

Licensing/Gambling Hearing

To: Councillors Kent, Melly and Ravilious

Date: Wednesday, 19 July 2023

Time: 10.00 am

Venue: Remote Meeting

AGENDA

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 and co-opted members are asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

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 and sign the minutes of the Licensing Hearings held on 12 June 2023 and 22 June 2023.

6. The Determination of a Section 18(3)(a) Application by Sara Winslow and Robert Darbyshire for a Premises Licence Section 18(3)(a) Application in respect of 75 Balmoral Terrace, York, YO23 1HR (CYC-073025)

Democratic Services Officer:

Name: Fiona Young

Contact Details:

- Telephone – (01904) 552030
- Email - fiona.young@york.gov.uk

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 (01904) 551550

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;
- 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
24. The Chair will invite the Applicant 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
 - Local residents
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, a notice of the decision will be published online as soon as possible and those who were present at the hearing will be informed by email. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representatives (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 Representatives within 5 working days of the decision being made.

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

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; and (b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Committee Minutes

Meeting	Licensing/Gambling Hearing
Date	12 June 2023
Present	Councillors Cuthbertson, Hook and Melly

1. Chair

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

2. Introductions

The Chair introduced the Sub-Committee Members, the Licensing Manager, the Legal Adviser and the Solicitor shadowing her, and the Democratic Services officer and the Democracy Officer shadowing her. The Applicant's solicitor introduced himself and those accompanying him – Nicholas Bradley (Director of New Holgate Ltd.), Daisy Drydal-Mortimer (Designated Premises Supervisor) and Gessica Giacolome (Front-of-house Manager). Counsel for the Representors introduced himself, noting that he was instructed by Pippa Allen and a number of other Representors. Tom Mitchell, Representor, introduced himself.

3. Declarations of Interest

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

No interests were declared, but for the sake of transparency Cllr Cuthbertson indicated that he had visited both of the schools referred to in the case papers in connection with Council activities.

4. 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.

5. Minutes

Resolved: That the minutes of the Licensing Hearing held on 22 December 2022 be approved as a correct record, to be signed by the Chair at a later date, subject to the reference to 'licensing committee' in 'Option 2' at the end of paragraph 6 of Minute 52 being corrected to 'sub-committee'.

6. The Determination of a Section 18(3) (a) Application by New Holgate Limited for a Premises Licence in respect of Holgate Bridge Hotel, 106 - 108 Holgate Road, York, YO24 4BB (CYC-072631)

Members considered an application by New Holgate Limited for a premises licence in respect of Holgate Bridge Hotel, 106-108 Holgate Road, York YO24 4BB.

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

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance
3. The Protection of Children from Harm

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, noting that the premises were not in the Cumulative Impact Area and confirming that the Applicant had carried out the consultation process correctly.

She further noted that an additional condition had been agreed with Public Protection (Annex 3) and that there were no representations from Responsible Authorities. She drew attention to the representations at Annex 5, and the additional information from the Applicant and Representors published in the Agenda Supplement. Finally, she advised the sub-committee of the options open to them in determining the application.

In response to questions from the sub-committee, the Licensing Manager confirmed that:

- Public notices in respect of the application had been correctly formatted and placed
- The Licensing Act did not automatically allow 24-hour service of alcohol to hotel guests
- A further application would be needed if the Applicant wished to extend the licensed area to other premises.

4. The representations made by James Staton, Solicitor, on behalf of the Applicant.

Mr Staton noted that the question raised about extending the premises was academic, as the Applicant had no plans to purchase other properties.

He stated that the Applicant was looking to establish a new boutique hotel on the site of an existing unlicensed hotel. The plan was to upgrade the premises and offer a high-quality experience to hotel residents and diners. The building, which was Grade II listed, was being refurbished. The hotel would have 12 bedrooms, a small bar (12 covers), a modest-sized restaurant and an outdoor dining area. Service of alcohol would be available to hotel residents throughout the day, but early in the day it would be served to non-residents only with a meal, for example a wedding breakfast. The prime objective was not the sale of alcohol but an upmarket offering for visitors to York. Non-residents could dine in the restaurant but would have to pre-book due to its size. Use of the external area would be constrained by the weather. The Applicant was planning to sell sustainable local wines, craft beer, whisky, gins and water, and not to replicate the offering of the Volunteer Arms.

Mr Staton contended that the licences held by the Volunteer Arms and other premises in the area – the Premier convenience store, St Paul’s Lodge, and Kilima Hotel - as described in paragraphs 6.2-6.8 of the case summary in the Agenda Supplement, showed that granting the application would not be a major change or ‘open the floodgates’ in the area as suggested in the representations. Describing the premises, he said that the external area was immediately behind the building and included a car park with 12 spaces. There was student accommodation to the east, and the east boundary was a brick wall. To the south, Watson Street was shielded by the annex of Holmwood House Hotel. The west boundary adjoined the home of the former owners of the premises, and the Applicant had agreed to increase the height of the fence on this boundary. There would be planters in the external area to deaden the noise and the area would be cleared by 10pm. The low-level background music to be played there would be monitored by the Applicant. The Applicant was content to ensure that the car park was used by residents only after 8pm and it would be closed by 10pm. Non-residents would be directed to the front door entrance.

Referring to representations made about the car park, Mr Staton said there would be no more parking spaces than when the premises operated as Holgate Bridge Hotel with 16 bedrooms. In respect of the nearby schools, there would be no increase in traffic, hotel guests would not be checking in or out during school dropping-off times, and children would not be exposed to drunken behaviour. The focus of the operation would be on the supply of food and drink to hotel residents and pre-booked diners. There would be a limited range of wines and beers, no draught supplies, and off-sales for residents / diners / guests only, such as a bottle of wine to take home or out for a picnic. It would be a quality offering to a limited clientele and there would not be large groups of people drinking in the garden.

In conclusion, Mr Staton stated that the issues of crime and disorder suggested by the Representors were illusory. The Applicant was investing a significant amount in the business and wanted it to be a success. He referred to

the operating schedule included in the application, which detailed the steps to be taken with regard to the licensing objectives, and noted that the application for late night refreshment had been amended to 23:00-00:00 hours.

In response to questions from Mr Mitchell (Representor), Mr Staton confirmed that:

- The earliest check-in time for guests would be 4pm.
- If check-in was being advertised as 3pm on booking.com, the Applicant would be happy to correct this.

In response to questions from the sub-committee, he confirmed that:

- Arrangements for off-sales in other premises in the area were set out in the schedule at pages 13-14 of the supplementary papers.
- The number of covers in each of the licensed areas was 16 in the restaurant, 12 in the bar/whisky room and 32 in the outside area.
- The Applicant would accept a condition of table service only.
- The outside area could in theory be adapted for use in adverse weather conditions but there were no plans to do so.
- The closure time of 10pm for the outside area (page 59 of the papers) had been agreed on the advice of Public Protection.
- Smokers would have to leave their drink to go outside and smoke after 10pm.
- Windows in the dining room and bar would be closed at 10pm.
- Late night refreshment would cease at 23:00 but service of alcohol would continue until 24:00 (page 41).

5. The representations made by Leo Charalambides, Barrister, on behalf of several Representors, including nos. 2, 10, 13, 15, 23 and 24 on the confidential list before the sub-committee.

Mr Charalambides stated that the test to be applied under Section 18 of the Licensing Act was the likely effect of the application on the promotion of the licensing objectives; however, this was not mentioned in the Applicant's case summary. He highlighted the key aims and purposes set

out in paragraph 1.5 of the Licensing Act statutory guidance, in particular the duty to encourage greater community involvement and give local residents the opportunity to have their say regarding licensing decisions that may affect them. He said the issue was what was suitable for this particular location, and therefore it was wrong to focus on the conditions attached to other premises in the area. He stated that the Applicant had failed to engage with the licensing objectives and could not comply with the requirement in the statutory guidance to undertake a risk assessment because the application kept shifting – at page 38 of the papers the application referred to a maximum of 22 guests, but the capacity of the bedrooms as provided online indicated a maximum of 52. There were further discrepancies in the papers – for example, on the plan the capacity of the dining room was given as 12, but in the description at page 38 it was 18. Taking the highest and the lowest figures, the overall maximum capacity was between 117 and 124.

With regard to the external area, he said that noise carried across back gardens in the locality and that the Applicant had advertised a race day offering. On days when the community wanted to enjoy their gardens, the external area could be packed with people, and bad language would be audible to children –the guidance on protection of children from harm included protection from expletives. With heaters, blankets and awnings, maximum advantage could be taken of the outside area all year round, and the impact of the resulting intensification in the number of people using the outside space in the heart of a residential area would be huge.

In conclusion, Mr Charalambides stated that if the application were granted, it should be with conditions to:

- require the premises to operate only as a hotel providing overnight accommodation for guests;
- allow access to the hotel facilities for hotel residents and their bona fide guests only;
- limit the number of people staying overnight to 24 (2 per room);
- not allow access to non-residents before 8 am or after 11pm (except for staff);
- restrict the number of people on the premises to 36 (excluding staff);

- not allow smoking in the external area after 17:00 hours and restrict the number of smokers to 4 at any one time;
- allow the supply of alcohol between 08:00 and 23:00 only;
- restrict late night refreshment to hotel guests / room service only;
- not allow any licensable activities or alcohol consumption in the courtyard of the basement.

He stressed that residents were completely against the use of the external area and suggested that the type of alcohol supplied could also be restricted, to no more than 6-8 premium spirits and no draught beer. He added that the area around Holgate Road was quiet and residential and that the intensification and ever-shifting nature of the proposals made them unsuited to the area. His suggested conditions would allow the Applicant to operate a small, boutique luxury hotel as requested, prevent it from turning into the type of operation that had been advertised and avoid the adverse impacts of granting the application as submitted.

In response to a question from the sub-committee, Mr Charalambides clarified that the representations in respect of the nearby social housing for vulnerable adults related to the potential adverse effects of people going on and off the premises with drinks interacting with those vulnerable adults.

6. The representations made by Tom Mitchell, a resident of Holgate.

Mr Mitchell stated that he lived about a mile away from St Paul's Square and was the Chair of Governors of St Paul's Primary School. His children attended the school and he had been walking to and from the area since 2019. The school had 129 children on its roll, many from families that lived in the surrounding area.

In relation to the application, he said that the main issue was the protection of children from harm. The rear of the premises was directly opposite the entrance/exit of the school, which was on a small lane leading onto Watson Terrace. The road and pavement were narrow and there

was a lot of traffic at drop off and pick up times. There were already issues with delivery vehicles on Watson Terrace, with instances of them reversing and parking outside the school. The application was for much longer drinking and food service hours than previous operations. There would be a need for supplies to be delivered to the premises, resulting in an increased traffic risk that would put children in harm's way. Some children walked to and from school unaccompanied. There would also be issues with noise from the external area, which was 20-50 metres from the school playground. The playing fields were even closer. The sound would carry and the type of noise, as demonstrated by Mr Charalambides, was a concern. Children also walked past the front of the premises in order to cross the road. The existing licences held by other premises were not used to their full extent and were not causing problems with noise etc. These premises did not operate in the way that the Applicant proposed to do. An OFSTED inspection had noted that the school 'sits in the heart of its community'. However the Applicant had not engaged with the community at all, which said something about his intentions.

In response to questions from the Applicant's solicitor, Mr Mitchell said that:

- School pick-up times were staggered, beginning at 3:10pm, with after-school clubs finishing at 4:15 pm and wraparound care at 6pm.
- He would be surprised if the playground was as far as 100m from the premises and if the sound did not carry.

In response to a question from the sub-committee, he confirmed that as far as he was aware there were no other licensable activities taking place in the rear gardens of premises to the front or rear of the school.

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

Mr Charalambides summed up, stating that he had set out clear conditions to challenge Mr Staton's assertion that the hotel's clientele would be limited and the numbers well-controlled, and to meet what the Applicant said they wanted. However, there had not been one question or

engagement from the Applicant. He represented at least 7 families, and he was concerned that the Applicant had not taken into account the location of the premises and the requirement for community engagement as stated in the guidance. The residents were appalled that their olive branch had been dismissed and ignored, and the panel should be too. The key was the location of the premises – the Applicant wanted to use sunny evenings to promote business in the hotel’s commercial interests with no regard for local residents.

Mr Charalambides urged the panel, if they did not dismiss the application out of hand, to apply the conditions he had suggested to give the operator the small limited clientele they had asked for. He added that it was a criminal offence under S.158 of the Licensing Act to make false statements to the sub-committee or in the application.

Mr Mitchell summed up, stating that he had now measured the distance from the premises to the school playground on Google Maps as 60 metres. He noted that ‘harm’ [to children] included both language and behaviour and that there were large numbers of families using facilities in the area all day and every day. The application had the potential to be at odds with that use. One of the ward councillors, Cllr Taylor, had also objected to the application. He urged that it be rejected or that significant restrictions be placed upon the licence to limit any potential harm.

Mr Staton summed up, stating that the dramatic representations from Mr Charalambides of large numbers of drinkers ‘cheek by jowl’ with back gardens was exactly not what the Applicant was seeking to achieve. The aim was for a high-quality boutique hotel. The maximum occupation, if all the sofa beds (which were mainly for children) were in use would be 42. The outside area would be cleared by 10 pm, and the Applicant would be happy to close the back gate by 10 pm. He had no wish to put children at risk of harm. The operating schedule set out how the Applicant intended to address the licensing objectives. The application was for a hotel offering with restaurant facilities and some outside dining. The intention of the Applicant was far from the gross picture presented by Mr Charalambides. He asked the panel to

grant the application as set out and clarified in the case summary.

[At this point, Mr Charalambides stated that the maximum number of 42 guests had not been included in the application; the application was therefore misleading and should be rejected as imprecise. Mr Staton replied that the number was taken from the plan attached to the application.]

The Sub-Committee sought and received the following points of clarification from Mr Staton:

- The number of covers was 12 in the whisky room/bar, 18 in the restaurant and 36 in the external area.
- The maximum number of guests if all beds and sofa beds were occupied was 42, although full occupancy on any given day was unlikely.
- 7 of the rooms had sofa beds, but he was not sure that their use could be restricted to children.
- The only smoking area was the one to the rear of the premises; smoking could in theory take place there at any time.

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

Option 1: Grant the licence in the terms applied for. This option was **rejected**.

Option 2: Grant the licence with modified/additional conditions imposed by the sub-committee. This option was **approved**.

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

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

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

Resolved: That Option 2 be approved and the licence be granted for the following activities and timings with modified/additional conditions imposed by the sub-committee as set out below:

Activity	Timings
Late night refreshment – indoors	23:00 to midnight each day for hotel residents and their bona fide guests
Supply of alcohol - on and off the premises	24 hours each day for hotel residents and their bona fide guests
	08:00 to midnight for members of the public
Opening hours	08:00 to midnight each day

The Operating Schedule conditions contained in paragraphs 12 to 15 (inclusive) of the Agenda shall be added to the licence SUBJECT TO the following modifications:

(a) Condition 14b is deleted and is replaced with the following condition:

All external doors and windows in the ground floor dining area and basement bar/Whisky Room at the rear of the hotel building shall be closed (save for immediate access or egress) from 21:00 onwards during operating hours.

(b) Condition 14f is deleted and is replaced with the following condition:

No bottles shall be placed in outside areas between 21:00 hours and 08:00 hours on the following day.

- (c) Conditions 12l and 14g are deleted and are replaced with the following condition:

Open containers of alcohol shall not be removed from the premises

- (d) Condition 14h is deleted and is replaced with the following conditions:

The supply of alcohol shall be by waiter/waitress service only. Save for hotel bedrooms, alcohol must not be sold, supplied, or consumed on the premises otherwise than to seated persons and there shall be no vertical drinking of alcohol on the premises.

In the ground floor outside areas to the rear of the premises alcohol must not be sold, supplied, or consumed other than to seated persons who are taking substantial table meals served and consumed at the table and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

The use of the ground floor outside areas to the rear of the premises shall cease at 21:00 every day. Notwithstanding this condition at any one time up to 4 people shall be permitted to smoke in these outside areas after 21:00.

The following conditions shall also be added to the licence:

After 20:00 every day the car park shall be used by hotel residents only. After 22:00 every day, the car park gates shall be closed and shall not be used by hotel residents or members of the public except in the event of an emergency.

There shall be a maximum of:

- 12 covers in the basement bar/Whisky Room
- 18 covers in the restaurant

- 36 covers in the ground floor outside areas to the rear of the premises

All conditions offered in the operating schedule shall be included in the licence, unless contradictory to the above timings and conditions.

The licence is also subject to the mandatory conditions applicable to licensed premises.

- 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 are not located within an area where a cumulative impact policy applies.
 - (iii) The Sub-Committee noted that this was a new licence application and was very conscious of the premises' location in close proximity to local residences, social housing for vulnerable adults, a nursery school and a primary school.
 - (iv) The Sub-Committee carefully considered the local residents' objections that the proposals will effectively result in an intensification of the use of the premises (which it noted was previously operated as an unlicensed hotel by the previous owners) and would make it unsuitable for the location particularly due to the potential for noise and other adverse effects on the surrounding area particularly from the use of the outside area of the premises.
 - (v) They also noted that Public Protection had agreed a proposed condition with the Applicant to cease the use of the outside area from 10pm daily to address potential public nuisance issues and that there had been no objection to the application from the other Responsible Authorities.

(vi) The Sub-committee noted the evidence put forward at the hearing on behalf of the Applicant as to the character of the style of the proposed operation and its operating schedule and was satisfied that the management of the premises would make every effort to promote the four licensing objectives.

(vii) Whilst the Sub-Committee acknowledged the concerns expressed by residents, it did not find any evidence to justify a refusal of the application in order to promote the licensing objectives nor on the basis of alleged discrepancies in the application. The Sub-Committee felt on the basis of the evidence before it that the imposition of suitable additional conditions on the premises licence would be adequate to promote the licensing objectives in this location.

(viii) In relation to the concerns raised by residents about the potential for noise disturbance and public nuisance generated from the use of the outside area, the Sub-Committee was satisfied on the basis of the evidence before it that, subject to the imposition of suitable conditions, the prevention of public nuisance objective would not be undermined. It attached great weight to the lack of representation from Public Protection, which had agreed that the use of the outside area should cease at 10pm. The Sub-Committee considered it was appropriate to impose restrictions on the use of the external area after 9pm daily (including by smokers), the disposal of bottles and the use of the gate and the private car park to the rear of the premises. It was also considered necessary to ensure a food led operation outdoors with seated consumption only and a limited number of covers (in accordance with the application). In view of the nature of the proposed activities, it considered these measures were adequate and proportionate to deal with the concerns raised by residents, as the concerns were mainly speculative.

(ix) The Sub-Committee was persuaded that there was no reason to believe that the supply of alcohol

within the internal areas of the hotel would undermine any of the licensing objectives, subject to the additional conditions it imposed to manage the supply of alcohol, to prevent vertical drinking, to limit the number of covers (in accordance with the application) and to restrict the opening of the hotel's rear windows and doors.

(x) The Sub-Committee acknowledged the concerns expressed by residents that the proposal would be harmful to children but it considered that these concerns were speculative. The Sub-Committee also considered the fact that the Police did not object to the application carried great weight and reassured the Sub-Committee that, given the nature of the proposed operation, the prevention of crime licensing objective would be unlikely to be undermined.

(xi) Accordingly, in all of the circumstances of the case the Sub-Committee was satisfied that with the additional conditions it imposed on the licence it would be sufficiently robust to allay the fears of local residents and that it could operate without undermining the licensing objectives. It considered that the conditions were justified as being appropriate and proportionate for the promotion of the licensing objectives.

(xii) It was also noted that the Licensing Act 2003 has a key protection for communities that allows at any stage, following the grant of a premises licence, a Responsible Authority or 'other persons', such as a local resident, to ask the Licensing Authority to review the licence if they consider that one or more of the licensing objectives are being undermined.

Cllr R Melly, Chair

[The meeting started at 10.15 am and finished at 1.45 pm].

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Meeting	Licensing/Gambling Hearing
Date	22 June 2023
Present	Councillors Cuthbertson, Nicholls and Rose

7. Chair

Resolved: That Cllr Cuthbertson be elected as Chair of the hearing.

8. Introductions

The Chair introduced the Sub-Committee Members, the Legal Adviser and the Solicitor shadowing her, the Democratic Services officer and the Democracy Officer shadowing her, the Senior Licensing Officer and the Applicant, Mrs Edwards.

9. Declarations of Interest

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

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. The Determination of a Section 18(3)(a) Application by Dark Horse Espresso Bar Ltd for a Premises Licence in respect of The Dark Horse Espresso Bar, 147A Bishopthorpe Road, York, YO23 1NZ. (CYC-072806)

Members considered an application by Dark Horse Espresso Bar Ltd. for a premises licence in respect of The Dark Horse Espresso Bar, 147A Bishopthorpe Road, York YO23 1NZ.

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

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

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

1. The application form.
2. The papers before it including the two written representations received from local residents.
3. The Licensing Manager's report and the comments of the Senior Licensing Officer at the Hearing.

The Senior Licensing Officer outlined the report and the annexes, confirming that the premises were not in the Cumulative Impact Area and that the Applicant had carried out the consultation process correctly. She noted that there were no representations from Responsible Authorities and that amendments and additional conditions had been agreed with the police, as set out in Annex 3. She also drew attention to the representations made by other parties at Annex 5. Finally, she advised the sub-committee of the options open to them in determining the application.

In response to questions from the sub-committee, the Licensing Manager confirmed that:

- there had been no response to consultation from the Planning department;

- the police had not suggested any additional conditions in relation to race days.

4. The representations made by the Applicant.

The Applicant stated that the business was owned and run by herself and her husband Mark. It currently operated from a horsebox in Shambles Market (in the red zone of the CIA) where it had been located since 2017. It had been licensed since 2020. She was the licence holder for the premises and had a proven track record for the responsible service of alcohol.

The Applicant explained that the new premises would be primarily a café serving quality coffee and food. The business was very family oriented and had created a warm, relaxed atmosphere. They were recognised for their coffee and had many regular customers. The aim was to provide a welcoming space for local residents, operating as a neighbourhood café where people could enjoy a coffee or a glass of wine with friends. Their customers were families, walkers, retirees and mothers with their children, rather than groups of drinkers. There would not be a pub atmosphere. The planning application (mentioned on page 46) was for a deck to be built on the outside area to level the ground so that people could sit there. There may be some chatter from the outside area but it wouldn't be too loud, and use of the area would be weather-dependent. She envisaged people sitting there with a glass of wine before moving on to have dinner elsewhere. She had agreed the police conditions requiring the outside area to be closed off by 9pm on Fridays and Saturdays. On other days it would be closed by 6pm. The windows and doors of the premises would be closed after these times. The idea was just to make the most of the summer weather when it was warm.

The Applicant went on to say that she appreciated that the premises were in a residential area but pointed out that there were many other businesses nearby, including a number of shops and restaurants as well as pubs and other licensed premises. These included The Winning Post, the Working Men's Club, the Liquor Store at The Chocolate Works and, on Bishopthorpe Road, 2 Many Wines and Angel on the Green. In response to the

representations at Annex 5, she highlighted the conditions agreed with the police regarding closure of the outside area and stated that the intention was not to open late on every Friday and Saturday. On race days, the premises might even close before the last race finished. It would not be a place that racegoers would want to go; they were likely to pass it by on their way to The Winning Post. During an interview by The Press she had mentioned live music; by this she did not mean a band or anything loud but an acoustic singer in the afternoons to provide background music and atmosphere.

In conclusion, the Applicant stated that she had had positive feedback on the application from local residents and from regulars at the horsebox operation in Shambles Market. She wanted the new operation to be an exciting addition to the neighbourhood for people to enjoy with their friends and families.

In response to questions from the sub-committee, the Applicant confirmed that:

- It was intended to have a food offering in the evenings, but to allow customers the option to have a glass of wine or beer without food, for example as a pre-dinner drink.
- Alcohol ancillary to food in the mornings was an option for an occasional celebration - for example a glass of fizz with a birthday brunch or a Baileys with a coffee or hot chocolate - in line with the current operation in the horsebox.
- In the evenings, an Australian / European café culture scene was envisaged, with people meeting their friends for a coffee as an alternative to going to a pub.
- Early closure on race days would eliminate having to deal with any related issues; she would not object to restrictions on race days being included on the licence.
- Off-sales would be of artisan wines, and beers from Ainsty Ales to take home to enjoy later; this would not attract people who wanted to drink on the street, and there was an off-licence opposite the premises.
- Regarding trade between 9 and 11pm, they were going to test this out and adjust the opening hours

accordingly if there was not much business during this time.

The Applicant declined the opportunity to sum up.

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

- Option 1: Grant the licence in the terms applied for. This option was **rejected**.
- Option 2: Grant the licence with modified/additional conditions imposed by the sub-committee. This option was **approved**.
- Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was **rejected**.
- Option 4: Refuse to specify a person in the licence as a premises supervisor. This option was **rejected**.
- Option 5: Reject the application. This option was **rejected**.

Resolved: That Option 2 be approved and the licence be granted for the following activities and timings with modified / additional conditions imposed by the sub-committee, as set out below:

Activity	Timings
Supply of alcohol - on and off the premises	08:00 – 18:00 Mon to Thurs 08:00 – 23:00 Fri & Sat 08:00 – 21:00 Sun

Opening hours	07:30 – 18:00 Mon to Thurs 07:30 – 23:00 Fri & Sat 07:30 – 21:00 Sun
---------------	----------------------------------------------------------------------------

The conditions contained in the Operating Schedule and the additional conditions numbered 1 to 12 inclusive set out in Annex 3 of the Agenda shall be added to the licence.

The following condition shall also be added to the licence:

All sales of alcohol between 08:00 and 11:00 hours daily shall be ancillary to food.

The licence is also subject to the mandatory conditions applicable to licensed premises

- 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 are not located within an area where a cumulative impact policy applies.
 - (iii) The Sub-Committee noted that this was a new licence application and was very conscious of the premises' location in a residential area in close proximity to local residences. The Sub-Committee carefully considered the concerns raised by the local residents who had made representations in writing relating to public nuisance with regard to concerns about noise disturbance from the premises, in particular associated with use of the outside space, that could impact on their quality of life. Concern was also raised as to the impact of the premises on crime and disorder, particularly on race days.
 - (iv) The Sub-Committee noted that the Police, who are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and

disorder licensing objective, had agreed with the applicant a number of additional conditions to be added to the grant of a licence. The Sub-Committee considered the fact that the Police did not object to the application (subject to the imposition of agreed conditions) carried great weight.

(v) It noted that there were no representations from any other Responsible Authority.

(vi) Whilst the Sub-Committee acknowledged the concerns expressed by residents, it also considered the nature of the proposed activities, noting that the establishment was intended to primarily operate as a café/wine bar, rather than as a vertical drinking establishment. The Sub-Committee was reassured by the evidence given by the Applicant, her level of experience generally and that she had agreed with the Police to address concerns about in particular the possible impact of noise disturbance from the outside area and to a number of other conditions including that the supply of alcohol prior to 11am shall be ancillary to food.

(vii) The Sub-Committee was satisfied overall with the proposed arrangements and responsible attitude of the Applicant and felt that the additional conditions she had agreed with the Police were appropriate and proportionate to deal with the concerns raised by local residents. The Sub-Committee did not find any evidence to justify a refusal of the application and it was felt that further conditions would not be necessary in order to promote the licensing objectives on the basis of the evidence before the Sub-Committee.

(viii) It was also noted that the Licensing Act 2003 has a key protection for communities that allows at any stage, following the grant of a premises licence, a Responsible Authority or 'other persons', such as a local resident, to ask the Licensing Authority to review the licence if they consider that one or more of the licensing objectives are being undermined, therefore allaying the concerns of the local residents.

(ix) Accordingly, in all of the circumstances of the case it was felt that the decision of the Sub-Committee was justified as being appropriate and proportionate for the promotion of the licensing objectives.

Cllr I Cuthbertson, Chair

[The meeting started at 10.05 am and finished at 11.02 am].



Licensing Act 2003 Sub Committee

Date 19 July 2023

Report from the Director – Environment, Transport & Planning

Section 18(3)(a) Application for a premises licence for 75 Balmoral Terrace, York YO23 1HR

Summary

1. This report seeks Members' determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC 073025
3. Name of applicant: Sara Winlow & Robert Darbyshire
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a coffee shop and florist.

Proposed Activity	Timings
Supply of alcohol – on & off the premises	12 noon until 22:30 everyday
Opening hours	08:30 until 22:30

Background

6. A copy of the application can be found at Annex 1, including a plan(s) of the premises.
7. The premises is described in the application as a coffee shop and florists. The coffee shop aspect is ancillary to the business with limited seating.

8. An overview of the circumstances in which entertainment activities are not licensable can be found at Annex 2.

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 coffee area is a small ancillary are of the business, limited numbers will prevent large groups. The objective is for a relaxed environment for small numbers of local residents away from larger pubs and venues.

11. **The Prevention of Crime and Disorder**

CCTV monitoring on site and strict challenge 25 policy.

12. **Public Safety**

Small capacity prevents large numbers of groups. Visible and easily accessible fire prevention equipment on site.

13. **The Prevention of Public Nuisance**

Limited capacity seating area for light refreshment, so no large numbers. CCTV on site to prevent public nuisance.

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

Premises will operate a challenge 25 policy as well as CCTV on site to ensure safety.

Special Policy Consideration

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

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 made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule. The agreed conditions can be found at Annex 3. Therefore, North Yorkshire Police have withdrawn their representation.

Summary of Representations made by Other Parties

19. There has been one relevant representation received from other persons. The list of representors is attached at Annex 4.
20. The representations are predominantly based on the grounds of the prevention of public nuisance and the prevention of crime and disorder objectives. They state that this objective(s) will be undermined if the application is granted.
21. A copy of the representation is attached at Annex 5.
22. A map showing the general area around the venue is attached at Annex 6.
23. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at Annex 7. The Legislation and Policy considerations can be found at Annex 8.

Options

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

28. Option 4: Refuse to specify a person on the licence as premises supervisor.
29. Option 5: Reject the application.

Analysis

30. The following could be the result of any decision made this Sub Committee:-
31. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
32. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
33. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 4: This decision could be appealed at Magistrates Court by the applicant.
35. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

36. 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.
37. 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

38.
 - **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

39. 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.
40. 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

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

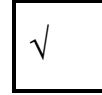
Contact Details

Author:
Lesley Cooke
Licensing Manager

Chief Officer Responsible for the report:
James Gilchrist
Director Environment, Transport & Planning

Tel No. 01904 551515

**Report
Approved**



Date
26.06.2023

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

Wards Affected: Micklegate



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** - Conditions agreed with North Yorkshire police
- Annex 4** - List of representors
- Annex 5** - Representation(s)
- Annex 6** - Map of area
- Annex 7** - Mandatory conditions
- Annex 8** - Legislation and policy

Annex 1



CITY OF YORK COUNCIL
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure 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 DAVE WILKINSON & ROBERT DARRYSHING
(insert name(s) of applicant)

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

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description <u>75 BALBOON TERRACE</u>	
Post town <u>YORK</u>	Post code <u>YO23 1NR</u>

Telephone number of premises (if any)

Non-domestic rateable value of premises

Part 2 – Applicant Details

Please state whether you are applying for a premises licence as:

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

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

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

- * I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- * I am making the application pursuant to a
 - o statutory function or
 - o a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr Mrs Miss Ms Other title (for example, Rev) _____

Surname First names

Please tick yes

Date of Birth I am 18 years old or over

Nationality

Current postal address if different from premises address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service (please see note 15 for information).

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr Mrs Miss Ms Other title (for example, Rev) _____

Surname

First names

Please tick yes

Date of Birth

I am 18 years old or over

Nationality

Current postal address if different from premises address.

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service (please see note 15 for information).

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

Day		Month		Year		
2	5	0	6	2	0	25

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

Day		Month		Year		

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

A COFFEE SHOP AND FLORISTS. THE COFFEE SHOP ASPECT IS AN ANCILLARY ASPECT OF THE BUSINESS WITH LIMITED SEATING.

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

--

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

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

Please tick yes

Provision of regulated entertainment

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

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

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for performing play (please read guidance note 5)		
Thur					
Fri			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 8)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of a films take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)	Both	<input type="checkbox"/>
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 5)		
Thur					
Fri			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 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			Please give further details (please read guidance note 4)
Day	Start	Finish	State any seasonal variations for indoor sporting events (please read guidance note 5)
Mon			
Tue			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 6)
Wed			
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainment Standard days and timings (please read guidance note 7)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors <input type="checkbox"/>	
				Outdoors <input type="checkbox"/>	
				Both <input type="checkbox"/>	
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue			State any seasonal variations for the boxing or wrestling entertainment (please read guidance note 5)		
Wed					
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 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 3)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			Please give further details here (please read guidance note 4)	
Thur			State any seasonal variations for the performance of live music (please read guidance note 5)	
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 6)	
Sat				
Sun				

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			Please give further details here (please read guidance note 4)	
Thur			State any seasonal variations for the playing of recorded music (please read guidance note 5)	
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 6)	
Sat				
Sun				

G

Performance of dance	Will the performance of dance take place indoors or	Indoors	<input type="checkbox"/>
-----------------------------	-----------------------------------------------------	---------	--------------------------

Standard days and timings (please read guidance note 7)			outdoors or both – please tick (please read guidance note 3)	Outdoors	
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 5)		
Thur					
Fri			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 6)		
Sat					
Sun					

H

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

Late night refreshment Standard days and timings (please read guidance note 7)	Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
		Outdoors	<input type="checkbox"/>

Day	Start	Finish	Both
Mon			Please give further details here (please read guidance note 4)
Tue			
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 5)
Thu			
Fri			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 6)
Sat			
Sun			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption on or off the premises or both -- please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
Day	Start	Finish		Off the premises	<input type="checkbox"/>
Mon	1200	2230	State any seasonal variations for the supply of alcohol (please read guidance note 5)	Both	<input checked="" type="checkbox"/>
Tue	1200	2230			
Wed	1200	2230			
Thur	1200	2230	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 6)		
Fri	1200	2230			
Sat	1200	2230			
Sun	1200	2230			

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

Name ROBERT DERMYNIC

Address

Postcode

Personal licence number (if known) CYC-055668

Issuing licensing authority (if known) LEICESTER

K

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

Sale of alcohol will be the only adult entertainment provided however a challenge 25 system will be in operation.

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	8:30	22:30	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 8)
	8:00		
Tue	8:30	22:30	
Wed	8:30	22:30	
Thur	8:30	22:30	
Fri	8:30	22:30	
Sat	8:30	22:30	
Sun	8:30	22:30	

M

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

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

The coffee area is a small auxiliary area of the business so limited numbers will prevent large groups the objective is for a relaxed environment for small numbers of local residents away from larger pubs and venues.

b) The prevention of crime and disorder

CCTV monitoring on site and strict challenge 75 as well as a carefully considered duty of care.

c) Public safety

Small capacity prevents large numbers of groups -
Visible and easily accessible fire prevention equipment on site

d) The prevention of public nuisance

Limited capacity seating area for light refreshment so no large numbers. CCTV on site to prevent public nuisance.

e) The protection of children from harm

Premises will operate a challenge 26 policy as well as CCTV on site to ensure safety.

Checklist

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

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

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

Part 4 – Signatures (please read guidance note 11)

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

Declaration	<p><i>[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership]</i></p> <ul style="list-style-type: none"> • I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15); • The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15).
Signature	
Date	26.05.23
Capacity	

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

Signature	
Date	26.05.23
Capacity	

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 14)

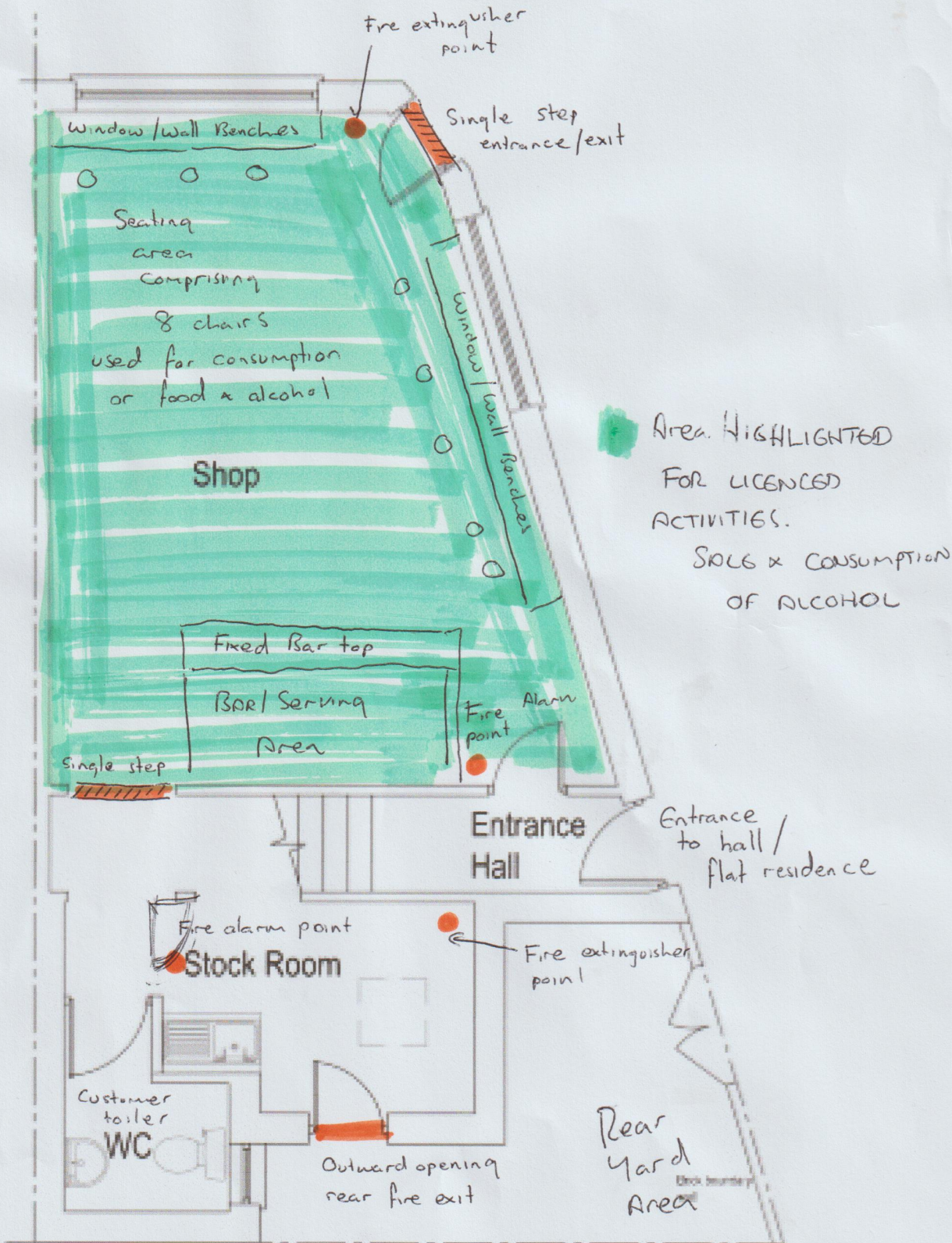
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)	

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:
 - **Plays:** no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
 - **Films:** no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - **Indoor sporting events:** no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
 - **Boxing or Wrestling Entertainment:** no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - **Live music:** no licence permission is required for:
 - a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
 - a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises; provided that the audience does not exceed 500.
 - a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets

consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

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



Existing Ground Floor Plan
Scale 1:50

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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 authorisation¹⁸) 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 workplace²⁶ 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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Annex 3

Conditions agreed with North Yorkshire Police

1. The premises shall operate predominantly as a flower shop with a cafe offering and not as a vertical drinking establishment.

2. A digital colour CCTV system will be installed to cover the premises and recorded coverage will include all areas to where public have access to consume alcohol.

- It will be maintained, working and recording at all times when the premises are open.
- The recordings should be of good evidential quality to be produced in Court or other such hearing.
- Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.
- Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements.
- Copies of the recordings will display the correct time and date of the recording.

It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority. Subject to Data Protection requirements.

3. Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the: -

- operation of the CCTV system (including the downloading of evidence)
- Retail sale of alcohol
- Age verification policy
- Conditions attached to the Premises Licence
- Permitted Licensable activities
- The Licensing objectives and
- The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

4. 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 faults in the CCTV system

- any refusal of sale of alcohol
- any visit by a relevant authority of emergency service

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];

5. On Sales of alcohol shall cease 30 minutes before close of business on any given day to allow for 'drinking up' time.

6. The licence holder will operate a Challenge 25 Age Verification Policy at the premises.

The only acceptable proof of age identification shall be a current Passport, photo card Driving Licence, Military ID card, or identification carrying the PASS logo.

7. No open drinks containers shall be taken out of the licensed premises or (licensed area) onto the pavement or highway.

8. All off sales of alcohol shall be in sealed containers.

9. All Doors and windows shall be kept shut after 21:00 hours daily and during the playing of amplified music and other entertainment, except for entry to and egress from the premises.

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

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From:
Sent: 15 June 2023 15:16
To: licensing@york.gov.uk
Subject: Objection to licence application 75 Balmoral Terrace, York, YO23 1HR

Categories:

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.

Date: 26/05/2023 Applicant: Sara Winlow and Robert Darbyshire Premises Address: 75 Balmoral Terrace, York, YO23 1HR Summary: Application for a New Premises Grant: This is a coffee shop and florist with limited seating. The coffee shop is ancillary to the business with limited seating available. The idea is to offer local residents a relaxed atmosphere away from more larger pubs and venues Supply of alcohol Monday – Sunday 12:00 – 22:30 Opening Hours Monday – Sunday 08:30 – 22:30 End of Representation: 23/06/2023

As a direct neighbour to 75 balmoral terrace I do not wish to have a bar outside my front door.

I believe it is not necessary as a flower shop to sell alcohol for consumption on the premises

It will be noisy and have people stood in the street - smoking etc

It will be horrendous when the races are on (it is already bad enough !)

The bar faces out onto my front door and I feel it will be potentially intimidating for myself and my children.

There is already a club that sells alcohol across the road and another bar is not needed.

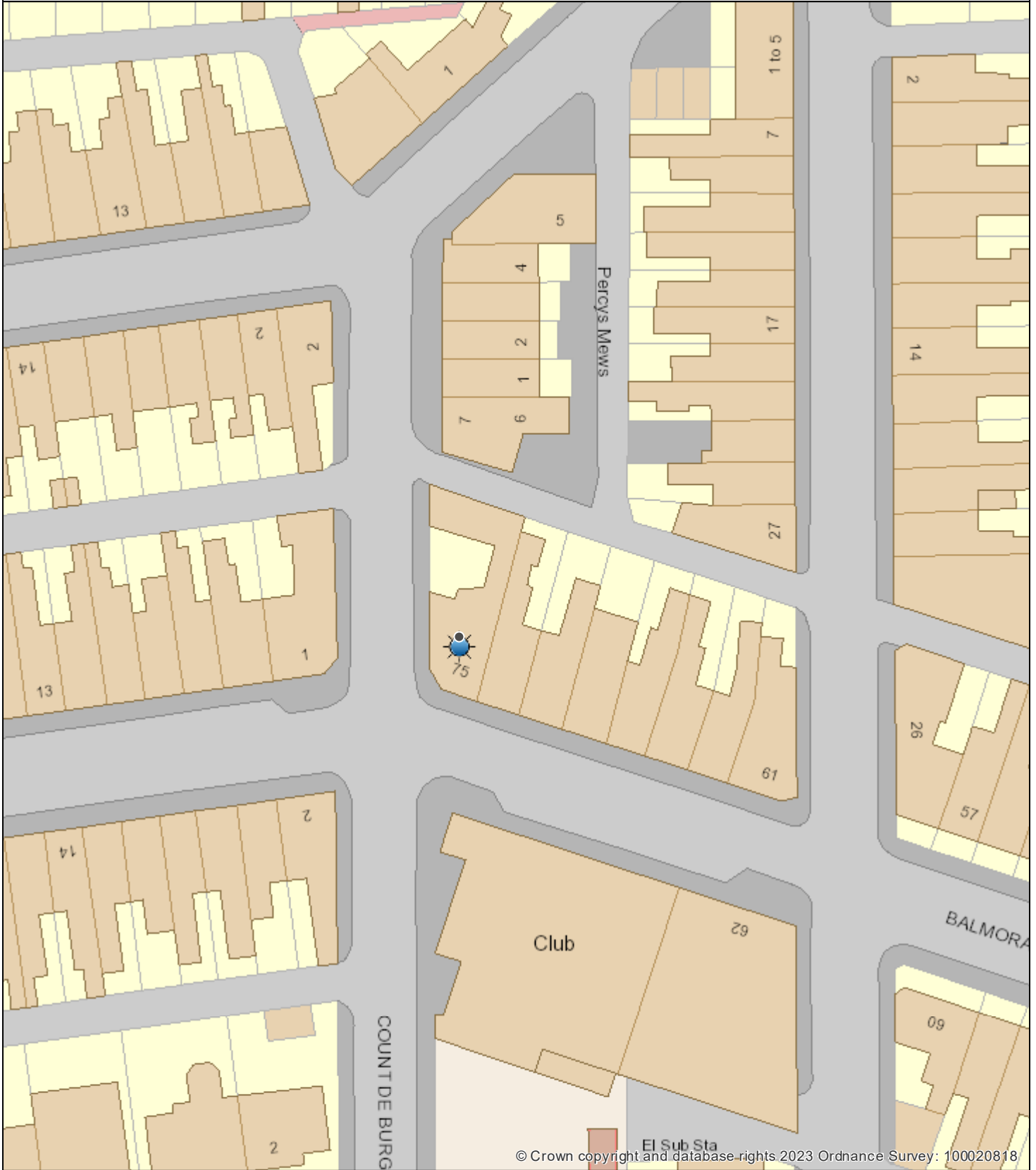
I would not object to a licence for sale of alcohol for consumption off the premises

All the best

Queen Victoria Street
york
yo231hw

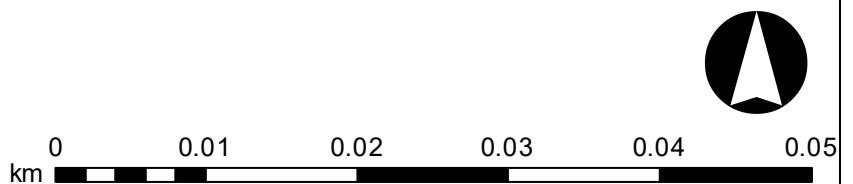
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Annex 6



© Crown copyright and database rights 2023 Ordnance Survey: 100020818

Date: 21 Jun 2023
Author: City of York Council
Scale: 1:500



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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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