

Licensing Hearing Subway

To: Councillors Bartlett, Horton and Moore
Date: Monday, 20 November 2006
Time: 10.00 am
Venue: Guildhall

AGENDA

1. Chair

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

2. Introductions

3. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

4. Exclusion of Press and Public

To consider excluding the public and press from the meeting prior to consideration of the personal data contained in annexes 3 & 5 to Agenda Item 5 as provided by the Data Protection Act 1998.

5. The Determination of an Application by Mr Wayne Dixon and Mr Kirk Jemison for Determination of an Application to Vary Premises Licence Section 35(3)(a) in respect of Subway, 2 Clifford Street, York, YO1 9RD. (CYC-010949)

If you require any further information, please contact Melanie Carr on Tel 01904 552061 or Fax 01904 551035 or email melanie.carr@york.gov.uk

Distribution:

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

Press, Libraries, Council Receptions

About City of York Council Meetings

Would you like to speak at this meeting?

If you would, you will need to:

- register by contacting the Democracy Officer (whose name and contact details can be found on the agenda for the meeting) **no later than** 10.00 am on the last working day before the meeting;
- ensure that what you want to say speak relates to an item of business on the agenda or an issue which the committee has power to consider (speak to the Democracy Officer for advice on this);
- find out about the rules for public speaking from the Democracy Officer.

A leaflet on public participation is available on the Council's website or from Democratic Services by telephoning York (01904) 551088

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 613161 for this service.

যদি যথেষ্ট আগে থেকে জানানো হয় তাহলে অন্য কোন ভাষাতে তথ্য জানানোর জন্য সব ধরনের চেষ্টা করা হবে, এর জন্য দরকার হলে তথ্য অনুবাদ করে দেয়া হবে অথবা একজন দোভাষী সরবরাহ করা হবে। টেলিফোন নম্বর (01904) 613161.

Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin tercümesini hazırlamak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel. (01904) 613161.

我們竭力使提供的資訊備有不同語言版本，在有充足時間提前通知的情況下會安排筆譯或口譯服務。電話(01904) 613161。

کسی بھی دوسری زبان میں معلومات کی دستیابی ترجمہ شدہ معلومات، ترجمان کی شکل میں یقینی بنانے کے لئے ہر ممکن کوشش کی جائے گی، بشرطیکہ اس کے لئے پہلے سے سنا سب اطلاع کی جائے۔ ٹیلی فون (01904) 613161

Holding the Executive to Account

The majority of councillors are not appointed to the Executive (38 out of 47). Any 3 non-Executive councillors can 'call-in' an item of business from a published Executive (or Executive Member Advisory Panel (EMAP)) agenda. The Executive will still discuss the 'called in' business on the published date and will set out its views for consideration by a specially convened Scrutiny Management Committee (SMC). That SMC meeting will then make its recommendations to the next scheduled Executive meeting in the following week, where a final decision on the 'called-in' business will be made.

Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to; and
- Public libraries, Council Receptions and the Press get copies of **all** public agenda/reports.
- Applicant
- Representors & the relevant Responsible Authorities



LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS

Introduction

The procedure outlined below will be followed at all Licensing Hearings.

As Licensing Hearings are quasi-judicial the Sub-Committee will, in effect, act like a Court and the rules of natural justice will apply. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Committee Members have a duty to view all evidence presented before them impartially. Members of the Licensing Sub-Committee have all received relevant training and are used to making decisions of this type. No matter how strong local opinion may be, Committee Members can only make decisions based on relevant licensing issues as set out before the Sub-Committee in determining applications.

The hearing will be in public session. However, the Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

The purpose of the hearing is

- To enable those with a right to appear to advance their point of view and to test the case of their opponents
- To assist the Sub-Committee to gather evidence and understand the relevant issues

In view of the requirement to hold hearings within specified times, the Licensing Authority will generally be unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Licensing Authority will consider applications to adjourn hearings to a later date.

Representations at Licensing Hearings

The Applicant, Ward Councillors, and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At any hearing of an application, the Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to

be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

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

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

The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may extend or 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 repeated or made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in the written submission unless the Sub-Committee considers there are exceptional circumstances for doing so and the Representor is able to justify why the ground or objection should be raised. The Applicant may make representations to the Sub-Committee as to why any such request to introduce a new ground should or should not be granted. In considering whether to grant a request by a Representor to introduce a new ground, the Sub-Committee will consider why the new evidence has not been produced earlier and whether the admission of such a ground would necessitate the grant of an adjournment and will consider any unfairness to the Applicant or other Representors by reason of the extra cost or delay thereby caused.

Any person behaving in a disruptive manner will be asked to leave the hearing. If this does occur, that person may, before the end of the hearing, submit in writing any information which they would have been entitled to give orally.

Procedure prior to the Hearing

The Members sitting on the Sub-Committee will meet prior to the hearing to note the matters that are to be presented. They will only be accompanied by the Democracy Officer and Legal Advisor (*if present*). Attention will only be drawn to the nature of the application and the premises or person to which it relates. The actual application will not be discussed.

At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until the democracy officer calls them through to the committee room.

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*], welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case [*maximum 15 minutes*].
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses [*maximum 5 minutes each party*]
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.
12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case [*maximum 15 minutes each party*]
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties

13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation [*maximum 5 minutes per Representor*].
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
15. The Chair will invite the Representors (or their representative) in the following order to summarise their case [*maximum 5 minutes each party*]
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
16. The Chair will invite the Applicant (or their representative) to summarise their case [*maximum 5 minutes*].
17. 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 (*if present*) on law and jurisdiction.
18. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

Procedure after the Hearing

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

- paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
- paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. 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.

21. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant and Representors within 3 working days of the hearing. There can be no further questions or statements.
22. For all other hearings not listed above, if the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

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Licensing Act 2003 Sub Committee**20 November 2006**

Report of the Director of Neighbourhood Services

Section 35(3)(a) Application for the Variation of a premise licence for Subway, 2 Clifford Street, York, YO1 9RD**Summary**

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-010949
3. Name of applicant: Wayne Dixon and Kirk Jemison
4. Type of authorisation applied for: Variation of a premises licence.
5. Summary of application: The nature of the application is to extend existing licensed hours for the provision of late night refreshment. The premise is currently licensed Monday to Thursday until 01:00 hours and Friday to Sunday until 03:00 hours. This variation seeks to extend the permitted hours Monday to Sunday until 05:00 hours, premises to open 24 hours daily.

Background

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.

Promotion Of Licensing Objectives

8. The applicant proposes the following steps to promote the licensing objectives these are in addition to existing licence conditions.
9. Prevention of Crime and Disorder
 - 1) Food will not be supplied to anyone who is abusive to staff or patrons. No disorderly conduct will be allowed.
 - 2) Existing CCTV will provide 24 hour coverage.
 - 3) SIA registered doorstaff are currently employed at the premises between the hours of 22:00 and 02:00.

10. Public Safety

1) All measures requested by the fire safety officer will be adhered to for all patrons and staff safety. 2) There is freely accessible areas so that the emergency services can enter and work safely. 3) No patrons will be allowed to obstruct any exits or fire exits.

11. Prevention of Public Nuisance

1) Bins will be provided and patrons encouraged to use them to prevent litter. 2) Patrons who are having late night refreshment will be asked to leave and disperse quietly.

Special Policy Consideration

12. The premises fall within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The special policy was approved by the licensing committee on 1 April 2005 and considered by full council on 12 April 2005, a copy of the special policy statement is attached at Annex 8.

Consultation

13. 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.

Summary of Representations made by Responsible Authorities

14. No representations were received from responsible authorities, however, after consultation with North Yorkshire Police, the applicants agreed to amend two of their existing conditions:
15. Existing condition 2 to be amended to 'Doorstaff will be employed every Friday, Saturday and Sunday from 22:00 hours until at least 03:00 hours the following morning'.
16. Existing condition 10 the word 'immediate' to be removed so that the condition states 'Litter shall be picked within the [. . .] vicinity of the premise whilst it is open'.

Summary of Representations made by Interested Parties

17. Representations have been received from the interested parties listed at Annex 3 (confidential). Their representations are attached at Annex 4.
18. The addresses of the interested parties are indicated on the map attached as Annex 5 (confidential). A further map indicating the general area from which representations were received is attached at Annex 6. There are two representors; one from Kings Staith area and the other from South Esplanade area. An “interested party” is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
19. Members are reminded that representations are only “relevant” if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Options

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

Analysis

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

Corporate Objectives

30. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
31. These directly contribute to the Council's Safer City priority and corporate aim 4.
32. In addition the licensing objectives of public safety and prevention of public nuisance contribute towards corporate objective 1.4 – protection of residents from pollution, public health and safety hazards.

Implications

33.
 - **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

34. In compliance with the Councils risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.
35. Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored as they do not provide a real threat to the objectives of this report.

Recommendations

36. Members determine the application.

Contact Details

Author:

John Lacy
Acting Licence Manager

Licensing & Regulation

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Report Approved ✓

Date 7 November 2006

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal and Democratic Services
Civic Democratic & Legal Services

Wards Affected: Guildhall East

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of existing premises licence
- Annex 2** - Application form
- Annex 3 (Confidential)** - List of Interested Parties
- Annex 4** - Representations from Interested Parties
- Annex 5 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 6** - Map showing general area from which representations received

Annexes:

- Annex 7** - Mandatory Conditions
- Annex 8** - City Centre Special Policy Statement
- Annex 9** - Legislation and Policy Considerations

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LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Premises licence number CYC - 010949

Part 1 Premises details

Postal address of premises:

2 Clifford Street

Post town: York	Post code: YO1 9RD
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Telephone number: 01904 642740

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Late Night Refreshment

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

LATE NIGHT
REFRESHMENT

Indoors

Monday 23:00 - 01:00

Tuesday 23:00 - 01:00

Wednesday 23:00 - 01:00

Thursday 23:00 - 01:00

Friday 23:00 - 03:00

Saturday 23:00 - 03:00

Sunday 23:00 - 03:00

The Opening Hours of the Premises

Monday 08:00 - 01:00
 Tuesday 08:00 - 01:00
 Wednesday 08:00 - 01:00
 Thursday 08:00 - 01:00
 Friday 08:00 - 03:00
 Saturday 08:00 - 03:00
 Sunday 08:00 - 03:00

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

No supply of alcohol authorised

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

Name:	Mr Wayne Dixon	Mr Kirk Jemison
Address:	51 Eldon Street York YO31 7NE	32 Flamborough Road Bridlington YO15 2JQ
Telephone number:	01904 642740	01904 642740
Email address:	wsdixon@btconnect.com	None

Annex 1 – Mandatory conditions

None

Annex 2 – Conditions consistent with the operating schedule**Licensing Objectives**

Prevention of Crime & Disorder

1. CCTV installed and maintained within the premise.
2. Doorstaff are employed to work after 22:00 hours, they are registered with the Security Industry Authority.

Public Safety

3. Health & Safety procedures are in place.
4. Fire fighting equipment is provided.

Public Nuisance

5. Doors and windows are kept closed.
6. No baking or cooking takes place after 22:00 hours.
7. There are no gaming machines on the premise.
8. No alcohol is sold/supplied on the premise.

Protection of Children from Harm

9. No children are allowed on the premise after 21:00 hours.

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

10. Litter shall be picked within the immediate vicinity of the premise whilst it is open.
11. The premise licence holder shall participate in the Pubwatch Scheme.
12. The frontage of the shop shall be cleaned on a daily basis.

For and on behalf of
The Deputy Chief Executive

Date: 14/12/2005

Licensing & Regulatory Services
9 St Leonard's Place
York
Y01 7ET

Phone: 01904 551521
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing

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CITY OF YORK COUNCIL
Licensing & Regulatory Services, 9 St Leonards Place, York, YO1 7ET

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 your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We Wayne Dixon and Kirk Jemison..... (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-010949

Part 1 – Premises Details

Postal address of premises or, if none, ordinance survey map reference or description	
2 CLIFFORD STREET <i>Subway</i>	
Post town	Post code
YORK	YO1 9RD

Telephone number of premises (if any)

01904 642740

Non domestic rateable value of premises

£ 12,000

Part 2 – Applicant Details

Daytime contact telephone number

01904 624903

Email address (optional)

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

DIXON

WAYNE

Current postal address
if different from
premises address

51 ELDON STREET

Post Town

YORK

Postcode

YO31 7NE

Part 3 - Variation

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

Please tick yes

If not do when do you want the variation to take effect from?

Day	Month	Year

If 5000 or more people attend the premises at any one time please state the number expected to attend

Please describe briefly the nature of the proposed variation (please read guidance note 1)

To extend the opening hours of the business to twenty four hours a day seven days a week in order to provide a healthy alternative to other fast food outlets specifically targeted at those who work anti-social hours such as Police and other emergency service workers.

Part 4 - Operating Schedule

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

Please tick ✓ yes

Provision of regulated entertainment

- a) play (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) performance 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 entertainment facilities for:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K)

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

Sale by retail of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	Outdoors	Both
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed						
Thur			State any seasonal variations for performing play (please read guidance note 4)			
Fri						
Sat			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sun						

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of a films take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	Outdoors	Both
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed						
Thur			State any seasonal variations for the exhibition of films (please read guidance note 4)			
Fri						
Sat			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sun						

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)
Day	Start	Finish	
Mon			State any seasonal variations for indoor sporting events (please read guidance note 4)
Tue			
Wed			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 5)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainment Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	Outdoors	Both
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed			State any seasonal variations for the boxing or wrestling entertainment (please read guidance note 4)			
Thur						
Fri			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. (please read guidance note 5)			
Sat						
Sun						

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	Outdoors	Both	
Day	Start	Finish					
Mon			Please give further details here (please read guidance note 3)				
Tue							
Wed				State any seasonal variations for the performance of live music (please read guidance note 4)			
Thur							
Fri				Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list. (Please read guidance note 5)			
Sat							
Sun							

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	Outdoors	Both	
Day	Start	Finish					
Mon			Please give further details here (please read guidance note 3)				
Tue							
Wed				State any seasonal variations for the playing of recorded music (please read guidance note 4)			
Thur							
Fri				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. (please read guidance note 5)			
Sat							
Sun							

G

Performance of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	
Day	Start	Finish	Indoors	Outdoors
Mon				
Tue				
Wed				
Thur				
Fri				
Sat				
Sun				

Please give further details here (please read guidance note 3)

State any seasonal variations for the performance of dance (please read guidance note 4)

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. (please read guidance note 5)

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Will the entertainment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	
Day	Start	Finish	Indoors	Outdoors
Mon				
Tue				
Wed				
Thur				
Fri				
Sat				
Sun				

Please give a description of the type of entertainment you will be providing

Please give further details here (please read guidance note 3)

State any seasonal variations for the entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)

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. (please read guidance note 5)

I

Provision of facilities for making music Standard day and timings (please read guidance note 6)			Please give a description of the facilities for making music you will be providing		
			Will the facilities for making music be indoors or outdoors or both – please tick (✓) (please read guidance note 2)		Indoors Outdoors Both
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for the provision of facilities for making music (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of facilities for making music at different times to those listed in the column on the left, please list. (please read guidance note 5)		
Sat					
Sun					

J

Provision of facilities for dancing Standard timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (✓) (please read guidance note 2)		Indoors Outdoors Both
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for providing dancing facilities (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list. (please read guidance note 5)		
Sat					
Sun					

K

Provision of facilities for entertainment of a similar description to that falling within I or J Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment facility you will be providing		
			Will the entertainment facility be place indoors or outdoors or both – please tick (✓) (please read guidance note 2)		Indoors
					Outdoors
					Both
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon			State any seasonal variations for the provisions of facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4)		
Tue					
Wed					
Thur					
Fri					
Sat					
Sun					
			Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within I or J at different times to those listed in the column on the left, please list. (please read guidance note 5)		

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)		Indoors
					Outdoors
					Both
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon	9am	8.59am	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Tue	9am	8.59am			
Wed	9am	8.59am			
Thur	9am	8.59am			
Fri	9am	8.59am			
Sat	9am	8.59am			
Sun	9am	8.59am			
			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 5)		

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption on or off the premises or both – please tick (✓) (please read guidance note 7)	On the premises	Off the premises	Both
Day	Start	Finish		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mon			State any seasonal variations for providing dancing facilities (please read guidance note 4)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tue						
Wed						
Thur						
Fri						
Sat						
Sun						
			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 5)			

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

Not applicable -

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	9am	8.59am	Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 5)
Tue	9am	8.59AM	
Wed	9am	8.59am	
Thur	9am	8.59am	
Fri	9am	8.59am	
Sat	9am	8.59am	
Sun	9am	8.59am	

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

I have enclosed the premises licence
 I have enclosed the relevant part of the premises licence

Please tick yes

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

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

*COPY OF
 LICENSE ONLY
 NOT ORIGINAL
 & NO
 SUMMARY*

P

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

a) General – all four licensing objectives (b, c, d, e) (please read guidance note 9)

To work with all stated agencies.

b) The prevention of crime and disorder

We will not supply food to anyone who is abusive to staff or patrons. No disorderly conduct will be allowed. We have 24 hour CCTV installed and maintained within the premises. We have door staff employed between 22:00 and 02:00 who are registered with the security industry.

No goods which have had no UK duty will be sold.

c) Public safety

All measures requested by the Fire Safety Officer will be adhered to for all patrons and staff safety. There is freely accessible areas so that the emergency services can enter and work safely.

No patrons will be allowed to obstruct any exits or fire exits.

d) The prevention of public nuisance

Bins will be provided and patrons encouraged to use them to prevent litter. Patrons who are having late night refreshments will be asked to leave and disperse quietly.

e) The protection of children from harm

As no alcohol is being sold, children are allowed on the premises.

- Please tick ✓ Yes
- I have made or enclosed payment of the fee
 - 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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent. (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature *JML*
 Date 1st September 2006
 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 12). **If signing on behalf of the applicant please state in what capacity.**

Signature *JML*
 Date 1st September 2006
 Capacity Solicitor

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)	
Mr J McLoughlin Guest Walker & Co Solicitors 12a The Shambles DX 61519 - YORK	
Post town YORK	Post code YO1 7LZ
Telephone number (if any) 01904 624903	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

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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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1

Kings Staith,
York,
YO1 9SN.

RECEIVED
02 OCT 2006

[Redacted]

29th. September 2006

Dear Licensing,

Application for extension at 2 Clifford Street, 'Subway'

I am writing to object to this application, on two grounds:-

The Prevention of Crime and Disorder. The presence of take-away restaurants in our area undoubtedly causes the revellers to linger longer, with the result that the accompanying noise and disturbance also goes on longer. To the best of my knowledge, Subway, if this application is granted, would be the only take-away restaurant in this area with a 24 hour license, and possibly in the whole city. As such the establishment would act as a 'draw' to early morning revellers, no doubt to the benefit of the business, but to the detriment of our already harassed area.

The prevention of Public Nuisance. There is a litter problem caused by the customers of the various take-away restaurants in this area and I am concerned that extending the hours of the Clifford Street Subway will make it worse. The comment above about Subway potentially acting as a draw for revellers also applies to the litter problem.

I find that one of the effects of the new licensing regime is to have extended the period of disturbance longer into the small hours and I fail to see why this application, if granted, would not continue this trend. Please, please give the residents some peace and reject this application.

Yours sincerely,

[Redacted signature]

P.S. I found the licensing register, as put on your web site, confusing, to say the least. The register read as if the application was only (!) to extend the service hours until 0500, every day, whilst the opening hours were to be 24 hours per day. In fact when one read it the application was for 24 hour service, as well.

CITY OF YORK COUNCIL	
APPLICATION ACKNOWLEDGED	
DATE: 31/0/06	LC

2

tel / fax [REDACTED]
email: [REDACTED]

South Esplanade
York YO1 9SJ
6 October 2006

24/10

City of York Licensing
and Regulatory Services
9 St Leonards Place
York YO1 7ET

Dear Sir/Madam,

Extension of Hours, Subway, Clifford Street

I apologise for being out of time for objections but I have only just heard about this application.

I would like to object on the grounds that it is aimed at people coming out of the Gallery night club and will encourage them to hang around, singing etc rather than leaving the area so we can sleep undisturbed.

Yours faithfully

[REDACTED SIGNATURE]

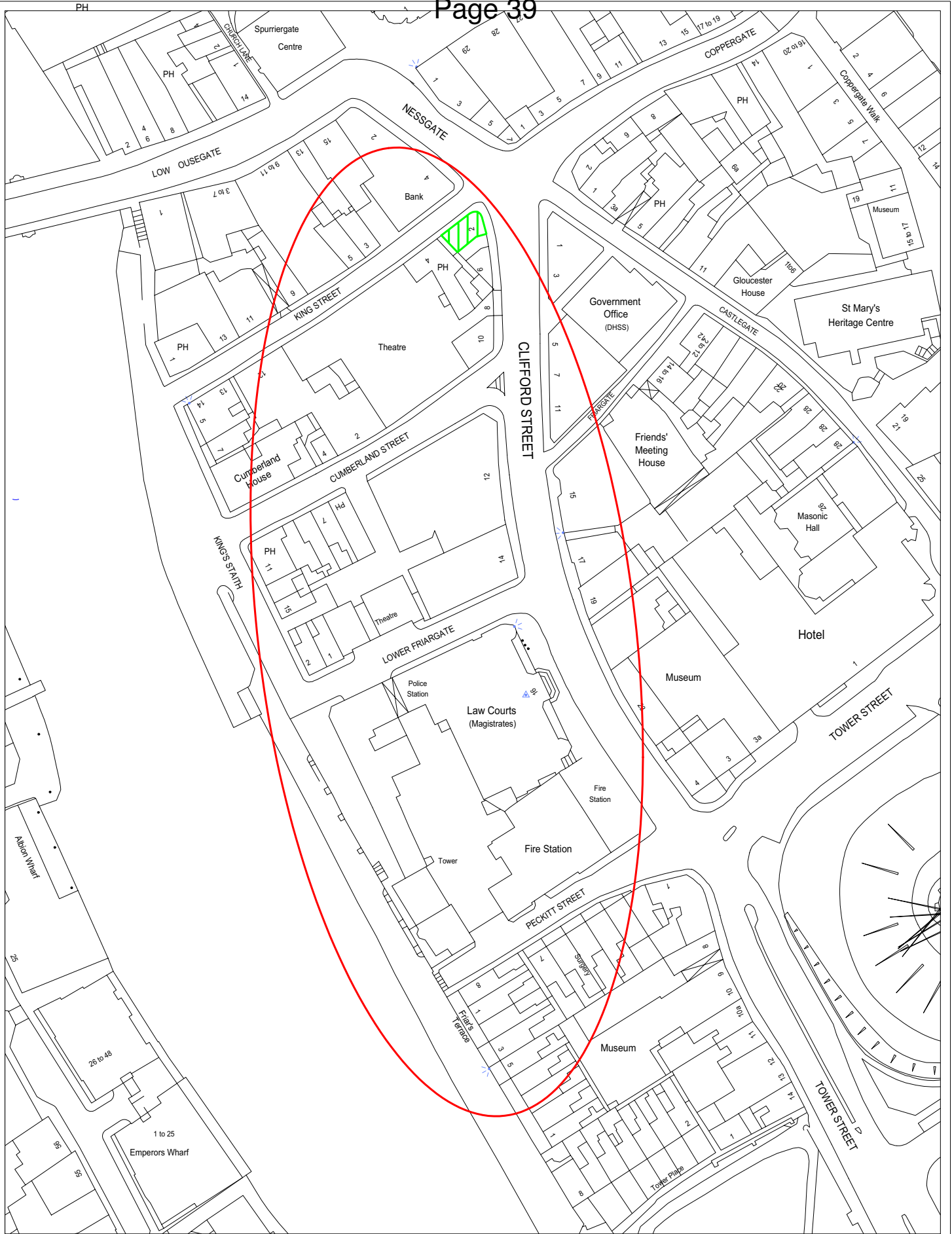
[REDACTED NAME]
W. Derbyshire (Mrs)

accu 06/10.
[REDACTED]

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

Document is Restricted

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CITY OF
YORK
COUNCIL

9, St. Leonards Place, York, YO1 2ET
Telephone: 01904 613161

Subway - 2 Clifford Street

SCALE 1:1250

DRAWN BY JB

DATE 27/10/2006

Originating Group

Project

Drawing No.

Organisation

JC 11A



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MANDATORY 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.

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).

MANDATORY CONDITION: DOOR SUPERVISION

- (1) In accordance with section 21 of the Licensing Act 2003, 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 be licensed by the Security Industry Authority.
- (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

- (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.

6.3 CITY CENTRE SPECIAL POLICY STATEMENT

This Special Policy was approved by the City of York on 12 April 2005 and shall have effect from 13th April 2005 to 6 January 2008 unless otherwise reviewed by the Council.

This Special Policy is a supplement to the Council's Statement of Licensing Policy and must be read in conjunction with that document.

This Special Policy relates to the following streets:

Micklegate, Toft Green, Tanner Row, Rougier Street, George Hudson Street, Bridge Street, Low Ousegate, Clifford Street, Tower Street, Tanner Moat, Wellington Row, North Street, Cumberland Street, King Street, Lower Friargate, Kings Staith, Peckitt Street, Blossom Street (to Holgate Road) and The Crescent (see Appendix K, Map of Special Policy Area).

This area has been identified as requiring additional licensing controls to promote the licensing objectives due to the cumulative effect of the concentration of late night drink led, refreshment and entertainment premises on crime, disorder and/or public nuisance affecting residents, visitors and other businesses.

A statistical, evidence based report was submitted by North Yorkshire Police to substantiate this statement and was considered by the City of York Council in approving this policy.

Consultation on the Special Policy was carried out in accordance with Section 5(3) of the Licensing Act 2003.

Effects of the Special Policy

1. This policy relates to applications for the grant and/or variation of premises licences or club premises certificates or the issue of provisional statements.
2. Each application will be considered on its own merits.
3. Where no representations are received any application will be granted in terms consistent with the operating schedule.
4. Applications for the grant of a new premises licence or club premises certificate or provisional statement :

Where relevant representations are received there will be a presumption against the grant of such a licence or certificate unless the applicant can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives.

5. Application for the variation of a premises licence or club premises certificate due to a change of style of operation :

Any application for the variation of style of operation which is subject to relevant representations will be considered on its own merits having regard to the promotion of the licensing objectives.

6. Application for the variation of a premises licence or club premises certificate resulting in an extension of the premises and increased capacity:

There will be a presumption to refuse such applications, where relevant representations are received and where the increase in capacity would undermine the licensing objectives unless the applicant can rebut the presumption that the granting of such a variation would undermine the licensing objectives.

7. Application to vary the hours of operation attached to a premises licence or club premises certificate:

All applications that seek to extend the licensed hours will be considered on an individual basis. No different policy will apply in this area as opposed to the rest of the city.

Legislation and Policy Considerations

1. The following provisions of the Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s34 application to vary premises licence; s35 determination of application under section 34; s36 supplementary provision about determinations under section 35; and ss19, 20 and 21 mandatory conditions.
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: Paragraphs 5.47 Steps to promote the licensing objectives; 13.25 to 13.29 Variations of new premises licences.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 3.2 Crime and Disorder; 4.1 Consultation on New Premises Applications, Club Premises Certificates, Variations and Provisional Statements; 4.2 General Principles for Determination of Applications; 5.0 Guidelines for Applicants; 7.0 Licensing Hours and Appendix D Pool Conditions.
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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