

## **Licensing/Gambling Hearing**

**To:** Councillors Galvin, Orrell and Wann

**Date:** Thursday, 16 September 2021

**Time:** 5.00 pm

**Venue:** Remote Meeting

### **A G E N D A**

#### **1. Chair**

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

#### **2. Introductions**

#### **3. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any 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. Exclusion of Press and Public**

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

## 5. Minutes

To approve the minutes of the Licensing Hearing held on 9 August 2021.

## 6. The Determination of a Section 35(3) (a) Application by Mehmet Simsek for Variation of a Premises Licence at 5 Whip ma Whop ma Gate, York, YO1 8BL (CYC-061097)

Democracy Officer:

Name: Angela Bielby

Contact details:

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

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

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS**

### **Introduction**

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below:-
3. 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 has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

### **Preparation for the Remote Licensing Hearing**

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's

website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

### **The Remote Licensing Hearing**

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. 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 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **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.
15. 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.
16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

## ORDER OF PROCEEDINGS AT THE REMOTE HEARING

### **Chair's introduction and opening comments**

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their representatives), and establish the identity of all who will be taking part.

18. The Chair will outline the procedure to be followed.

19. The Chair will proceed with the order of business on the agenda.

### **Licensing Manager**

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

### **The Application**

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time *[maximum 15 minutes]*.

22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:

- Police;
- Other Responsible Authorities;
- Ward Councillors;
- Public representation
- Members of the Sub-Committee;
- The Sub-Committee's legal adviser.

### **The Representations**

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation *[maximum 15 minutes each party]*:

- Police
- Other Responsible Authorities
- Ward Councillors
- Public representation
- Members of the Sub-Committee

24. The Chair will invite the Applicant and each other party to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

## Summaries

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
  - Police
  - Other Responsible Authorities
  - Ward Councillors
  - Public representation
27. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
28. 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.

## Determination

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. 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.
30. If the decision is made following the conclusion of the hearing, the Sub-Committee will return to the public online meeting to announce an outline of the decision to those present. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not)

usually within 5 working days of the hearing. There can be no further questions or statements.

31. If the Sub-Committee does not 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 Democratic Services 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.

The notification will include information about the rights of appeal against the determination made.



City of York Council

Committee Minutes

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Meeting	Licensing/Gambling Hearing
Date	9 August 2021
Present	Councillors Galvin, Hook and D Myers

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**7. Chair**

Resolved: That Cllr Hook be elected to act as Chair of the meeting.

**8. Introductions**

The Chair introduced those present at the hearing; the members of the Sub-Committee, the Applicant, the Licence Holder (Zoe Sinclair of Ambiente Tapas Limited), the Licensing Manager presenting the report, the Legal Adviser, the Senior Legal Officer shadowing the Legal Adviser, and the Democratic Services officer.

**9. Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, that they might have in the business on the agenda. None were declared.

**10. Exclusion of Press and Public**

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

**11. Minutes**

Resolved: That the minutes of the Licensing Hearing held on 17 June 2021 be approved as a correct record, to be signed by the Chair at a later date.

**12. The Determination of an Application by Mr R C Price for a Section 52(2) Review of a Premises Licence at 59 - 63 Walmgate, York, YO1 9TY (CYC-060429)**

Members considered an application by Mr R C Price for a review of the premises licence at 59-63 Walmgate, York YO1 9TY.

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

- The prevention of public nuisance.
- The prevention of crime and disorder.

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

1. The application form.
2. The papers before it.
3. The Licensing Manager's report and her comments at the Hearing.

The Licensing Manager outlined the report and the annexes, highlighting the additional papers submitted by the Applicant as published in Agenda Supplement 1 and confirming that the consultation process had been carried out correctly. She stated that no representations had been made by North Yorkshire Police, and drew attention to the representations made by the Environmental Protection Unit (EPU), noting that these neither supported nor opposed the application but instead made suggestions regarding noise management. She also drew attention to the additional papers submitted by the Licence Holder, as published in Agenda Supplement 2. Finally, she advised the Sub Committee of the options open to them in determining the application.

In response to questions from the Applicant, the Licensing Manager confirmed that:

- Planning were consulted on all licensing applications and had the opportunity to make representations,

but had not done so in this case. *[The Applicant responded that he was concerned at the lack of such representations, as he believed the premises were operating in breach of Planning conditions.]*

- All complaints received about a premises were logged by Licensing officers, who might then consult with another responsible authority or contact the licence holder.
- Officers would normally liaise with the EPU on complaints about noise.
- Condition 6 of the licence, requiring a minimum of 10 seats in the courtyard area, had been requested by the police during consultation on the minor variation.

4. The representations made by the Applicant in writing and at the hearing.

The Applicant stated that the evidence he had submitted showed that the council and the Licence Holder had failed to promote Licensing Objectives 1 and 3 and that the courtyard area of the premises was not suitable to be licensed. He therefore proposed that this area be removed from the licence, in order to restore his position and remove a public nuisance. He said he had never suggested that a statutory nuisance, as defined in the council's Licensing Policy, was being caused, but the council had chosen to hide behind that definition and had ignored his complaints.

The Applicant confirmed that he was only concerned with the use of the rear courtyard area of the premises; he was not contesting the internal area at the premises. Referring to Agenda Supplement 1, he said that pages 5 and 9 illustrated that this was not part of Walmgate's commercial zone; that the cycle store shown on the plan at page 11 had recently been demolished to accommodate additional seating; and that page 7 showed the courtyard being used by 18 customers and resembling an overcrowded beer garden. He said that he had always sought a balance between his own needs and those of the business operation and, unlike Ambiente, had followed the correct procedures. However, the balance had now shifted in favour of the business. Concerns had been expressed as far back as 2014 about the suitability of the area for use as a café and in 2016 (during the Planning process) it was

stated it should not be licensed; the council had failed to address these concerns.

He noted that the original licence conditions restricting the number of customers in the courtyard to 12, with service of alcohol to be ancillary to food, and noise not to be audible at the façade of neighbouring premises, had been agreed by Ambiente and it was their responsibility to decide how to achieve them. His own complaints, and the submissions made by the EPU, showed that it was not possible to operate in the yard without creating a public nuisance. Both the EPU and Ambiente had admitted that a public nuisance had occurred, as indicated at page 73 of the agenda papers and page 23 of Agenda Supplement 2. The effect of the recent approval of minor variations to the licence had been to increase customer numbers by 60%, extend the opening hours, and enable up to 20 customers to drink alcohol outside without food. This did not promote the licensing objectives. He re-iterated that the variations should be removed and the external area excluded from the licence.

In response to a question from the Sub-Committee Members, the Applicant stated that he did not object to the noise plan suggested by the EPU but that he did not support the removal of Condition 25 (now 26), which he considered to be clear and enforceable:

5. The representations made by Zoe Sinclair on behalf of the Licence Holder, Ambiente Tapas Limited, in writing and at the hearing.

Ms Sinclair stated that Ambiente was a food-led business which had operated for the past 14 years without complaint, and that the receipt of 14 complaints from one person spoke more about the complainant than it did about the operator. She said that the complaints resulting in warnings being issued in 2018 had occurred before the installation of air conditioning, and were due to the windows and doors of the premises being left open. Air conditioning had been installed in July 2018. None of the complaints about noise in the courtyard area had been upheld. The Applicant was one of more than 15 neighbours close to the courtyard. In her view the noise

from this area did not amount to a public nuisance; at worst, it was a tolerable annoyance.

She further stated that her staff lived in fear of the Applicant's complaints and that he would lean over the balcony filming; this was affecting the customers as well as staff. The photographs in Agenda Supplement 2 showed people sitting down in an orderly manner. The business had had a 'hellish' 18 months and had had to reduce its indoor capacity by 20 covers. She considered Ambiente had been a good neighbour and that the application was a case of extreme 'Nimbyism'.

In response to questions from the Applicant, Ms Sinclair stated that:

- The additional papers in Agenda Supplement 2 referred to the Applicant as a 'serial complainer' because he was the only person who had complained about operations at any Ambiente premises in 14 years.
- The Facebook comments at page 37 of Supplement 2 had been included with reference to submissions made by a person living above the premises and were already in the public domain.

In response to questions from the Sub-Committee Members, Ms Sinclair confirmed that:

- She had asked for Condition 26 (previously 25) to be included in the original licence but the condition was badly worded, and she now supported the suggestion that it be removed.
- No music was played in the courtyard.

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

The Licence Holder summed up, stating that there was no case to answer in respect of the claim of public nuisance, and supporting the EPU's suggestion to remove Condition 26 from the licence and substitute a condition requiring a noise management plan.

The Applicant summed up, stating that the Public Protection officer had confirmed that a public nuisance had occurred and that Ambiente did not understand that the definition of public

nuisance could apply to an individual. He said he had met with Ambiente at an early stage and told them that he was very concerned about the use of the back yard as licensed premises, but they had chosen to press on against the concerns of himself and other neighbours. He said that the opportunity to correct Condition 25 (now 26) should have been taken at the original hearing, as the Chair had been fully aware of the issues with this condition. Removing it now would leave no protection against noise from the outside space. The issue was that a public nuisance was being created and this needed to be addressed. The variations had made matters worse, increasing the number of customers outside by 150%. The fact that the location did not lend itself to being licensed was supported by the EPU. The last three years had been a trial period, but the experiment had failed.

Members of the Sub-Committee then sought a point of clarification from the Licence Holder regarding the opening times of the external courtyard. It was confirmed that the operating hours were 11:00 am to 7:30 pm daily, with the area to be cleared by 8:00 pm.

By virtue of Section 52(4) of the Licensing Act 2003, the Sub-Committee had to determine whether or not to take any of the following steps, as they considered appropriate for the promotion of the licensing objectives:

Option 1: To modify the conditions of the licence (i.e. to alter, omit or add any new condition). This option was **approved**.

Option 2: To exclude a licensable activity from the scope of the licence. This option was **rejected**.

Option 3: To remove the Designated Premises Supervisor. This option was **rejected**.

Option 4: To suspend the licence for a period not exceeding three months. This option was **rejected**.

Option 5: To revoke the licence. This option was **rejected**.

Resolved: That Option 1 be approved and that the conditions of the licence be modified, with Condition 26 to be omitted from the licence the following condition to be added:

“A documented noise management plan shall be submitted to and approved in writing by the Public Protection Department of City of York Council within

two months of the premises licence review decision date. Once approved it shall be implemented. The noise management plan will also include a procedure for investigating noise complaints.”

Reasons: (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council’s own Statement of Licensing Policy.

(ii) The Sub-Committee noted that the premises licence, the subject of this review application, was contained in Agenda Annex 2, and that any/all references in the written and oral representations to condition 25 of the premises licence were taken by them to be a reference to condition 26 of the premises licence.

(iii) The Sub-Committee noted that the consultation had been properly completed. They further noted that no representations had been submitted by either the Local Planning Authority or North Yorkshire Police.

(iv) The Sub-Committee carefully considered the representations of the Applicant, both those contained within the papers and those made in person at the hearing, and gave great weight to the following:

- The declaration by the Applicant that his review was only concerned with the use of the rear courtyard area of the premises,
- The evidence from the Applicant regards the complaints made; and
- The Applicant’s concern that his noise complaints were not being resolved.

(v) The Sub-Committee carefully considered the representations of the Licence Holder, both those contained within the papers and those made in person at the hearing, and gave great weight to the following:

- The evidence from the Licence Holder regarding the complaints received;

- No music was played in the rear courtyard area;
- The effect of the Covid 19 pandemic and resulting Regulations on the business operation;
- They had proposed the wording of Condition 26 in the original licence, and accepted that it was badly worded; and
- The Licence Holder welcomed the Licence condition variation proposed by the Public Protection Officer in his written representation.

(vi) The Sub-Committee carefully considered the written representations of the Public Protection Officer contained within the papers (Agenda Annex 4), and gave great weight to the following:

- His summary of complaints linked to these premises;
- The effect of the Covid 19 pandemic on the Licence Holder's business in particular their use of the rear courtyard area of the premises; and
- The proposed Licence condition variation.

(vii) The Sub-Committee noted the written representations by those persons who did not attend the hearing or instruct another to speak on their behalf, (Agenda Annex 6).

(viii) The Sub-Committee were satisfied from the information contained in the Agenda, the two Agenda Supplements, and the representations made by the Parties at the hearing, that the appropriate step to be taken for the promotion of the licensing objectives, in accordance with Section 52 of the Licensing Act 2003, particularly with regard to the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder, was to modify the conditions of the licence as set out above.

Cllr A Hook, Chair

[The meeting started at 4.49 pm and finished at 6.24 pm].





## Licensing Act 2003 Sub Committee

16 September 2021

Report from the Director – Environment, Transport & Planning

### **Section 35(3) (a) Application for variation of a premises licence for 5 Whip ma Whop ma Gate, York, YO1 8BL**

#### **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 061097
3. Name of applicant: Mr Mehmet Simsek
4. Type of authorisation applied for: Variation of Premises Licence
5. Summary of application:

The premises currently trades as a café/restaurant over two floors. The variation seeks the following:

- a) The extension of hours for the supply of alcohol from 23:00 to 01:00
- b) The extension of the licensed area covered by the premises licence to include the area edged in red on the plan (for clarity this is the front pavement area outside 3 Whip ma Whop ma Gate)
- c) To delete conditions 2, 3 and 8 of Annex 3 on the licence which restricts:
  - the use of the roof terrace area to 21:00 hours;
  - the use of the doors to the roof terrace; and
  - the opening hours of the premises to 23:30 every day.

Licensable Activity	Existing hours	Proposed hours
Recorded Music – indoors	0900 to 2330 everyday	No change

Performance of Dance - indoors	0900 to 2330 everyday	No change
Late night refreshment – indoors & outdoors	2300 to 2330 everyday	No change
Supply of Alcohol – on & off the premises	0900 to 2330 everyday	0900 to 0100 everyday
Opening hours	0900 to 2330 everyday	0900 to 0100 everyday

## Background

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. A copy of the current licence and plan is attached at **Annex 2**. The licence was granted on 25 June 2018 at a hearing of the Licensing Sub-Committee. The conditions at annex 3 of the premises licence were attached to the licence by the Sub-Committee.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 3**.

## Promotion of Licensing Objectives

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

### 10. General

The application involves three principle elements, namely an extension to hours, an extension to the licensed area and the bringing into line of the first floor terrace area with the rest of the premises and these do not require a fundamental change to how the applicant is dealing with the four licensing objectives but they will require greater vigilance and hands on management. The applicant is therefore increasing the number of properly trained staff to make sure that he is not spread too thinly and is ensuring the CCTV coverage is fully comprehensive in terms of area and hours of coverage.

### 11. The Prevention of Crime and Disorder

The existing practices will be continued with regard to waiter/waitress service only, effective training programmes, proper use of the incident log and compliance with the minimum number of seat covers

requirement. This is NOT a bar where people stand up and serve themselves. The applicant does NOT want to alter the nature of the business and how it is run. It is a successful family run business that thrives upon the personal relationships formed between the applicant and the customers, many of whom are regulars.

**12. Public Safety**

See above

**13. The Prevention of Public Nuisance**

See above.

**14. The Protection of Children from Harm**

The outside area on the ground floor will be properly cordoned off from the public highway and children will be treated with sensitivity and care. The age ID requirements will continue to be strictly complied with.

**Special Policy Consideration**

15. This premises is located within the cumulative impact assessment area which was approved by full council on 21 March 2019. It is not however located within the 'red zone'. The assessment can be found at **Annex 4**. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at **Annex 5**.

**Consultation**

16. 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.
17. All procedural aspects of this application have been complied with.

**Summary of Representations made by Responsible Authorities**

18. 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. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA. Their representation can be found at **Annex 6**.
19. City of York Council Public Protection (Environmental Protection) have made representation on the objective of the prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA. Their representation can be found at **Annex 7**.
20. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA. Their representation is attached at **Annex 8**.

### **Summary of Representations made by Other Parties**

21. There have been 3 relevant representations received from other persons. One of those representations is from the Ward Councillor. The list of representors is attached at **Annex 9**.
22. The representations are predominantly based on the grounds of the prevention of public nuisance. They state that this objectives will be undermined if the application is granted.
23. A copy of all the representations are attached at **Annex 10**.
24. A map showing the general area around the venue is attached at **Annex 11**.
25. The mandatory conditions that will be attached to this licence if granted can be found at **Annex 12**. The Legislation and Policy considerations can be found at **Annex 13**.
26. By virtue of s35(4) of the Act, the Committee have the following options available to them in making their decision: -
27. Option 1: Modify the conditions of the licence

28. Option 2: Reject the whole or part of the application.  
and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

### **Analysis**

29. The following could be the result of any decision made this Sub Committee:-
30. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
31. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.

### **Council Plan**

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

### **Implications**

- 34.
- **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**

35. 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.
36. 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**

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

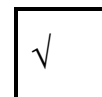
### **Contact Details**

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Director Environment, Transport & Planning

Tel No. 01904 551515

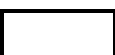
**Report  
Approved**



**Date**  
**31/08/2021**

**Specialist Implications Officer(s)**  
Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected:** Guildhall



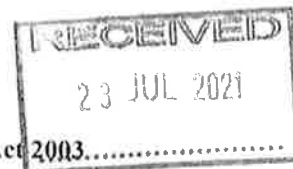
**For further information please contact the author of the report**

**Background Papers:**

- Annex 1** - Application form and plan
- Annex 2** - Copy of current licence
- Annex 3** - Overview of circumstances in which entertainment activities are not licensable
- Annex 4** - Cumulative impact
- Annex 5** - Special policy annex
- Annex 6** - North Yorkshire Police Representation
- Annex 7** - Public Protection Representation
- Annex 8** - Licensing Authority Representation
- Annex 9** - List of other persons - **CONFIDENTIAL**
- Annex 10** - Other persons representations
- Annex 11** - Map of area
- Annex 12** - Mandatory Conditions
- Annex 13** - Legislation & Policy

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# 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.

I Mr Mehmet Simsek

(Insert name(s) of applicant)

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 - 061097

### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
5 Whip-Ma-Whop-Ma-Gate			
Post town	York	Postcode	YO1 8BL

Telephone number at premises (if any)	01904 651868
Non-domestic rateable value of premises	£31,250.00

### Part 2 – Applicant details

Daytime contact telephone number	
E-mail address (optional)	
Current postal address if different from premises address	
Post town	
Postcode	

### Part 3 - Variation

Please tick as appropriate

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

☒ Yes

☐  
No

If not, from what date do you want the variation to take effect?

DD		MM		YYYY			

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 see guidance note 2)

1. The extension of the hours for the supply of alcohol from 23:30 to 01:00.
2. The extension of the licensed area covered by the Premises Licence to include the area edged red on the accompanying plan.
3. The deletion of conditions 2, 3 and 8 of Annex 3 – to bring the rooftop terrace into line with the rest of the premises. The doors to the roof terrace shall no longer have to be closed and remain closed after 21:00 hours each day and customers will be allowed on the roof terrace after 21:00 hours each day.

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:

**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.

**Provision of regulated entertainment (Please see guidance note 3)****Please tick all that apply**

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

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

☐

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

☒

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 4)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish				
Mon			<u>Please give further details here</u> (please read guidance note 5)			
Tue						
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 6)			
Thur						
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 7)			
Sat						
Sun						

C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 6)
Wed			
Thur			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 (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

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



F

Recorded music Standard days and timings (please read guidance note 8)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

G

<b>Performances of dance</b> Standard days and timings (please read guidance note 8)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish				
Mon			<b><u>Please give further details here</u></b> (please read guidance note 5)			
Tue						
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 6)			
Thur						
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)			
Sat						
Sun						

H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing	
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)	Indoors <input type="checkbox"/>
Mon				Outdoors <input type="checkbox"/>
				Both <input type="checkbox"/>
Tue			<b><u>Please give further details here</u></b> (please read guidance note 5)	
Wed				
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 6)	
Fri				
Sat			<b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)	
Sun				

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 8)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 4)		
			Indoors	<input type="checkbox"/>	
			Outdoors	<input type="checkbox"/>	
			Both	<input type="checkbox"/>	
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 5)		
Mon					
Tue					
Wed			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 6)		
Thur					
Fri					
Sat			<b>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</b> (please read guidance note 7)		
Sun					

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 8)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b><u>State any seasonal variations for the supply of alcohol</u></b> (please read guidance note 6)		
Mon	09.00	01.00			
Tue	09.00	01.00			
Wed	09.00	01.00			
Thur	09.00	01.00	<b><u>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</u></b> (please read guidance note 7)		
Fri	09.00	01.00			
Sat	09.00	01.00			
Sun	09.00	01.00			

K

<p><b>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</b> (please read guidance note 10).</p> <p>None.</p>
---

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 8)			<u>State any seasonal variations</u> (please read guidance note 6)
Day	Start	Finish	
Mon	09:00	01:00	
Tue	09:00	01:00	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 7)
Wed	09:00	01:00	
Thur	09:00	01:00	
Fri	09:00	01:00	
Sat	09:00	01:00	
Sun	09:00	01:00	

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.

Conditions 2, 3 and 8 of Annex 3.

Please tick as appropriate

- 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 not enclosed 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 and e) (please read guidance note 11)**

The application involves three principle elements, namely an extension to hours, an extension to the licensed area and the bringing into line of the first floor terrace area with the rest of the premises and these do not require a fundamental change to how the applicant is dealing with the four licensing objectives but they will require greater vigilance and hands-on management. The applicant is therefore increasing the number of properly trained staff to make sure that he is not spread too thinly and is ensuring that the CCTV coverage is fully comprehensive in terms of area and hours of coverage.

**b) The prevention of crime and disorder**

The existing practices will be continued with regard to waiter/waitress service only, effective training programmes, proper use of the incident log and compliance with the minimum number of seat covers requirement. This is NOT a bar where people stand up and serve themselves. The applicant does NOT want to alter the nature of the business and how it is run. It is a successful family run business that thrives upon the personal relationships formed between the applicant and his staff and the customers, many of whom are regulars.

**c) Public safety**

See above.

**d) The prevention of public nuisance**

See above.

**e) The protection of children from harm**

The outside area on the ground floor will be properly cordoned off from the public highway and children will be treated with sensitivity and care. The age ID requirements will continue to be strictly complied with.



## Checklist:

Please tick to indicate agreement

- 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	
Date	19/07/2021
Capacity	Solicitor

**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	
Date	
Capacity	

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

John Walker  
Guest Walker  
12a Shambles

Post town	York	Post code	YO1 7LZ
Telephone number (if any)			

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

### Notes for Guidance

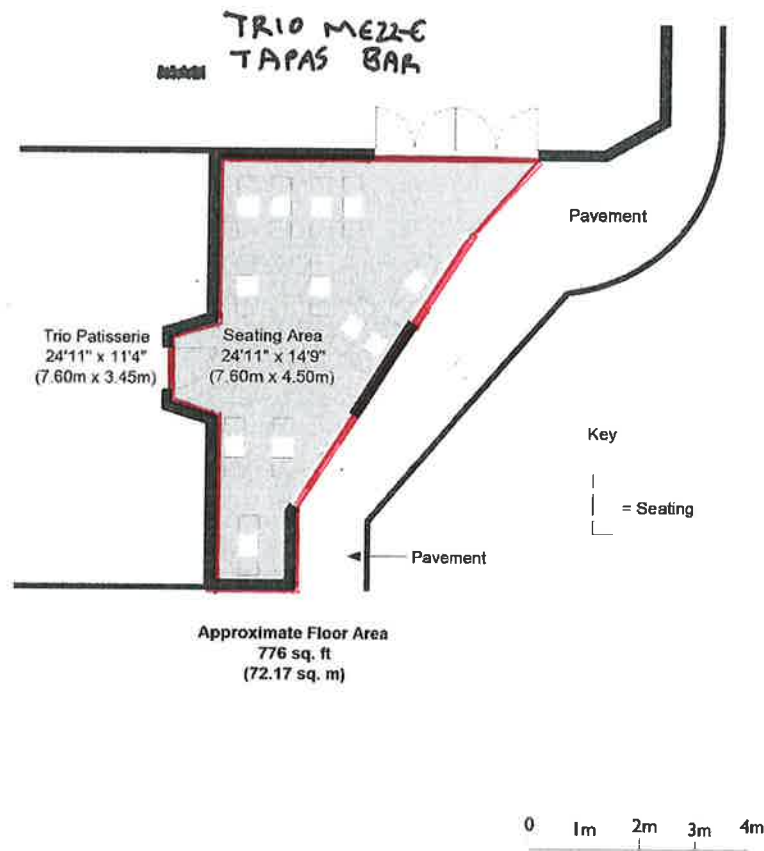
**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 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.
  - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
  - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
  - Live music: no licence permission is required for:
    - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises,
    - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

- Recorded Music: no licence permission is required for:
    - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
  - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
  - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
    - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
    - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
    - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
    - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
  5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
  6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
  7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
  8. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
  9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
  10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
  11. Please list here steps you will take to promote all four licensing objectives together.

12. The application form must be signed.
13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
14. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
15. This is the address which we shall use to correspond with you about this application.

3 Whip-Ma-Whop-Ma-Gate, York YO1 8BL



Scale 1:100

Whilst every attempt has been made to ensure the accuracy of the floor plan contained here, measurements of doors, windows, rooms and any other items are approximate and no responsibility is taken for any error, omission, or mis-statement. This plan is for illustrative purposes only and should be used as such by any prospective purchaser or tenant. The services, systems and appliances shown have not been tested and no guarantee as to their operability or efficiency can be given.

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## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

#### Part 1 Premises details

Premises licence number  
CYC - 061097

Postal address of premises:

**5 Whip-Ma-Whop-Ma-Gate**

Post town: **York**

Post code: **YO1 8BL**

Telephone number: None

**Expiry date:** This licence has no expiry date.

#### Licensable activities authorised by the licence:

Recorded Music  
Performances of Dance  
Late Night Refreshment  
Supply of Alcohol

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

##### RECORDED MUSIC

Indoors

Monday  
09:00 - 23:30

Tuesday  
09:00 - 23:30

Wednesday  
09:00 - 23:30

Thursday  
09:00 - 23:30

Friday  
09:00 - 23:30

Saturday  
09:00 - 23:30

Sunday  
09:00 - 23:30

PERFORMANCES OF DANCE

Indoors

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 23:30
Friday 09:00 - 23:30	Saturday 09:00 - 23:30	Sunday 09:00 - 23:30	

LATE NIGHT REFRESHMENT

Indoors and Outdoors

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

SUPPLY OF ALCOHOL

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 23:30
Friday 09:00 - 23:30	Saturday 09:00 - 23:30	Sunday 09:00 - 23:30	

**The Opening Hours of the Premises**

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 23:30
Friday 09:00 - 23:30	Saturday 09:00 - 23:30	Sunday 09:00 - 23:30	

**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: Mr Mehmet Simsek

Address: 5 Whip-Ma-Whop-Ma-Gate  
York  
YO1 8BL

Telephone number: None

Email address: None

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

Not applicable

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

Name: Mr Mehmet Simsek

Address:

[REDACTED]

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:**

City of York Council  
CYC055238

## 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.

## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### General

1. This licence excludes 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.

#### Protection of Children from Harm

2. A 'Challenge 21'scheme will be adopted on the premises and only a passport or photographic driving licence will be accepted as ID.

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

#### No hearing held

1. Whilst regulated entertainment is taking place, all doors and windows shall remain closed, except for the purposes of ingress and egress.
2. The doors to the roof terrace shall be closed and remain closed after 21:00 hours each day.
3. Customers will not be allowed on the roof terrace after 21:00 hours each day.
4. Signs shall be displayed near the exits reminding customers to respect the needs of those living nearby and to leave the premises as quietly as possible.
5. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises.
6. Any complaints received from local premises to be acted upon immediately to reduce the noise levels. Any noise complaints to be logged in a log book and actions taken also logged.
7. The log book shall be made available to the local authority on request.
8. Licensable activities and closure of the premises to the public shall be no later than 23:30 hours, with no access to the roof top terrace after 21:00 hours.

9. Customers shall only be served by way of waiter / waitress service.

10. On days when race meetings are held at York Racecourse (save for the family meeting held in September) a minimum of 2 door supervisors shall be provided at the premises from 17:00 hours to close of business. At all times the need for SIA registered door staff shall be determined in accordance with a risk assessment to be carried out by the Designated Premises Supervisor and / or the Premises Licence Holder. When employed door staff will wear high visibility arm bands.

11. A colour digital CCTV system shall be installed within the premises and operational and recording at all times when licensable activities take place and at any other times where members of the public are present on the premises.

12. The CCTV recordings shall be of good evidential quality to be produced in court or other such hearing.

13. Copies of CCTV recordings will be kept available for any responsible authority for 28 days.

14. Copies of CCTV recordings will display the correct time and date of the recording.

15. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- retail sale of alcohol;
- age verification policy;
- conditions attached to the premises licence;
- permitted licensable activities;
- the licensing objectives; and
- opening times for the venue.

With such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

16. An incident log will be kept at the premises and made available on request to an authorised officer or the police which will record the following:

- all crimes reported to the venue;
- any complaints received regarding crime and disorder;
- any incidents of disorder;
- any refusal of sale of alcohol.

With such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry].

17. All off sales shall be in sealed containers and no drinks in open vessels to be taken off the premises.

18. There will be a minimum of 45 seat covers for diners on the ground floor and a minimum of 30 seated covers for diners on the rooftop terrace at all times the venue is open to reduce the need for vertical drinking.

## **Annex 4 – Approved Plan**

Plan Number                      2016181.04 Rev A5

For and on behalf of  
The Director of Economy & Place

Date: 26/06/2018

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)



## PREMISES LICENCE SUMMARY

### Part B

#### Part 1 Premises details

Premises licence number  
CYC - 061097

Postal address of premises:

**5 Whip-Ma-Whop-Ma-Gate**

Post town: **York**

Post code: **YO1 8BL**

Telephone number: None

#### Where the licence is time limited the date:

This licence has no expiry date.

#### Licensable activities authorised by the licence:

Recorded Music  
Performances of Dance  
Late Night Refreshment  
Supply of Alcohol

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

RECORDED MUSIC  
Indoors

Monday  
09:00 - 23:30

Tuesday  
09:00 - 23:30

Wednesday  
09:00 - 23:30

Thursday  
09:00 - 23:30

Friday  
09:00 - 23:30

Saturday  
09:00 - 23:30

Sunday  
09:00 - 23:30

PERFORMANCES OF DANCE

Indoors

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 23:30
Friday 09:00 - 23:30	Saturday 09:00 - 23:30	Sunday 09:00 - 23:30	

LATE NIGHT REFRESHMENT

Indoors and Outdoors

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

SUPPLY OF ALCOHOL

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 23:30
Friday 09:00 - 23:30	Saturday 09:00 - 23:30	Sunday 09:00 - 23:30	

**The Opening Hours of the Premises**

Monday 09:00 - 23:30	Tuesday 09:00 - 23:30	Wednesday 09:00 - 23:30	Thursday 09:00 - 23:30
Friday 09:00 - 23:30	Saturday 09:00 - 23:30	Sunday 09:00 - 23:30	

**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: Mr Mehmet Simsek

Address: 5 Whip-Ma-Whop-Ma-Gate  
York  
YO1 8BL

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

Not applicable

**Name of designated premises supervisor where the premise licence authorises the supply of alcohol:**

Mr Mehmet Simsek

**State whether access to the premises by children is restricted or prohibited**

No restrictions

For and on behalf of  
The Director of Economy & Place

Date: 26/06/2018

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)

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**RAMLI FIRE LTD**  
Tel: 07735321387  
ramlifiresolutions@ramlifire.co.uk  
www.ramlifire.co.uk

Licensed Area

**Illuminated exit notice**

Emergency light

Fire blanket

Notice - fire action

**Z**


**this plan should be read in conjunction**

**This plan should be read in conjunction with the risk assessment and is not to scale**

97m<sup>2</sup>

91m<sup>2</sup>

**DO NOT SCALE**  
All dimensions are in mm and checked on site prior to work.

 Copyright  
The ownership of Copyright is in accordance with the Copyright, Designs and Patents Act, and belongs to Columbo.

Page 57

48	453.8	QUARTZITE	QUARTZITE
49	460.17	BLIND CONCRETE	BLIND CONCRETE
50	3.10	CLAY CONCRETE	CLAY CONCRETE
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## Home Office – Guidance Issued Under Section 182 of the Licensing Act 2003

### Section 16 Regulated Entertainment

#### Overview of circumstances in which entertainment activities are not licensable

16.5 There are a number of exemptions that mean that a licence (or other authorisation<sup>18</sup>) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

- activities which involve participation as acts of worship in a religious context;
- activities in places of public religious worship;
- education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar)
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the

audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace<sup>26</sup> that does not have a licence, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non- residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

- 16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.
- 16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.

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**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.

## 9. Cumulative Impact

- 9.1 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.
- 9.2 Relevant authorisations means:
- premises licence
  - club premises certificate
- 9.3 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 9.4 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

- 9.5 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.
- 9.6 As required by the Act the Council has formally consulted on the assessment.
- 9.7 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.

- 9.8 Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
- 9.9 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.
- 9.10 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.

### **Cumulative Impact Area**

- 9.11 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
- 9.12 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.
- 9.13 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.



## NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003

North Yorkshire Police hereby give notice of objection to the Premises Licence as listed below:

<b>Postal Address of premises or club premises:</b> 5 WHIP MA WHOP MA GATE	
<b>Post town:</b> YORK	<b>Post code (if known):</b> YO1 8BL

**Notice of Objection relates to the following licensing objective:** *(Please tick one or more boxes)*

1. The prevention of crime and disorder	<input checked="" type="checkbox"/>
2. Public safety	<input type="checkbox"/>
3. Prevention of Public Nuisance	<input checked="" type="checkbox"/>
4. The protection of children from harm	<input type="checkbox"/>

### GROUNDINGS FOR RELEVANT REPRESENTATION

Please provide as much information as possible to support this relevant representation:

(e.g. please list any additional information, e.g. dates of problems which are included in the grounds for review)

This is an application to vary to a premises licence for a restaurant with indoor and outdoor seating including a roof terrace in York's Cumulative impact area.

The applicant requests that the following be granted:

- Extension of hours for Sale of Alcohol from 2330hrs to 0100hrs
- Extension of the licensable area (see plan) to include a front seating area
- Deletion of conditions under Annex3 (2,3 & 8) to bring the rooftop terrace in line with the rest of the premises. The doors to the roof terrace shall no longer have to remain closed after 2100hrs each day.

The premises sits within York's CIA (Cumulative impact assessment area) an area which The City of York Council has identified as being under the most stress from crime and disorder and public nuisance in their statement of licensing policy. The current policy came in to effect on 21st March 2019 and runs until 2024; it states:

'9.13 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.

The policy also states:

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.

The premises in question applied for the licence in 2018 and due to representations received, including one from North Yorkshire Police, a hearing was held to determine the outcome in June 2018.

As a result of this hearing and concerns raised regarding the impact of the roof terrace area and the premises to the licensing objectives, the committee saw fit to place a number of conditions on the licence preventing the roof terrace from being open after 2100hrs and restricted the opening hours applied for to stop licensable activities at 2330hrs.

Since that time the operator informs us he has operated the roof terrace for around 3 months and due to the impact of the coronavirus pandemic on the business and forced closures/lock downs this premises has been closed for a substantial period of time throughout.

North Yorkshire Police still have concerns about the licensing objectives being undermined by these changes, namely 'the prevention of crime and disorder' and 'public nuisance' and the impact that might be felt in this area, which has residential properties near by.

The hours applied for, until 0100hrs, for sale of alcohol are not in line with a food led premises within this area and adding further licensable activities until the early hours of the morning 7 days a week we believe will impact public nuisance and could add to alcohol related crime and disorder.

If this application is granted in the terms applied for the premises could operate both a roof top terrace and a street level licensed outside area for 7 days a week from 0900hrs- 0100hrs, as well as the main restaurant with at least 45 covers inside. The impact of customers leaving after this time is likely to result in an increase in incidents and nuisance to those living close by.

North Yorkshire Police have advised the applicant's solicitor of our position as below.

1. North Yorkshire Police would not support a change to hours for sale of alcohol from 2330hrs-0100rs seven days a week but would be happy to support a change for Friday's, Saturday's and Sunday's into the bank holiday Monday for 0000hrs (midnight) with a close at 0030hrs to allow for a 30 minute 'drinking up time'
2. The extension of the licensable area on the plans we would look to support if the following condition is placed on the application 'the ground floor outside terrace is to close each day at 2300hrs.'
3. North Yorkshire Police do not support the removal of conditions relating to the roof terrace closing at 2100hrs (annex 3 conds 2,3,8) These conditions were placed on the Premises Licence by the Committee following the initial hearing. The concerns still remain, regarding nearby residential properties and that the use of this area could add to public nuisance for those properties. The applicant has not provided any information to negate those concerns.

The applicant has not provided any information as to why this application should be considered to be an exception to the CIA policy and has only been operating for short periods of times since the granting of this licence, speciaficlly the roof terrace area. Crucially, in this instance the burden of proof is on the applicant to demonstrate that the licensable activities and the behaviour of the clientele once they have left the premises will not contribute to the overall

Cumulative Impact in the area, and that they are promoting the four licensing objectives in line with Paragraph 8.39 of the S182 Guidance.

Members of the committee it is the view of North Yorkshire Police that the removal of conditions applied for in the application should be refused and that consideration should be given to the two further changes applied for in keeping the timings in line with the suggestions above in order to prevent the adding of further nuisance and alcohol fueled disorder into an area already under stress from the impact of licensed venues.

Signature:

Date: 19/8/21

Contact name: Kim HOLLIS (PC1671)

Address for correspondence: **Alcohol Licensing Department Fulford Road Police Station**

Post town: **York**

Post code: **YO10 4BY**

Tel. number (if any): **01609 643273**

Email address if preferred option of contact: **NYPLicensing@northyorkshire.pnn.police.uk**

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## Annex 7

### Representation by Public Protection, 5 Whip ma Whop ma Gate

Public Protection are making representation against the above premises variation application on grounds of public nuisance.

**The proposed variation:** The proposal is to increase the sale of alcohol from 23:30 hours finish to 01:00hours finish, extend the licensable area to include the front until 01:00hrs and increase the hours of use for the roof terrace from 21:00 hours – 01:00hours and to remove the requirement for the access door to the roof top terrace to be closed after 21:00hrs.

**The premises:** The premises sits within the CIA in an area where there are already a number of licensed premises. The premises has a bar inside and a roof top terrace that faces residential dwellings approximately 8 metres away. There are also residents in the Stonebow building who have balconies to the front of the premises and residents down St Saviourgate, the latter of whom have been subjected to a lot of substantiated noise nuisance from customers in drink at various premises in the area.

**The CIA is:** the cumulative impact Area and is an area designated by City of York Council in its statement of licensing policy where evidence shows that the cumulative impact of the number and concentration of licensed premises continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives of prevention of crime and disorder and prevention of public nuisance. Within this area, when applying for licenses the onus is on the premises license holder to demonstrate that the licensing objectives will be met and that their proposed activities will not result in an escalation of crime, disorder and public nuisance in this area.

### Concerns

Public Protection are concerned that late use of the external areas to the front at ground floor level and also the roof top terrace in terms of public nuisance.

Noise from customers in drink can include raised voices and shouts that can be very loud, travel long distances and are difficult to control and impossible to stop altogether. To the front of the premises there are many residents down St Saviourgate who have had to contend with noise nuisance from customers at other licensed premises in the area in the past and also new residential flats in the Stonebow complex that have balconies overlooking the front of this premises. No proposed conditions have been offered by the applicant to demonstrate that they can prevent noise in this area from causing a public nuisance and Public Protection would advise that we would not support this part of the variation unless this area is restricted to the following hours: 23:00 hours. I would also advise that a suitably worded condition be attached requiring that a noise management plan is submitted to control noise to the front of the premises. This could include a dispersal policy for when the premises finishes.

The roof top terrace is overlooked directly by residential dwellings some which may include bedrooms and there is no way that noise from this area can be controlled to an adequate level later in the evening or and especially into night time periods and the early hours of the morning.

The premises applied for the licence in 2018 and as a result of concerns about noise from the roof top terrace area the committee placed conditions restricting its use to 21:00 hours and requiring the access door from the building to the roof terrace to be kept closed after this time. Public Protection do not support the removal of these conditions and timings because this will change the nature of the back of the premises after 21:00 hours bringing unwanted noise from people in drink with raised voices just in front of residents who's properties are at present partly shielded from street noise by the premises building itself and because no condition would prevent noise from the terrace from causing a public nuisance to nearby residents.

The door accessing the roof terrace should remain closed as to open this would allow music and raised voices from inside the building to blast out whilst it was open and would effectively bring the inside of the club to the outside and subject the residents to this until 1am. This would very likely result in not only a public nuisance but also a statutory nuisance as defined in the Environmental Protection Act 1990.

### **Conclusion:**

This application is within the Cumulative Impact Area where the Council should refuse all applications unless the applicants can show how their application would not lead to an increase in the impact of licensed premises in that area. The applicants have not demonstrated how they will control noise from the roof terrace or the front seating area.

I would advise that unless the hours of the front external area are reduced to 23:00 hours and suitably worded condition attached requiring a noise management plan to be submitted and followed, are attached this element of the variation should be refused due to public nuisance.

The roof top terrace is opposite residential dwellings that are to some extent shielded from street level noise by the building and the use of this into the early hours of the morning would likely affect the sleep and quiet enjoyment of residents and would increase pressure on from public nuisance due to noise from both customers and music. The 9 o'clock restriction on the roof top terrace was agreed to in hearing by the councillors in the original hearing and I cannot see how extending the hours for this area or allowing the door to be opened would do anything other than result in noise complaints, public nuisance and potentially even a statutory nuisance. I would therefore strongly advise that the proposed variations to the hours of use for the roof top terrace and the proposed change to condition 2 of Annex 3 are refused on grounds of the prevention of public nuisance.

Regards

Michael Golightly  
**Technical Officer**

**Annex 8**

**Licensing Authority Representation**

**Application for variation of premises licence, 5 Whip ma Whop ma Gate, York**

I write to make representation on behalf of the Licensing Authority in relation to the variation of a premises licence for the above premises.

This application relates to a variation of a premises licence for a restaurant at 5 Whip ma Whop ma Gate. The premises currently trades as a café/restaurant over two floors. The variation seeks the following:

- a, The extension of hours for the supply of alcohol from 23:00 to 01:00
- b, The extension of the licensed area covered by the premises licence to include the area edged in red on the plan, which is the front pavement area outside 3 Whip ma Whop ma Gate.
- c, To delete conditions 2, 3 and 8 of annex 3 on the licence which restrict the use of the roof terrace area to 21:00, restrict the use of the doors to the roof terrace and restrict the opening hours of the premises to 23:30 every day.

The licensed areas are located over two floors, from the plans the kitchen, toilets and external roof terrace are on the first floor, the bar, seating areas, disabled toilet, and external pavement café area are on the ground floor. After making a site visit in company of the Police Licensing Officer I do not believe the current plan attached to the licence at Annex 4 accurately reflects the layout of the ground floor internal area. As the internal plan is not subject to this variation application this matter may need to be regularised by way of another variation application.

This premises is located in York City Centre in close proximity to a number of licensed premises (bars, restaurants, cafes, shops and takeaways), residential premises, a taxi rank and churches. The premises is also located within York's Cumulative Impact Assessment (CIA) area, this area has been identified by the Council within the Statement of Licensing Policy (the Policy) as being under the most stress from crime and disorder and public nuisance related issues due to the high concentration of licensed premises.

The Policy came into effect in March 2019, it states:

9.11 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

9.13 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.

The Policy also states:

9.9 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.

9.10 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.

The Policy and CIA can be found at: <https://www.york.gov.uk/LicensingPolicy>

Within the proposed operating schedule the applicant has not offered any extra conditions but has stated the premises will not be run as a 'bar' and that table service of food and drinks will continue. They have also stated the external area at the ground floor (pavement café area) will be cordoned off from the public highway.

As detailed above this premises is located in an area identified by the Council as being under stress due to crime and disorder and public nuisance, already having a high level of licensed premises. I do not believe that the applicant has demonstrated through the hours applied for and the operating schedule how the granting of this variation for this restaurant will not impact this area.

The Licensing Authority do not believe the applicant has fully considered the Policy and CIA, and therefore has not demonstrated through the application and proposed operating schedule how the granting of this variation to the premises licence will not add to the cumulative impact already being experienced.

The Licensing Authority cannot support this application as it is within the CIA.

Helen Sefton | Senior Licensing Officer

t: 01904 551526 | e: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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Annex 10

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**From:** \

**Sent:** 17 August 2021 14:12

**To:** licensing@york.gov.uk

**Subject:** Objection to Licence extension Trio restaurant & terrance Whip-ma-whop-ma-gate York.

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

Dear Sirs / Madam.

It has been brought to our attention that the owner of the above premises has applied to extend his drinks licence until 1.00am including the rear terrance area. I do not know if the licensing authority are aware that a number of upper floors of the Shambles are in residential use, No in particular has a kitchen and bedroom overlooking Trio's first floor terrance which is less than 10 yards away. The residents there have asked me, as the owner, to object to the licence extension on their behalf, stating that even at the present time their enjoyment of the property is being substantially disturbed and any further extension to 1.00 am would be intolerable and prevent them from sleeping at night. It would be appreciated if you could protect the right of their enjoyment of this property, from which they do not want to be forced to leave, especially as it is a listed building, which has been in residential use since records began.

Thanking you in anticipation.

Owner Shambles York

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**From:** [REDACTED]  
**Sent:** 20 August 2021 19:44  
**To:** licensing@york.gov.uk  
**Subject:** Mr Mehmet Simsek - 5 Whip Ma Whop Ma Gate, York YO1 8BL

**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.**

Dear Sir or Madam,

I am writing to object in the strongest possible terms to the deletion of conditions 2, 3 and 8 of Annex 3 of the license for 5 Whip Ma Whop Ma Gate, York YO1 8BL, to bring the rooftop terrace into line with the rest of the premises.

At the time the license was issued, I am sure much effort was spent reviewing the original application and I know that there were concerns over the use of outside space at that time. The loss of amenity to local residents was rightly acknowledged and the restriction was placed on the times that the terrace could be used by the public. I note that it was originally 7pm but was later extended to 9pm. I think it is outrageous to now extend the opening hours for the roof terrace to 1 am or indeed any later than 9pm. Some weight has to be given to the acoustics of noise at rooftop level where the roof is at the same height as domestic properties in the area. Noise at this height travels great distances, whereas street level noise is dissipated by surrounding structures and is also further away in distance from domestic residence windows. Unless you want a city where no one lives, I believe the council need to limit the opening times of outside spaces (as currently is the case for beer gardens around stonegate for instance) and should be particularly strict with opening hours of roof terraces.

Regards

---

**Subject:** FW: 5 Whip Ma Whop Ma Gate

**Importance:** High

**From:** Cllr. D. Craghill <[Cllr.dcraghill@york.gov.uk](mailto:Cllr.dcraghill@york.gov.uk)>  
**Sent:** 21 August 2021 17:00  
**To:** Wherrett, Janice <[Janice.Wherrett@york.gov.uk](mailto:Janice.Wherrett@york.gov.uk)>  
**Subject:** RE: New Premises Grant - Roxy Lanes, 3 St Marys Square, Coppergate

Dear Janice,

I would like to register an objection as ward councillor to the application to vary the conditions on the license for 5, Whip-ma-Whop-ma-gate.

My objection relates to the licensing objective – the prevention of public nuisance.

The conditions previously imposed in terms of restricting noise late at night in the area were included to reduce the negative impact of the premises on people who live in the area. They were put there for a purpose and I see no reason why that should change. Residents in the area still deserve some controls over noise levels late at night.

The entry says representations close on 21<sup>st</sup> August which is today – so presumably I am in time!

Thanks,

Denise

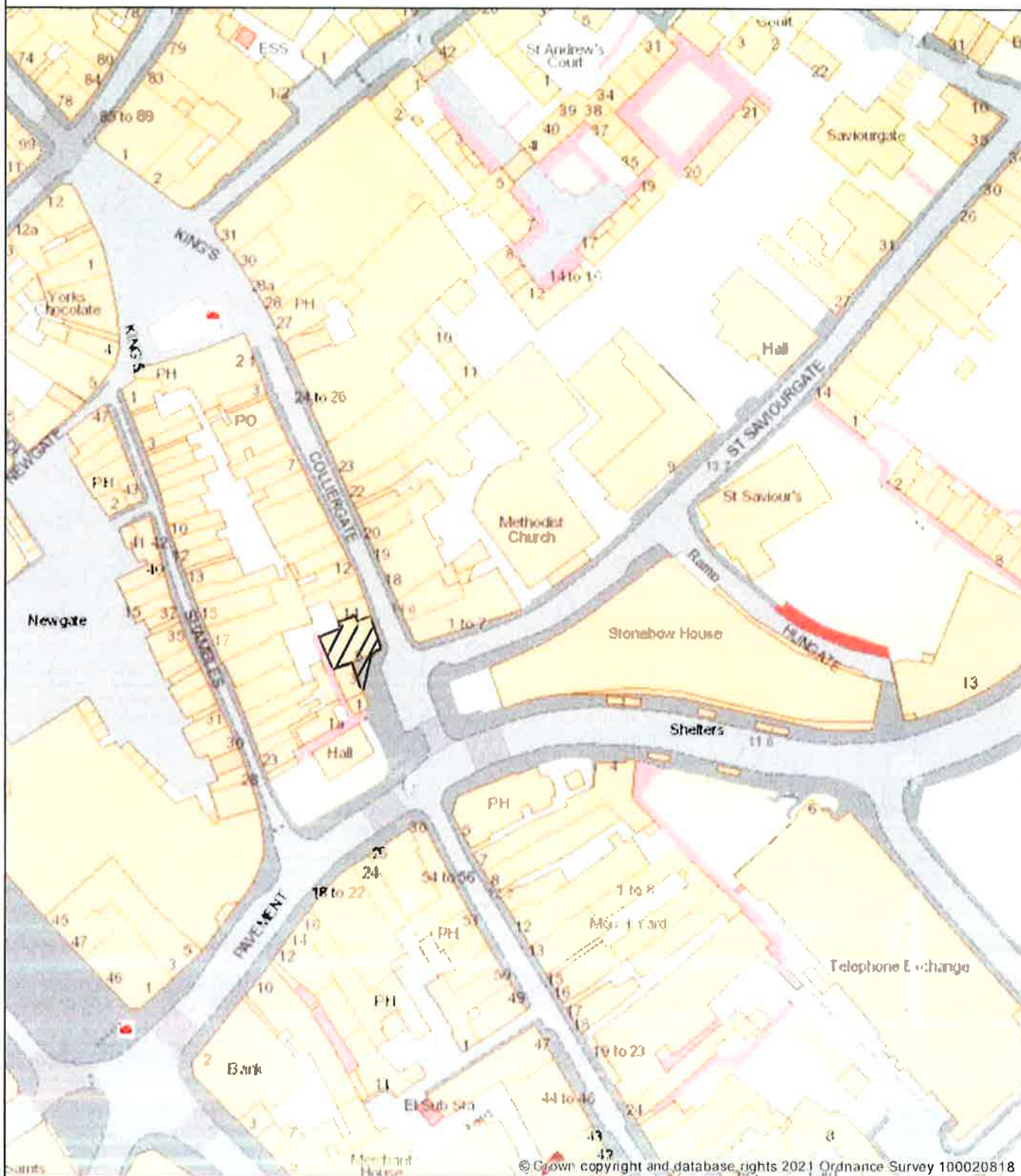
Cllr Denise Craghill | Green Party councillor for Guildhall Ward  
Executive Member for Housing and Safer Neighbourhoods  
Tel. 07952 120752 email : [cllr.dcraghill@york.gov.uk](mailto:cllr.dcraghill@york.gov.uk)

**City of York Council**

West Offices | Station Rise | York YO1 6GA  
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# Annex || map of area



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**Date:** 17 Aug 2021

**Author:** City of York Council

**Scale:** 1:1,250



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

**MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

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

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

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

7. The responsible person must ensure that –

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

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

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

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

## **MANDATORY CONDITION: ALCOHOL PRICING**

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

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

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

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

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

where –

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

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

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

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

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

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

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

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



**MANDATORY CONDITION: DOOR SUPERVISION**

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

**MANDATORY CONDITION: EXHIBITION OF FILMS**

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

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**Legislation and Policy Considerations**

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

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