement to the condition.

Kind Regards,

Alcohol Licensing Unit
Partnership Hub
North Yorkshire Police

'Committed to the code of ethics'

**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).

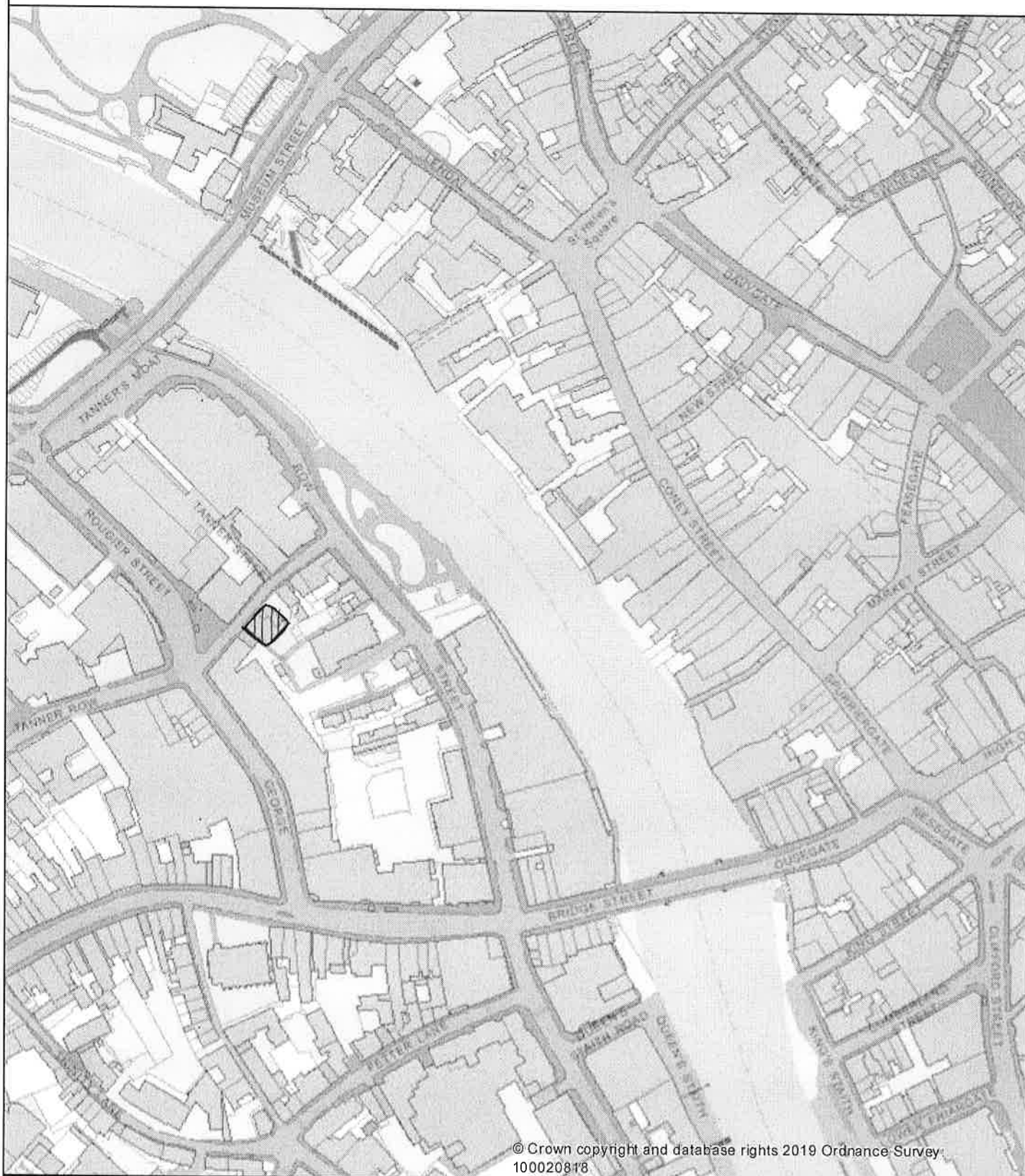
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Legislation and Policy Considerations

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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Annex 9



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Date: 17 Jun 2019

Author: City of York Council


Scale: 1:2,500



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**ADDITIONAL
INFORMATION FROM
APPLICANT
SOLICITOR**

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Status:  Positive or Neutral Judicial Treatment

**Daniel Thwaites Plc v Wirral Borough Magistrates' Court v The Saughall
Massie Conservation Society, Wirral Metropolitan Borough Council**

Case No: CO/5533/2006

High Court of Justice Queen's Bench Division Administrative Court

6 May 2008

[2008] EWHC 838 (Admin)

2008 WL 1968943

Before: The Honourable Mrs Justice Black

Date: 06/05/2008, Hearing date: 10th March 2008

Representation

David MW Pickup (instructed by Naphens plc) for the Claimant.

The Defendant did not appear and was not represented.

David Flood (instructed by Messrs Kirwans) for the 1st Interested Party.

Matthew Copeland (instructed by Wirral MBC) for the 2nd Interested Party.

Approved Judgment

Black J :

1 This is an application by Daniel Thwaites Plc ("the Claimant") for judicial review of a licensing decision made by the Wirral Magistrates' Court ("the Magistrates' Court") on 5 April 2006 and that court's decision on 21 April 2006 concerning the costs of the proceedings. The Claimant seeks an order quashing both decisions. Permission to apply for judicial review was granted by Mr Justice Pitchford on 2 November 2006.

The factual background

2 The Claimant owns the Saughall Hotel in Saughall Massie, Wirral which it operates as licensed premises ("the premises"). It originally held a licence under the [Licensing Act 1964](#) . In June 2005, it commenced an application to the Licensing Sub-Committee of the Metropolitan Borough of Wirral ("the licensing authority") for the existing licence to be converted to a premises licence under the [Licensing Act 2003](#) and for the licence to be varied simultaneously.

3 In essence, the Claimant was seeking to conduct business at the premises for longer hours than were permitted under the original licence. The police did not support the extension of the hours to the extent that the Claimant initially proposed. The Claimant agreed to restrict the hours to those that were acceptable to the police. Accordingly, the licensing authority was asked to grant a licence that would permit music and dancing to 11 p.m. and alcohol sales until midnight on all nights except Friday and Saturday and, on Friday and Saturday nights, music and dancing to midnight and alcohol sales until 1 p.m., with the doors closing one hour after the last alcohol sale every night.

4 The police withdrew their representations against the modified proposals and did not appear before the licensing authority when the matter was heard on 23 August 2005. No representations were made by the Wirral Environmental Health Services either. However, there was opposition to the proposals at the hearing from the Saughall Massie Conservation Society ("the First Interested Party") and other Saughall Massie residents.

5 The Claimant told the licensing authority at the hearing that the hours of operation at the premises would not vary significantly from the existing hours of operation and that the application for extended hours was to allow flexibility to open later "on special occasions" This was a matter of which the licensing authority took note as is recorded in the minutes of their determination.

6 The licence was granted in the modified terms requested together with an additional hour for licensable activities and an extra 30 minutes for the hours the premises were to be open to the public over Christmas and at the major bank holidays. Special arrangements were also permitted for New Year's Eve. The licensing authority removed certain conditions that had been imposed on the old licence (requiring all alcohol to be consumed within 20 minutes of the last alcohol sale and banning children under 14 from the bar) and imposed other conditions which were obviously aimed at controlling noise, namely that the area outside must be cleared by 11 p.m., that the premises must promote the use of taxi firms which use a call-back system, that all doors and windows must be kept closed when regulated entertainment was provided and that prominent notices should be placed on the premises requiring customers to leave quietly.

7 The Saughall Massie Conservation Society and "others" appealed against the licensing decision to the Magistrates' Court on the ground that the licensing authority's decision "was not made with a view to promotion of and in accordance with the licensing objectives pursuant to [Section 4, Part 2 of the Licensing Act 2003](#)".

8 The appeal occupied the Magistrates' Court from 3–5 April 2006. The respondents to the appeal were the licensing authority and the Claimant which both defended the licensing authority's decision. Witnesses were called including Saughall Massie residents, Police Sergeant Yehya who dealt with the stance of the Merseyside police, and Mr Miller, the manager of the premises.

9 The justices granted the appeal. Their Reasons run to 3 pages of typescript, one page of which is entirely taken up with setting out the new hours of operation they imposed. These permitted entertainment until 11 p.m. and alcohol sales until 11.30 p.m. on all nights except Friday and Saturday when entertainment would be permitted until 11.30 p.m. and alcohol sales until midnight. The premises could remain open to the public until midnight on all nights except Friday and Saturday when they could close at 1 a.m.. Similar provisions were imposed to those imposed by the licensing authority in relation to later opening at Christmas and major bank holidays and the provisions relating to New Year's Eve and the conditions of the licence remained unaltered.

10 The new licence had come into effect on 24 November 2005 so the new arrangements had been running for several months by the time of the hearing before the Magistrates' Court. There had been no formal or recorded complaints against the premises under the old or the new regime as the justices acknowledged in their Reasons. The residents who gave evidence were fearful of problems if the extended hours were allowed in the summer. The Chairman of the Conservation Society, who gave oral evidence, spoke of people urinating in the gardens and a problem with litter. It appears from the statement filed by the Chairman of the Bench for these judicial review proceedings that evidence was also given of interference with machinery on nearby Diamond Farm. The justices' Reasons make no reference at all to these matters. As to the statements of the "Witnesses of the Appellant", they say simply that they have read and considered them but attached little or no weight to them.

11 The justices and their legal advisor have filed a considerable amount of material in response to the judicial review proceedings, in all 31 closely typed pages. These comprise their Response to the Claim, statements from Alistair Beere (who was the chairman of the bench), Mary Woodhouse (another of the bench) and Stephen Pickstock (the legal advisor), and what is said in the index to be a document by Mr Beere from which he prepared his statement. There was limited argument before me as to the status of these documents and the weight that I should give to them. It was not submitted that I should decline to have *any* regard to them although I think it is fair to say that it was common ground between the parties, rightly in my view, that I should concentrate principally on the Reasons. It is established by authorities such as [R v Westminster](#)

[City Council ex p Ermakov \[1996\] 2 All ER 302](#) that the court can admit evidence to elucidate or, exceptionally, correct or add to the reasons given by the decision maker at the time of the decision but that it should be very cautious about doing so. The function of such evidence should generally be elucidation not fundamental alteration, confirmation not contradiction. In the circumstances, I have read carefully what the magistrates have provided but approached its role in the judicial review proceedings cautiously.

The broad nature of the claim in relation to the licensing decision

12 The Claimant argues that the Magistrates' Court decision is unlawful for a number of reasons. It is argued that the decision was not in line with the philosophy of the [Licensing Act 2003](#) ("the Act") and imposed restrictions on the Claimant's operation which were not necessary to promote the licensing objectives set out in that Act, that it was based on speculation rather than evidence, that it took into account irrelevant considerations and failed to take into account proper considerations, and that it was a decision to which no properly directed magistrates' court could have come on the evidence. In so far as the court imposed conditions as to the time at which the premises must close, it is submitted that this was not a matter which can be regulated under the Act. It is further argued that the magistrates failed to give adequate reasons for their decision.

The legal background

13 The [Licensing Act 2003](#) was intended to provide a "more efficient" "more responsive" and "flexible" system of licensing which did not interfere unnecessarily. It aimed to give business greater freedom and flexibility to meet the expectations of customers and to provide greater choice for consumers whilst protecting local residents from disturbance and anti-social behaviour.

14 Note 12 of the explanatory notes to the Act gives an indication of the approach to be taken under the Act. It reads:

"12. In contrast to the existing law, the Act does not prescribe the days or the opening hours when alcohol may be sold by retail for consumption on or off premises. Nor does it specify when other licensable activities may be carried on. Instead, the applicant for a premises licence or a club premises certificate will be able to choose the days and the hours during which they wish to be authorised to carry on licensable activities at the premises for which a licence is sought. The licence will be granted on those terms unless, following the making of representations to the licensing authority, the authority considers it necessary to reject the application or vary those terms for the purpose of promoting the licensing objectives."

15 [Section 1](#) of the Act provides:

"S1

(1) For the purposes of this Act the following are licensable activities—

(a) the sale by retail of alcohol,

(b) [clubs]

(c) the provision of regulated entertainment, and

(d) the provision of late night refreshment."

16 To carry on a licensable activity, a premises licence granted under [Part 3](#) of the Act is generally required, [section 2](#) . Application for a premises licence must be made to the relevant

licensing authority, [section 17\(1\)](#) .

17 By virtue of [section 4](#) , the licensing authority must carry out all its functions under the Act (including its functions in relation to determining an application for a premises licence or an application for a variation of a premises licence) with a view to promoting the “licensing objectives”. These are set out in [section 4](#) as follows:

“S 4

(2) The licensing objectives are—

(a) the prevention of crime and disorder;

(b) public safety;

(c) the prevention of public nuisance; and

(d) the protection of children from harm.”

18 In carrying out its licensing functions, by virtue of [section 4\(3\)](#) the licensing authority must also have regard to its licensing statement published under [section 5](#) and any guidance issued by the Secretary of State under [section 182](#) .

19 [Section 182](#) obliges the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act. Guidance was issued in July 2004 (“the Guidance”). It was updated in June 2007 but it is the original guidance that is relevant in this case. In any event, none of the changes made are material to the issues I have to determine.

20 The Foreword says that the Guidance

“is intended to aid licensing authorities in carrying out their functions under the 2003 Act and to ensure the spread of best practice and greater consistency of approach. This does not mean we are intent on eroding local discretion. On the contrary, the legislation is fundamentally based on local decision-making informed by local knowledge and local people. Our intention is to encourage and improve good operating practice, promote partnership and to drive out unjustified inconsistencies and poor practice.”

21 As the Guidance says in paragraph 1.7, it does not replace the statutory provisions of the Act or add to its scope. Paragraph 2.3 says:

“Among other things, section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, it is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.”

22 An application to the licensing authority for a premises licence must be accompanied by an operating schedule in the prescribed form including a statement of the matters set out in [section 17\(4\)](#) which are as follows:

- “(a) the relevant licensable activities,
- (b) the times during which it is proposed that the relevant licensable activities are to take place,
- (c) any other times during which it is proposed that the premises are to be open to the public,
- (d) where the applicant wishes the licence to have effect for a limited period, that period,
- (e) where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor,
- (f) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both,
- (g) the steps which it is proposed to take to promote the licensing objectives,
- (h) such other matters as may be prescribed.”

23 [Section 18](#) deals with the determination of an application for a premises licence. [Section 35](#) deals in very similar terms with the determination of an application to vary a premises licence. It will be sufficient only to set out here the provisions of [s 18](#).

24 [Section 18\(2\)](#) provides that, subject to [subsection \(3\)](#), the authority must grant the licence in accordance with the application subject only to:

- “(a) such conditions as are consistent with the operating schedule accompanying the application,
- and
- (b) any conditions which must under section 19, 20 or 21 be included in the licence.”

25 [Section 19](#) deals with premises licences which authorise the supply of alcohol. Such licences must include certain conditions ensuring that every supply of alcohol is made or authorised by a person who holds a personal licence and that no supply of alcohol is made when there is no properly licensed designated premises supervisor. [Sections 20 and 21](#) are not relevant to this claim.

26 [Section 18\(3\)](#) provides that where relevant representations are made, the authority has certain specified obligations. In so far as is relevant to this appeal “relevant representations” are defined in [section 18\(6\)](#) as follows:

- “(6) For the purposes of this section, “relevant representations” means representations which—
- (a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,
- (b) meet the requirements of subsection (7),
- (c)”

27 [Subsection \(7\)](#) provides:

(7) The requirements of this subsection are—

(a) that the representations were made by an interested party or responsible authority within the period prescribed under section 17(5)(c),

(b) that they have not been withdrawn, and

(c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

28 Where relevant representations are made, the authority must hold a hearing to consider them unless the authority, the applicant and each person who has made representations agrees that a hearing is unnecessary. By virtue of [section 18\(3\)\(b\)](#), the authority must also:

“(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.”

29 [Section 18\(4\)](#) provides:

“(4) The steps are—

(a) to grant the licence subject to—

(i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and

(ii) any condition which must under section 19, 20 or 21 be included in the licence;

(b) to exclude from the scope of the licence any of the licensable activities to which the application relates;

(c) to refuse to specify a person in the licence as the premises supervisor;

(d) to reject the application.”

30 Conditions are modified for the purposes of [subsection \(4\)\(a\)\(i\)](#) if any of them is altered or omitted or any new condition is added.

31 During the currency of a premises licence, by virtue of [section 51](#), an interested party (broadly speaking, a local resident or business) or a responsible authority (police, fire, environmental health etc.) may apply to the relevant licensing authority for a review of the licence on a ground which is relevant to one or more of the licensing objectives. By virtue of [section 52](#), a hearing must be held to consider the application and any relevant representations and the authority must take such steps from a specified list as it considers necessary for the promotion of the licensing objective. The steps range from modifying the conditions of the licence to suspending it or revoking it completely.

32 The Act makes provision in [Part 5](#) for “permitted temporary activity” which, loosely speaking, is a form of ad hoc licensing to cover licensable activities which are not covered by a more general licence. The system involves proper notification of an event to the licensing authority and the police. Provided the applicable number of temporary event notices has not been exceeded and the police do not intervene, the event is automatically permitted. Temporary event notices can

only be given in respect of any particular premises 12 times in a calendar year and the period for which each event lasts must not exceed 96 hours.

33 [Section 181](#) provides for appeals to be made against decisions of the licensing authority to a magistrates' court which is, of course, how the decisions in relation to which judicial review is sought in this case came to be made.

The detail of the claim

34 The Claimant submits that in making its decision to allow the appeal in relation to the premises licence, the Magistrates' Court failed in a number of respects to take account of the changes that the new licensing regime has made and failed to adopt the approach required by the Act. It is further submitted that the magistrates failed properly to consider and take into account the Guidance.

35 There is no doubt that the Guidance is relevant in the magistrates' decision making. As I have set out above, [section 4\(3\)](#) requires the licensing authority to "have regard" to the Guidance. By extension, so must a Magistrates' Court dealing with an appeal from a decision of the licensing authority. The Guidance says:

"10.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court concerned will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it is justified to do so because of the individual circumstances of any case."

36 Mr Pickup submits that although the Guidance is not binding and local variation is expressly permitted, it should not be departed from unless there is good reason to do so.

37 Mr Flood for the First Interested Party submits that the Guidance simply serves to provide information for the magistrates and provided that they have had regard to it, that is sufficient. He also points out that, in some respects (as is clear from the wording of the Guidance), the Guidance is a statement of Government belief rather than proved fact. Inviting attention to the judgment of Beatson J in *J. D. Weatherspoon plc v Guildford Borough Council* [2006] EWHC 815 (Admin), he identifies that different policy elements in the Guidance may pull in different directions in a particular case, flexibility and customer choice potentially conflicting with the need to prevent crime and disorder. He submits that provided that the magistrates consult the Guidance, they do not need to use it as "a decision making matrix that the deciding Court has to sequentially address in making its decision in the manner it would if considering a section of a statute".

38 There is no doubt that regard must be had to the Guidance by the magistrates but that its force is less than that of a statute. That is common ground between the parties. The Guidance contains advice of varying degrees of specificity. At one end of the spectrum, it reinforces the general philosophy and approach of the Act. However, it also provides firm advice on particular issues, an example being what could almost be described as a prohibition on local authorities seeking to engineer staggered closing times by setting quotas for particular closing times. I accept that any individual licensing decision may give rise to a need to balance conflicting factors which are included in the Guidance and that in resolving this conflict, a licensing authority or magistrates' court may justifiably give less weight to some parts of the Guidance and more to others. As the Guidance itself says, it may also depart from the Guidance if particular features of the individual case require that. What a licensing authority or magistrates' court is not entitled to do is simply to *ignore* the Guidance or fail to give it any weight, whether because it does not agree with the Government's policy or its methods of regulating licensable activities or for any other reason. Furthermore, when a magistrates' court is entitled to depart from the Guidance and justifiably does so, it must, in my view, give proper reasons for so doing. As paragraph 2.3 of the Guidance says in relation to the need for licensing authorities to give reasons:

"When [departing from the Guidance], licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial

review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken."

This is a theme to which the Guidance returns repeatedly and is a principle which must be applicable to a magistrates' court hearing an appeal as it is to a licensing authority dealing with an application in the first instance. I agree with Mr Flood for the First Interested Party that the magistrates did not need to work slavishly through the Guidance in articulating their decision but they did need to give full reasons for their decision overall and full reasons for departing from the Guidance if they considered it proper so to do.

39 In this case, Mr Pickup submits that proper attention to the Guidance would have helped the magistrates to come to a correct and reasonable decision and that they have failed to adhere to it without proper reason and failed to carry out their licensing function in accordance with the Act.

40 The foundation of the Claimant's argument is that the Act expects licensable activities to be restricted only where that is *necessary* to promote the four licensing objectives set out in [section 4\(2\)](#). There can be no debate about that. It is clearly established by the Act and confirmed in the Guidance. For example, in the Act, [section 18\(3\)\(b\)](#), dealing with the determination of an application for a premises licence, provides that where relevant representations are made the licensing authority must "take such of the steps mentioned in [subsection \(4\)](#) (if any) as it considers necessary for the promotion of the licensing objectives" (the steps in [subsection \(4\)](#) include the grant of the licence subject to conditions). [Section 34\(3\)\(b\)](#), dealing with the determination of an application to vary a premises licence, is in similar terms. The Guidance repeatedly refers, in a number of different contexts, to the principle that regulatory action should only be taken where it is *necessary* to promote the licensing objectives. In particular, it clearly indicates that conditions should not be attached to premises licences unless they are necessary to promote the licensing objectives, see for example paragraph 7.5 and also paragraph 7.17 which includes this passage:

"Licensing authorities should therefore ensure that any conditions they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose."

41 The Guidance also refers a number of times to the need for regulation to be "proportionate". This is not a term contained in the Act but if a regulatory provision is to satisfy the hurdle of being "necessary", it must in my view be confined to that which is "proportionate" and one can understand why the Guidance spells this out.

42 Mr Pickup submits, and I accept, that the Act anticipates that a "light touch bureaucracy" (a phrase used in paragraph 5.99 of the Guidance) will be applied to the grant and variation of premises licences. He submits that this means that unless there is evidence that extended hours will adversely affect one of the licensing objectives, the hours should be granted. A prime example of this arises when an application for a premises licence is made and there are no relevant representations made about it. In those circumstances, [s 18\(2\)](#) obliges the licensing authority to grant the licence and it can only impose conditions which are consistent with the operating schedule submitted by the applicant. Mr Pickup says that such a light touch is made possible, as the Guidance itself says, by providing a review mechanism under the Act by which to deal with concerns relating to the licensing objectives which arise following the grant of a licence in respect of individual premises. He invites attention also to the existence of other provisions outside the ambit of the Act which provide remedies for noise, for example the issue of a noise abatement notice or the closure of noisy premises under the [Anti-Social Behaviour Act 2003](#). The Guidance makes clear that the existence of other legislative provisions is relevant and may, in some cases, obviate the need for any further conditions to be imposed on a licence. Paragraph 7.18 from the section of the Guidance dealing with attaching conditions to licences is an illustration of this approach:

"7.18 It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives."

43 The Guidance includes a section dealing with hours of trading which the Claimant submits further exemplifies the philosophy of the Act. It begins with paragraph 6.1 which reads:

“This Chapter provides guidance on good practice in respect of any condition imposed on a premises licence or club premises certificate in respect of hours of trading or supply.”

44 It continues:

“6.5 The Government strongly believes that fixed and artificially early closing times promote, in the case of the sale or supply of alcohol for consumption on the premises, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. This creates excessive pressures at places where fast food is sold or public or private transport is provided. This in turn produces friction and gives rise to disorder and peaks of noise and other nuisance behaviour. It is therefore important that licensing authorities recognise these problems when addressing issues such as the hours at which premises should be used to carry on the provision of licensable activities to the public.

6.6 The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through longer opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided. We will monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, we will introduce further legislation with the consent of Parliament to strengthen or alter any provisions.”

45 The Claimant submits that in imposing shorter hours than it requested for the supply of alcohol and for entertainment, the magistrates went beyond that which was necessary for these premises and failed to take into account that, as the Guidance explains, longer opening times would in fact reduce the potential for problems arising from licensed premises whereas curtailing operations could run counter to the licensing objectives.

46 The magistrates' Reasons record their acceptance that there had been no reported complaint in regard to public nuisance and that the extended hours had operated without any incidents. The magistrates also record in the Reasons, as I have already said, that they had attached little or no weight to the statements from witnesses of the appellant. Nothing is said about difficulties mentioned in evidence by the witnesses. As it was clearly incumbent on the magistrates at least to advert in broad terms to those matters that they took into account, it is fair to conclude in the circumstances that they proceeded upon the basis that there was no reliable evidence of actual problems linked to the premises either under the old licence or under the new revised licence. This was in line with the oral evidence of Police Sergeant Yehya (as recorded in the rather truncated notes of the legal advisor):

“1 reported incident for the site. No other incidents or complaints have been received. There are none in my file. There are no incidents we can directly link to the Saughall Hotel since previously open. There have been incidents locally but not linked to these premises.”

47 To judge by the Reasons therefore, what led the magistrates to impose restricted hours of operation was their forecast as to what would occur in the future in association with the premises, notwithstanding the absence of reliable evidence of past problems. The First Interested Party observes that the manager of the premises had given evidence that he intended in the summer to “make hay while the sun shines” and submits, correctly in my view, that the magistrates were entitled to take this apparent change of emphasis into account. However, Mr Flood further submits that the evidence of what had happened in the winter months was therefore of “little evidential value” in determining what was likely to happen in the future and I cannot wholly agree with him about this. Undoubtedly the fact that the Claimant intended in future to make more use

of the extended hours reduced the value of the premises' past record as a predictor of the future but it could not, in my view, be completely discarded by the magistrates. They still had to take into account that there had been extended hours for some months without apparent problems.

48 It is plain that the magistrates' particular concern was "migration" rather than problems generated by those coming directly to the premises for their evening out. Under the heading "The Four Licensing Objectives", they say that they accept that there have been no formal or recorded complaints against the premises "but feel that because of the concept of migration that public nuisance and crime and disorder would be an inevitable consequence of leaving the hours as granted by the Local Authority". Under the heading "Migration/Zoning" they begin:

"The Saughall Hotel due to its location and the fact that a number of license premises in the surrounding area have reduced hours to that of the Saughall Hotel we believe that as a consequence of this would be that customers would migrate from these premises to the Saughall Hotel. [sic]"

and end:

"We appreciate that the extended hours have been in operation for several months without any incidents but have taken into consideration this was during the Winter months and inevitable numbers will increase in the Summer causing nuisance/criminality."

49 They reiterate their concern under the heading "Nuisance (Existing/Anticipated)" saying that they "feel that public nuisance will be inevitable".

50 The Claimant complains that the magistrates' treatment of the issue of "migration" was fundamentally flawed on a number of grounds.

51 Firstly, it submits that there was no evidence on which the magistrates could find that customers *would* come to the premises when other premises in the vicinity closed or cause trouble and their concerns were no more than inappropriate speculation. The Claimant's position was that there was no evidence of migration to their premises. There were no recorded complaints of any kind about the premises let alone specifically about migration. Ms Lesley Spencer who lives opposite the premises and is the Secretary of the Saughall Massie Conservation Society gave evidence of her fear that customers would migrate but said that she did not think there had been any migration.

52 Apart from their own local knowledge, the only material on which the magistrates could possibly have formed their views about migration was what Police Sergeant Yehya said in evidence. According to the legal advisor's notes, whilst being cross-examined by Mr Kirwan, the sergeant gave evidence about the other licensed premises operating in the vicinity (which I have seen marked on a local map and which were within walking distance of the premises) and their closing hours and said that there were three assaults each week at one of the premises. The legal advisor records that he also said,

"We have staggered closing. This could cause problems it has the potential to cause difficulties in the area. I have a list of considerations but none would rank as high as crime, not even noise. No complaints have been made to me even regarding noise. One concern was dispersal. We gave people one hour to disperse and therefore reduced from 2.00 a.m. to 1.00 a.m.. 1.00 a.m. closing at 2. 280 people leaving premises. Other premises subject to high levels of crime *migration not an issue* ." [my italics]

53 I appreciate that this evidence acknowledged that staggered closing *could* cause problems but, had migration been a significant issue as opposed to a mere possibility, one can, I think, assume that the police would have made representations on that score, particularly given that they had plainly considered the impact of trading hours specifically and *had* initially objected to the even longer hours originally proposed by the Claimant. It is noteworthy that even when they were in opposition to the plans, it was never on the basis of migration of disruptive characters from other licensed premises and always simply on the basis of late noise from ordinary

customers of the premises dispersing. The absence of police objections before either the licensing authority or the Magistrates' Court seems to have surprised the magistrates who said so in their Reasons, commenting:

"We were surprised that the Police originally objected to the application but withdrew that objection after a slight variation of the terms."

In so saying, they convey, in my view, not only their surprise about the Police approach but also their disagreement with it.

54 It was not open to the magistrates, in my view, to elevate what Sergeant Yehya said in the witness box to evidence that a problem with migration could reasonably be expected, nor do they say anything in their reasons which suggests that they did rely on his evidence in this way. The only concerns about migration were therefore the magistrates' own with perhaps some fears expressed by local residents though not on the basis of firm historical examples of migration to the premises.

55 It is clear from the Guidance that drawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence will require them to adjust their own impression. This is particularly likely to be so where it is given by a responsible authority such as the police. They must also scrutinise their own anxieties about matters such as noise and other types of public nuisance particularly carefully if the responsible authorities raise no objections on these grounds. These magistrates did recognise the absence of police objections which caused them surprise and they chose to differ from the police in reliance on their own views. The Claimant submits that in so doing they departed into the realms of impermissible speculation not only in concluding that there would be migration but also in concluding that in this case it would generate nuisance and disorder. The First Interested Party is correct in submitting that the Guidance accepts a link between migration and a potential breach of the licensing objectives but it is also clear from the Guidance that each case must be decided on its individual facts so the magistrates could not simply assume that if people came from other premises, there would be trouble.

56 The Claimant complains that the magistrates' treatment of the migration issue also flies in the face of the Guidance because firstly it was an improper attempt to implement zoning and secondly it ignored the general principle of longer opening hours.

57 Zoning is the setting of fixed trading hours within a designated area so that all the pubs in a given area have similar trading hours. The problem created by it, as demonstrated by experience in Scotland, is that people move across zoning boundaries in search of pubs opening later and that causes disorder and disturbance. The Guidance says, at paragraph 6.8:

"The licensing authority should consider restricting the hours of trading only where this is necessary because of the potential impact on the promotion of the licensing objectives from fixed and artificially-early closing times."

It stresses that above all, licensing authorities should not fix predetermined closing times for particular areas.

58 I am not convinced that the magistrates' limiting of the Claimant's operational hours can properly be described as implementing zoning which, in my view, is a term that is more appropriate to describe a general policy imposed by a licensing authority for a defined area than an individual decision of this type, albeit made with reference to the opening hours of other premises in the vicinity and having the effect of imposing the same hours as those premises.

59 What has more weight, however, is the Claimant's submission that the magistrates failed to give proper weight to the general principle of later opening hours and to the intention that the approach to licensing under the Act would be to grant the hours sought for the premises unless it was necessary to modify them in pursuit of the licensing objectives. The Reasons include a heading "Flexibility" under which the magistrates say simply:

“We have considered the concept of Flexibility.”

In so saying, they may be referring to the sort of flexibility to which reference is made, for example, in paragraph 6.6 of the Guidance (see above) but their shorthand does not enable one to know to what conclusions their consideration of the concept led them in this case nor whether they had reliably in mind that the starting point should be that limitations should not be imposed upon the licence sought unless necessary to promote the licensing objectives rather than that the licensing authority or the court should form its own view of what was necessary for the premises and only grant that.

60 The Claimant was seeking to have the freedom to open later on certain occasions when the trade justified it or, as the magistrates put it, “the application for extended hours was to allow *flexibility* to open later on certain occasions”. As the First Interested Party would submit, the magistrates may have inferred from Mr Miller's comment about making hay that the premises would *often* be open late rather than this happening only infrequently in accordance with the picture presented to the licensing authority. If this was their inference, however, it is odd that they considered that the Claimant could deal with the position by applying for a temporary certificate because this would have allowed the premises to open later on only a limited number of occasions. They make no express finding in their Reasons as to the frequency on which they considered the Claimant intended to keep the premises open late. This was material not only to the degree of disturbance that might be caused generally by late opening but also specifically to the issue of whether there would be migration. It would seem unlikely that customers from nearby pubs would bother to walk or even drive to the Saughall Hotel in search of another drink at the end of their evenings unless the Saughall Hotel was open late sufficiently frequently to lead them to a reasonable expectation that their journey would be worthwhile.

61 The magistrates' comment about the temporary certificate also seems to me to be an example of a failure by them to adopt the lighter approach that the Act dictated and to allow flexibility to those operating licensed premises unless the licensing objectives required otherwise. Temporary certificates would be a cumbersome and restricted means of achieving flexibility, not responsive to the day to day fluctuations in business, only available a limited number of times, and not in line with the philosophy of the Act.

62 There is no consideration in the magistrates' decision of whether the imposition of conditions to control noise or other nuisance (which were going to be imposed) would be sufficient to promote the licensing objectives without reducing the operating hours of the premises. Given that the Act dictates that only such steps as are necessary should be taken with regard to the variation of the terms of operation sought, such consideration was required.

My overall conclusions

63 It would be wrong, in my judgment, to say that the magistrates failed to take account of the licensing objectives. At the outset of their Reasons, they correctly identify those which are relevant. Similarly, as the First Interested Party submits, whilst they did not *articulate* that the curtailment of the hours sought was “necessary” to promote those objectives, it is implied in their decision that they did take this view and it can also be inferred from their comment that because of the concept of migration, public nuisance and crime and disorder would be “an inevitable consequence” of leaving the hours as granted by the Local Authority. However, in my view their approach to what was “necessary” was coloured by a failure to take proper account of the changed approach to licensing introduced by the Act. Had they had proper regard to the Act and the Guidance, they would have approached the matter with a greater reluctance to impose regulation and would have looked for real evidence that it was required in the circumstances of the case. Their conclusion that it was so required on the basis of a risk of migration from other premises in the vicinity was not one to which a properly directed bench could have come. The fact that the police did not oppose the hours sought on this basis should have weighed very heavily with them whereas, in fact, they appear to have dismissed the police view because it did not agree with their own. They should also have considered specifically the question of precisely how frequently the premises would be likely to be open late and made findings about it. They would then have been able to compare this to the winter opening pattern in relation to which they accepted there had been no complaints and draw proper conclusions as to the extent to which the summer months would be likely to differ from the winter picture. Having formed a clear view

of how frequently late opening could be anticipated, they would also have been able to draw more reliable conclusions about the willingness of customers from further afield to migrate to Saughall Massie. They proceeded without proper evidence and gave their own views excessive weight and their resulting decision limited the hours of operation of the premises without it having been established that it was necessary to do so to promote the licensing objectives. In all the circumstances, their decision was unlawful and it must be quashed.

64 I have said little so far about what appears in the magistrates' response for the judicial review proceedings. The various documents comprising the response did nothing to allay my concerns about the magistrates' decision. Indeed quite a lot of what was said reinforced my view that the magistrates had largely ignored the evidence and imposed their own views. They refer in their response to incidents about which the residents had given evidence and to the residents not having complained formally for various reasons, for example because it was Christmas or because there was thought to be no point. If the magistrates considered these matters to be relevant, it was incumbent on them to say so clearly in their reasons whereas they there recorded their acceptance that there had been no formal or recorded complaints, that the extended hours had been in operation for several months without incidents and that they had attached little or no weight to the statements of the witnesses of the appellant. They also refer extensively in their response to their thoughts on migration, including that people may come from further afield than the pubs in the vicinity in cars. Particularly concerning is that they refer repeatedly to a perceived issue over police resources which is not something that, as far as I can see, had been raised by Sergeant Yehya or explored with him in evidence. Mr Beere says in his statement for example, "... there is also the question of Police resources and their ability to effectively police this area especially at weekends with already stretched resources being deployed in Hoylake".

65 Reference is made in the response documents to the court feeling that the Brewery's proposed opening hours contradicted the acceptable activities of a family pub and that the Saughall Hotel is "a village pub and not a night spot in the centre of town". For the court to take matters such as this into account seems to me to be an interference with the commercial freedom of the premises of a type that was not permissible under the Act unless it was necessary to promote the licensing objectives. I appreciate that the magistrates' response seems to suggest that they feared that a different type of customer was being courted or would invite themselves once it got too late for families but this does not seem to have been founded on anything that was given in evidence so was really not much more than speculation.

66 Mr Beere's statement ends with a reference to the Brewery wanting to make hay while the sun shines, of which he says, "I believe that this statement was indicative of the Brewery's attitude to local residents and to the general management of the premises.". Given that problems with or in the vicinity of the premises had been almost non-existent and that the magistrates had not seen fit to make reference in their Reasons to any difficulties caused by the Hotel, it is hard to see how this belief could be justified but it does perhaps exemplify the approach of the magistrates.

67 I have considered quite separately the argument as to whether the hours of opening can be regulated as part of the licensing of premises as opposed to the hours during which licensable activities take place. It was suggested during argument that there was no power to regulate the time by which people must leave the premises. I cannot agree with this. Clearly keeping premises open (as opposed to providing entertainment or supplying alcohol there) is not a licensable activity as such. However, the operating schedule which must be supplied with an application for a premises licence must include a statement of the matters set out in [section 17\(4\)](#) and these include not only the times when it is proposed that the licensable activities are to take place but also "any other times during which it is proposed that the premises are to be open to the public". On a new grant of a premises licence, where there are no representations the licensing authority has to grant the application subject only to such conditions as are consistent with the operating schedule. I see no reason why, if it is necessary to promote the licensing objectives, these conditions should not include a provision requiring the premises to be shut by the time that is specified in the operating schedule. If representations are made and the licensing authority ultimately grants the application, it can depart from the terms set out in the operating schedule when imposing conditions in so far as this is necessary for the promotion of the licensing objectives. It must follow that it can impose an earlier time for the premises to be locked up than the applicant wished and specified in its operating schedule. It is important to keep in mind in this regard that the role of the licensing authority and, if there is an appeal, the court, has two dimensions: the fundamental task is to license activities which require a licence and the associated task is to consider what, if any, conditions are imposed on the applicant to ensure the

promotion of the licensing objectives. A requirement that the premises close at a particular time seems to me to be a condition just like any other, such as keeping doors and windows closed to prevent noise. I see no reason why a condition of closing up the premises at a particular time should not therefore be imposed where controlling the hours of the licensable activities on the premises (and such other conditions as may be imposed) is not sufficient to promote the licensing objectives.

The costs argument

68 In the light of my conclusion that the magistrates' decision is unlawful and therefore must be quashed, it is not appropriate for me to consider the arguments in relation to their costs order further. The appellants had given an undertaking to the Licensing Authority that they would not seek costs against the Licensing Authority and they sought the entirety of their costs of the appeal from the Claimant. The magistrates granted that order and the Claimant submits that that was not an order that was open to them. Whatever the merits of that argument, the magistrates' order in relation to costs cannot now stand. The basic foundation for the order for costs was that the appeal had succeeded and the Claimant had lost. That position has now been overturned and the costs order must go along with the magistrates' main decision. The magistrates would have had no reason to grant costs against the Claimant if the appeal had been dismissed.

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Approved Judgment

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Neutral Citation Number: [2008] EWHC 838 (Admin)

Case No: CO/5533/2006

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/05/2008

Before:

THE HONOURABLE MRS JUSTICE BLACK

Between:

Daniel Thwaites Plc	<u>Claimant</u>
- and -	
Wirral Borough Magistrates' Court	<u>Defendant</u>
- and -	
The Saughall Massie Conservation Society	1st Interested Party
- and -	
Wirral Metropolitan Borough Council	2nd Interested Party

David MW Pickup (instructed by Naphens plc) for the **Claimant**
The Defendant did not appear and was not represented
David Flood (instructed by Messrs Kirwans) for the **1st Interested Party**
Matthew Copeland (instructed by Wirral MBC) for the **2nd Interested Party**

Hearing date: 10th March 2008

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Approved Judgment

63. It would be wrong, in my judgment, to say that the magistrates failed to take account of the licensing objectives. At the outset of their Reasons, they correctly identify those which are relevant. Similarly, as the First Interested Party submits, whilst they did not *articulate* that the curtailment of the hours sought was “necessary” to promote those objectives, it is implied in their decision that they did take this view and it can also be inferred from their comment that because of the concept of migration, public nuisance and crime and disorder would be “an inevitable consequence” of leaving the hours as granted by the Local Authority. However, in my view their approach to what was “necessary” was coloured by a failure to take proper account of the changed approach to licensing introduced by the Act. Had they had proper regard to the Act and the Guidance, they would have approached the matter with a greater reluctance to impose regulation and would have looked for real evidence that it was required in the circumstances of the case. Their conclusion that it was so required on the basis of a risk of migration from other premises in the vicinity was not one to which a properly directed bench could have come. The fact that the police did not oppose the hours sought on this basis should have weighed very heavily with them whereas, in fact, they appear to have dismissed the police view because it did not agree with their own. They should also have considered specifically the question of precisely how frequently the premises would be likely to be open late and made findings about it. They would then have been able to compare this to the winter opening pattern in relation to which they accepted there had been no complaints and draw proper conclusions as to the extent to which the summer months would be likely to differ from the winter picture. Having formed a clear view of how frequently late opening could be anticipated, they would also have been able to draw more reliable conclusions about the willingness of customers from further afield to migrate to Saughall Massie. They proceeded without proper evidence and gave their own views excessive weight and their resulting decision limited the hours of operation of the premises without it having been established that it was necessary to do so to promote the licensing objectives. In all the circumstances, their decision was unlawful and it must be quashed.
64. I have said little so far about what appears in the magistrates’ response for the judicial review proceedings. The various documents comprising the response did nothing to allay my concerns about the magistrates’ decision. Indeed quite a lot of what was said reinforced my view that the magistrates had largely ignored the evidence and imposed their own views. They refer in their response to incidents about which the residents had given evidence and to the residents not having complained formally for various reasons, for example because it was Christmas or because there was thought to be no point. If the magistrates considered these matters to be relevant, it was incumbent on them to say so clearly in their reasons whereas they there recorded their acceptance that there had been no formal or recorded complaints, that the extended hours had been in operation for several months without incidents and that they had attached little or no weight to the statements of the witnesses of the appellant. They also refer extensively in their response to their thoughts on migration, including that people may come from further afield than the pubs in the vicinity in cars. Particularly concerning is that they refer repeatedly to a perceived issue over police resources which is not something that, as far as I can see, had been raised by Sergeant Yehya or explored with him in evidence. Mr Beere says in his statement for example, “....there is also the question of Police resources

ADDITIONAL INFORMATION FROM REPRESENTOR

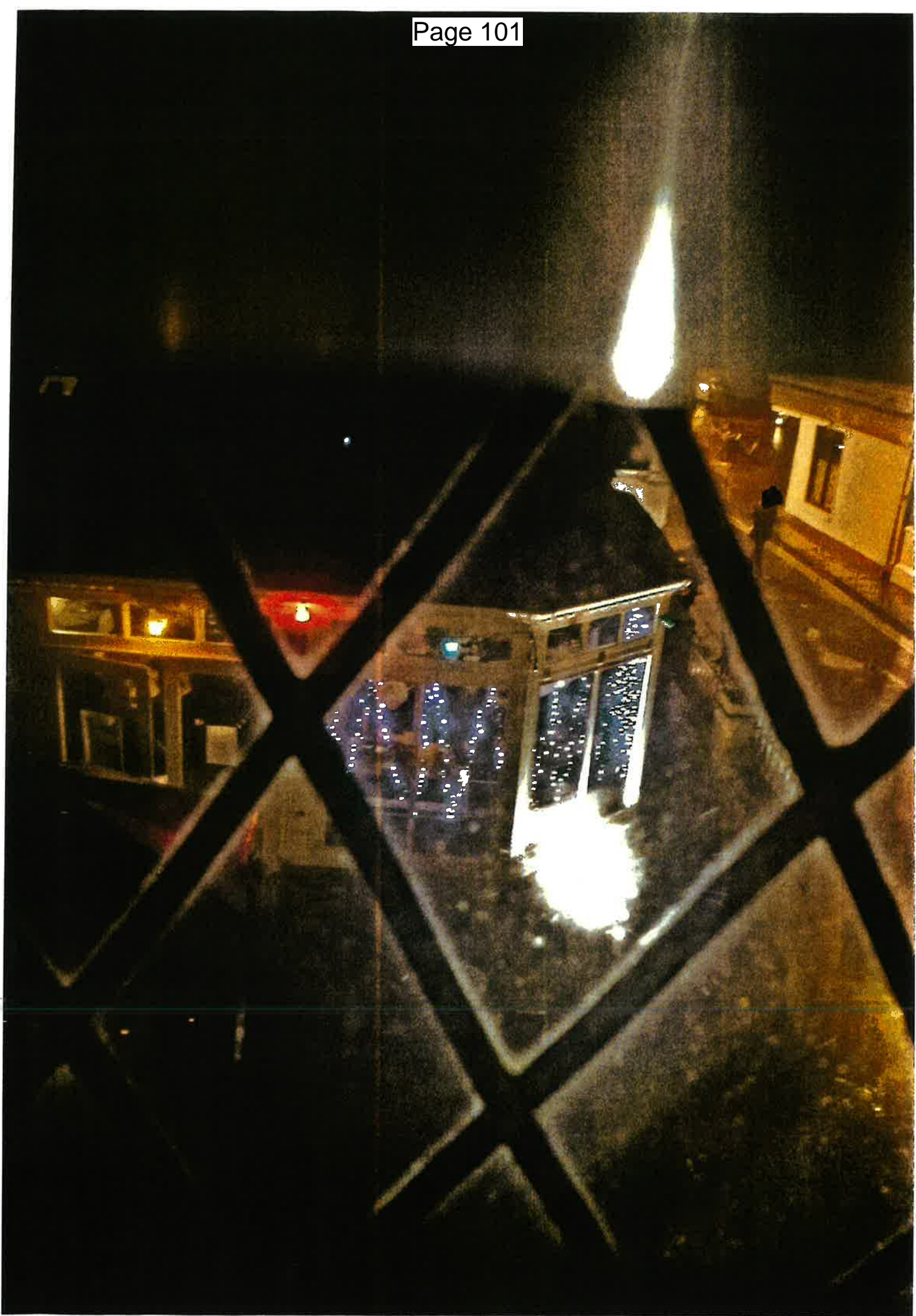
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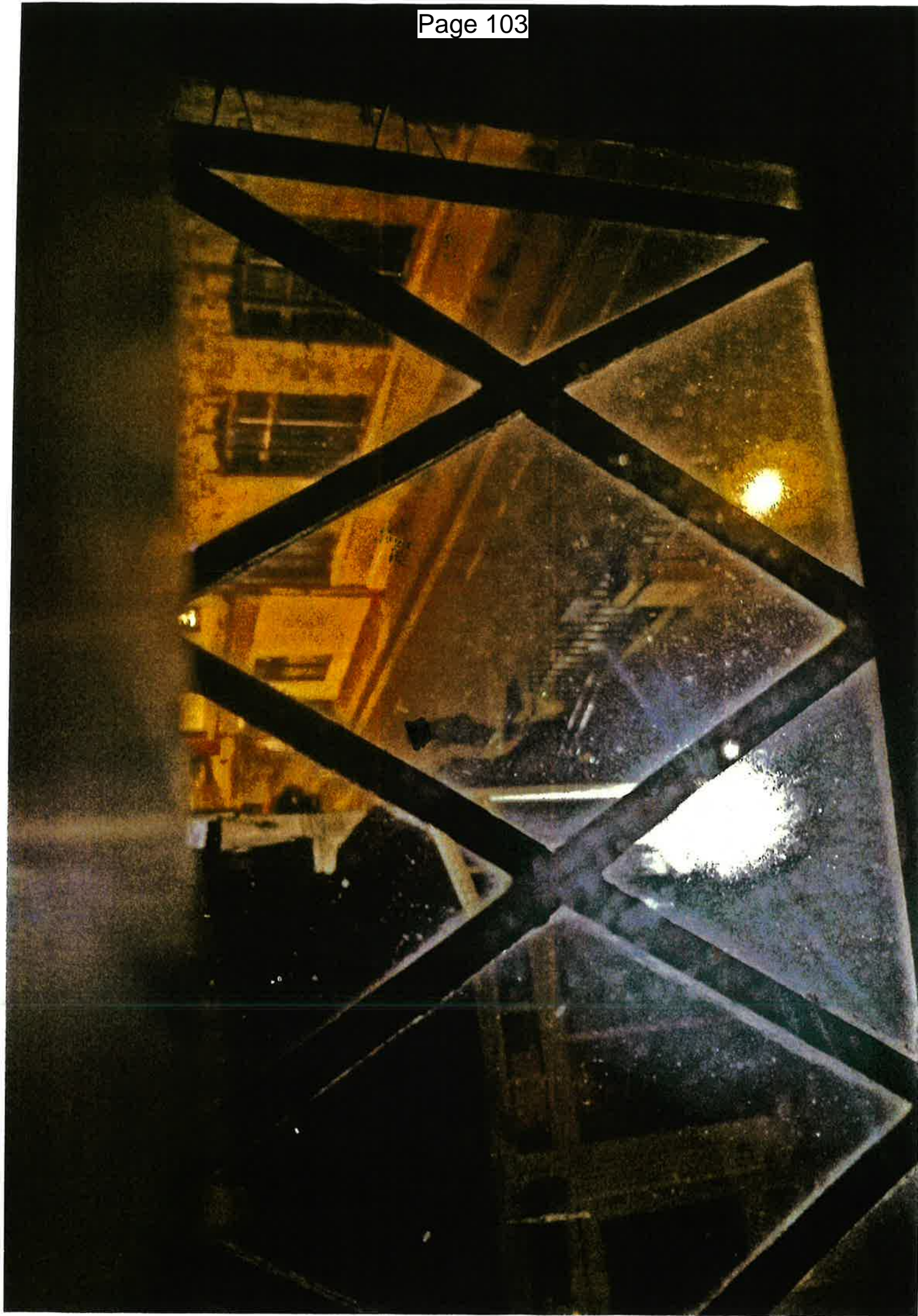


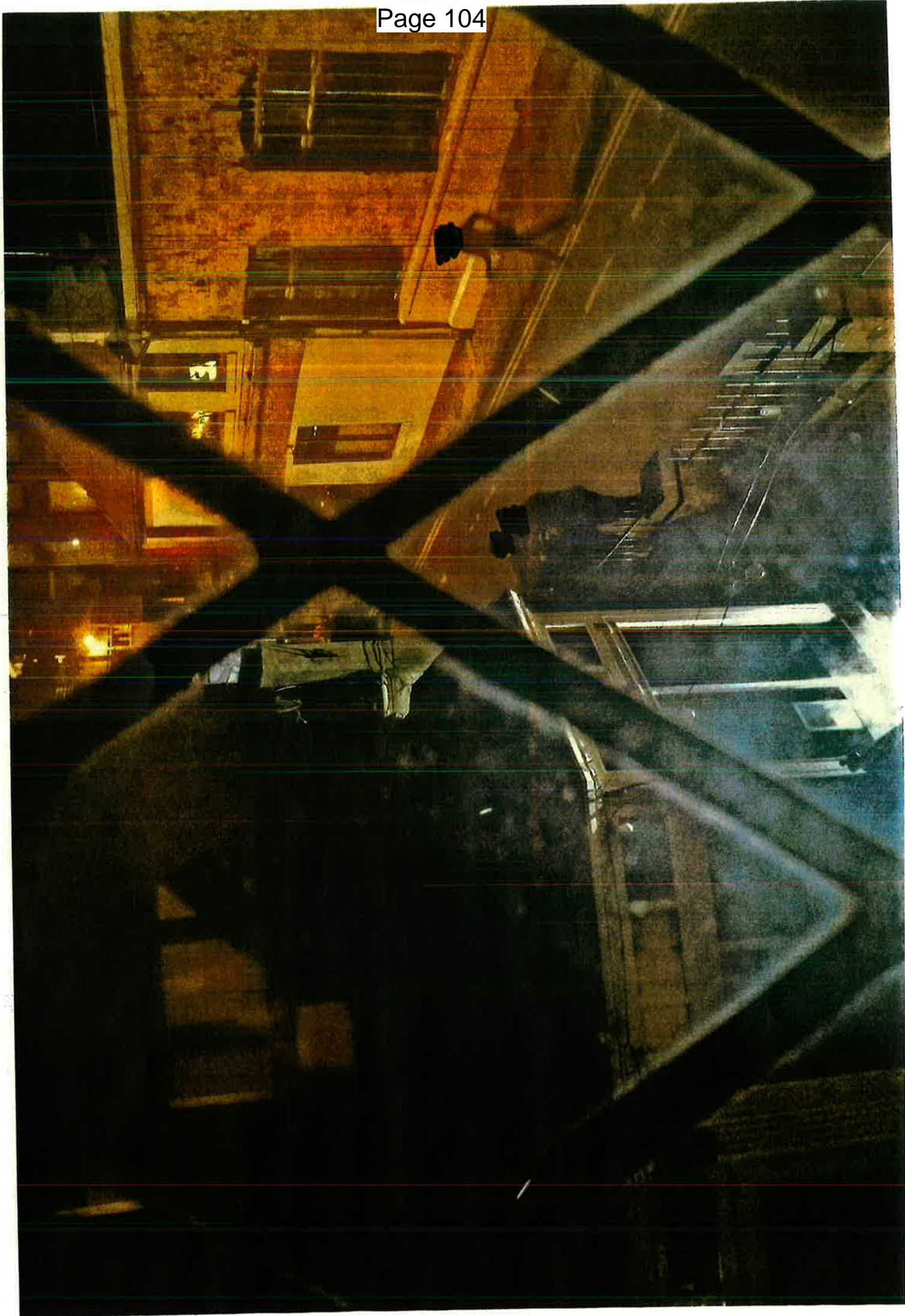












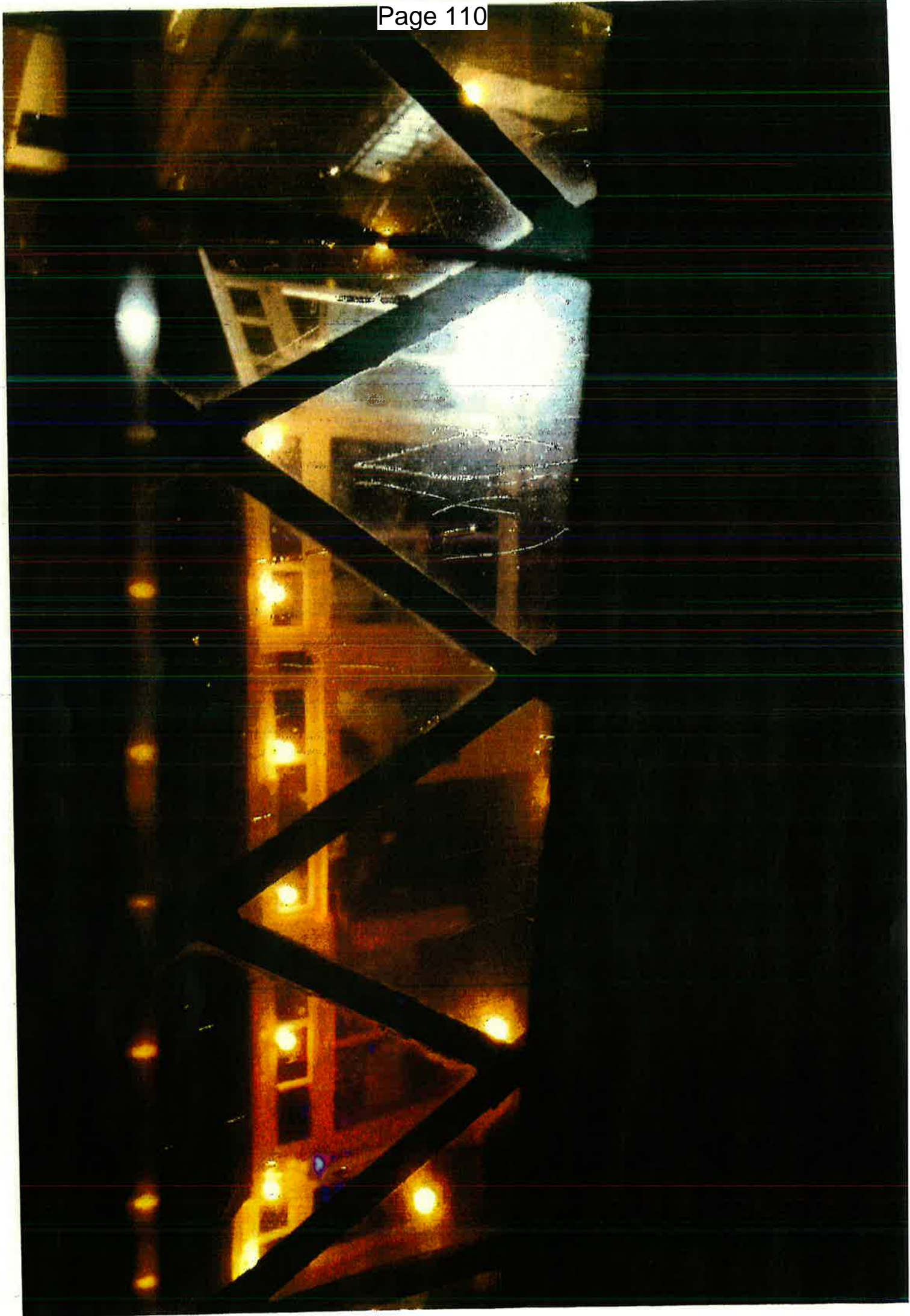


















LICENSING ACT 2003

Application has been made by Marston's PLC to the Licensing Authority of City of York Council to vary the Premises Licence for the premises known as the former Pin at Tanner Row, York, YO1 6JB. The application is subject to the following terms:

to extend the terminal hour for licensable activities on days and Saturdays to 03.00 the following mornings with the premises closing to the public 30 minutes thereafter.
to extend licensing hours by 1 hour on the commencement of British Summertime to replace the hour lost.

Details of the Application can be viewed at the offices of the Licensing Authority at City of York Council, Licensing Services, Ecology, Hazel Court, York, YO10 3DS

Any person responsible authority or any other person can make written representations to the Licensing Authority at any time up to and including 7th June 2019 (www.york.gov.uk)

It is an offence for anyone knowingly or recklessly to make a false statement in connection with a Licence Application. The maximum summary conviction is unlimited.

Dated this: 9th May 2019

For and on behalf of:
Baunt & Partners, Solicitors



LICENSING ACT 2003

Application has been made by Marston's PLC to the Licensing Authority of City of York Council to vary the Premises Licence for the Corner Pin at Tanner Row, York, YO1 6JB. The application includes the following terms:

1. To extend the terminal hour for licensable activities on Fridays and Saturdays to 03.00 the following mornings with the premises closing to the public 30 minutes thereafter.
2. To extend licensing hours by 1 hour on the commencement of British Summertime to replace the hour lost.

Full details of the Application can be viewed at the offices of the Licensing Authority at City of York Council, Licensing Services, Eco Depot, Hazel Court, York, YO10 3DS

A responsible authority or any other person can make written representations to the Licensing Authority at any time up to and including 7th June 2019 (www.york.gov.uk).

It is an offence for anyone knowingly or recklessly to make a false statement in connection with a Licence Application. The maximum fine on summary conviction is unlimited.

Dated this: 9th May 2019

John Gaunt & Partners, Solicitors