



**Notice of a public meeting of
Gambling, Licensing & Regulatory Committee**

To: Councillors Lisle (Chair), Funnell (Vice-Chair), Boyce, Cullwick, Douglas, Hayes, Hunter, Mason, Mercer, Pavlovic, Reid, Richardson, D Taylor, K Taylor and Wells

Date: Monday, 18 June 2018

Time: 4.00 pm

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

AGENDA

1. Declarations of Interest

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

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

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

2. Minutes

(Pages 3 - 6)

To approve and sign the minutes of the meeting held on 21 May 2018.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00pm on Friday 15 June 2018**.

Filming or Recording Meetings

Please note that, subject to available resources, this meeting will

be filmed and webcast, or recorded, including any registered public speakers who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

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The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_f_or_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

**4. Renewal of Sex Establishment Licence for (Pages 7 - 66)
Upstairs (Mansion), 53-55 Micklegate, York,
YO1 6LJ**

This report seeks Members' determination of an application to renew a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.

**5. Renewal of Sex Establishment Licence for The (Pages 67 - 100)
Adult Shop, 70B Gillygate, York, YO31 7EQ**

This report seeks Members' determination of an application to renew a Sex Establishment Licence for a sex shop which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of The Adult Shop, 70B Gillygate, York, YO31 7EQ.

6. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Angela Bielby

Contact Details:

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

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

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Procedure for Upstairs (Mansion)

1. Declarations of Interest
2. Minutes
3. Public participation
4. **Determination of an application for a Renewal of a Sex Establishment Licence in respect of Upstairs (Mansion)**
 - Licensing Officer to present the report.
 - Members to ask any questions of the Licensing Officer.
 - Invite the Objector (Police) to make his/her statement and call any witnesses, up to 15 minutes in total (*if objector is present*).
 - Members to ask any questions of Objector.
 - Invite the Applicant, Mr Whitney to make his statement and call any witnesses, up to 15 minutes in total (*if Applicant is present*).
 - Members to ask any questions of Mr Whitney.
 - Ask each party to sum up their case up to 5 minutes each.
 - Ask both parties to leave the room while the decision and reason for the decision is decided.
 - Call the parties back into the room to give the decision and reason for the decision and advise this will be sent out in writing within 3 working days.

5. Determination of an application for a Renewal of a Sex Establishment Licence in respect of The Adult Shop

No objectors

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City of York Council

Committee Minutes

Meeting	Gambling, Licensing & Regulatory Committee
Date	21 May 2018
Present	Councillors Lisle (Chair), Funnell (Vice-Chair), Douglas, Hunter, Looker, Mason, Orrell, Pavlovic, Reid, Taylor, Taylor and Wells
Apologies	Councillors Hayes, Mercer and Richardson

16. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests, which they might have in the business on the agenda.

Cllrs Mason and D Taylor each declared a personal interest in Agenda Item 4 (Renewal of Sex Establishment Licence), as they both knew the people named in the application as responsible for the management of the premises.

17. Minutes

Resolved: That the minutes of the meeting held on 6 March 2018 be approved, and signed by the Chair as a correct record.

18. Public Participation

It was reported that there had been one registration to speak at the meeting under the Council's Public Participation Scheme.

Michael Dunn, of York Cars Taxis, spoke on Agenda Item 5 (Taxi Driver Training Update). He outlined the difficulties he faced in recruiting drivers, due to the cost and high fail rate of the test, which had resulted in an influx of out of area drivers, and urged the committee to adopt Option 2 in the report.

19. Renewal of Sex Establishment Licence

Members received a report which presented an application to renew a Sex Establishment Licence for a sexual entertainment

venue, made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments, in respect of Upstairs (Mansion), 53-55 Micklegate, York YO1 6LJ.

Officers at the meeting recommended that the matter be adjourned, as an objection to the application had been received from the Police and the applicant had not been informed of today's committee meeting. It was confirmed that an adjournment would not affect the operation of the establishment, as the application had been lodged prior to the expiry of the current licence, which would remain in force until the renewal application had been determined.

Resolved: That this item be adjourned to the next meeting of the committee, on 18 June 2018.

Reason: To enable the applicant to be informed of the date of the committee meeting at which the application will be determined and to attend if they wish.

20. **Taxi Driver Training Update**

Members considered a report which provided an update on the safeguarding and knowledge training and testing for new and existing taxi drivers, as requested by the committee at their meeting on 13 November 2017.

Under existing procedures, new applicants had to undertake a full day of training, costing £80, and pass a test. Existing drivers must demonstrate their knowledge of safeguarding, equalities and customer services. They could do this by undertaking a half day course, at a cost of £40, or in some other way, with each case considered on its merits. The test for new applicants had been changed to a multiple choice format, to make it fairer, as shown in the sample test circulated at the meeting. The current overall pass rate was 30.6%, with applicants finding the questions on routes and licensing conditions the most difficult. Members considered the following options, as detailed in paragraphs 20-26 of the report:

Option 1 – maintain the existing procedures.

Option 2 – as above, but take additional steps to help new drivers achieve the required standards. This was the recommended option.

Option 3 – Members to make alternative suggestions.

In response to questions from Members, Officers confirmed that:

- The council had no powers to test 'out of area' drivers, who were covered by their own local authorities' procedures
- Face to face testing was preferred to online tests, as the applicant's identity could be verified and their interaction and language skills judged.
- One to one testing was available for those who had difficulties with writing.
- Applicants were encouraged to read a guidance note, which included details of local driving conditions and by-laws.
- Charges were based on the costs incurred by the training providers.

After a full debate, it was

Resolved: (i) That the contents of the report be noted.

(ii) That Option 2 be approved and the current training and testing procedures be maintained, with additional assistance provided to potential taxi drivers, particularly in respect of 'local knowledge'.

Reason: To ensure that knowledge of the local area and conditions is not a barrier to people who are otherwise 'fit and proper' applying to become taxi drivers and helping to drive up standards through increased competition.

(iii) That Officers consider providing some elements of training and guidance for drivers online.

Reason: To make this information available in a more accessible and cost effective way, where possible.

21. Urgent Business / Chair's Remarks

The Chair reported that he had recently attended a regional meeting of Licensing Chairs, at which the issue of appeals procedures had been discussed. York was the only authority with two avenues for appeals; a sub-committee of this committee and the magistrates' courts. He suggested that a

report be brought to the committee outlining how these procedures could be harmonised across the region.

Members confirmed that they would like to receive a report on this matter at a future meeting of the committee.

Cllr S Lisle, Chair

[The meeting started at 4.00 pm and finished at 4.50 pm].



**Meeting of Gambling, Licensing & Regulatory
Committee**

18 June 2018

Report of the Assistant Director – Planning and Public Protection

**Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as
amended by Policing and Crime Act 2009**

**Renewal of Sex Establishment Licence for Upstairs (Mansion),
53-55 Micklegate, York, YO1 6LJ**

Summary

1. This report seeks Members determination of an application to renew a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.
2. Name of applicant: Upstairs VIP Limited
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows. This is an application for the renewal of a Sex Establishment Licence which authorised hours of opening Monday to Sunday 21:00 hours to 03:00 hours and 18:00 hours to 04:30 hours on York Racecourse Race Days only.
4. A sex establishment licence is valid for 12 months, the licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sexual entertainment venue. A copy of the licence to be renewed is attached at Annex 2.
5. The premises currently has a premises licence issued under the Licensing Act 2003. A copy of the premises licence is attached at Annex 3 and is summarised as follows:

Licensable Activity	Permitted Days & Hours
Films	Monday to Sunday 10:00 – 05:00
Live Music	Monday to Sunday 10:00 – 05:00
Recorded Music	Monday to Sunday 10:00 – 05:00
Performance of Dance	Monday to Sunday 10:00 – 05:00
Activities like Performance of dance	Monday to Sunday 10:00 – 05:00
Late Night Refreshment	Monday to Sunday 23:00 – 05:00
Supply of Alcohol (on and off sales)	Monday to Sunday 10:00 – 04:30
Opening Hours	Monday to Sunday 10:00 – 05:00
Non Standard Timings	<p>From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.</p> <p>On York Racecourse race days 10:00 - 06:00</p> <p>An additional hour on the morning clocks go forward.</p>

Recommendations

- Members are asked to determine the application for the grant of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by the Policing and Crime Act 2009.

Reason: To consider renewal of the sexual entertainment licence as required by the legislation.

Background

- On 6 April 2010, section 27 of the Policing and Crime Act 2009 was introduced. This legislation reclassified lap dancing clubs and other similar venues as 'sexual entertainment venues'; for which a sex establishment licence is required under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allows Local Authorities who have adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops.

8. Sexual entertainment venues are defined in the legislation as ‘any premises at which relevant entertainment is provided for a live audience for the financial gain of the organiser or the entertainer’. The meaning of relevant entertainment is ‘any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)’.
9. This Authority adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council.
10. City of York Council’s Licensing of Sex Establishments Licensing Policy was reviewed and a revised policy was adopted on 27 April 2017 with immediate effect. A copy of this policy can be found at https://www.york.gov.uk/downloads/file/2964/sexual_entertainment_venues_-_policy_and_procedurepdf.
11. A copy of City of York Council’s Standard Conditions for Sexual Entertainment Venues is attached at Annex 4.

Consultation

12. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application for renewal to be considered valid.
13. An objection to the application to renew the licence has been received from North Yorkshire Police.
14. Condition 7 of the standard conditions applicable to Sexual Entertainment Venues states –
Except with the written consent of the council, the premises will only open to the public during the following hours:

<i>Monday 21:00 – 03:00</i>	<i>Friday 21:00 – 04:30</i>
<i>Tuesday 21:00 – 03:00</i>	<i>Saturday 21:00 – 04:30</i>
<i>Wednesday 21:00 – 03:30</i>	<i>Sunday 21:00 – 03:30</i>
<i>Thursday 21:00 – 03:30</i>	
15. The Police do not oppose the renewal of the Sex Establishment Licence, however, they are opposed to the extension of hours on York racedays, especially allowing sexual entertainment to begin at 18:00 hours.

16. The Police ask the licensing committee to adhere to the City of York Council policy and prevent sexual entertainment taking place prior to 21:00 hours. The Police objection is attached at Annex 5.
17. A map showing the location of Upstairs, 53-55 Micklegate is attached at Annex 6.

Relevant Legislation – Grounds for Refusal

18. When considering the renewal application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act.

Mandatory grounds for the refusal of an application

19. The mandatory grounds for the refusal of an application for a sex establishment licence are that the applicant:
 - a) is under the age of 18;
 - b) is for the time being disqualified from holding a sex establishment licence;
 - c) is not a body corporate, and is not in resident or has been resident in an EEA state for six months immediately preceding the date of the application;
 - d) is a body corporate which is not incorporated in an EEA state;
 - e) has in the period of twelve months preceding the date of application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the reversal has been reversed on appeal.
20. There are no mandatory grounds for refusing this application.

Discretionary grounds for the refusal of an application

21. Discretionary grounds for the refusal of an application for a sex establishment licence are that:
 - a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or any other reason;

- b) if the licence were to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
 - c) the number of sex establishments, or sex establishment of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - d) the grant would be inappropriate, having regard –
 - to the character of the relevant locality;
 - to the use to which any premises in the vicinity are put;
 - to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
22. When considering the suitability of the applicant to hold a licence the council will take into account such matters it considers to be relevant.
23. Guidance on relevant locality can be found at Annex 7, paragraphs 3.32 to 3.38.
24. Within the licensing policy the council has determined a suitable locality for sexual entertainment venues, an area within the city centre. A limit on the number of sexual entertainment venues permitted within this locality has also been determined; the appropriate number of sexual entertainment venues in the city centre area is a maximum of two, providing those premises are not too near and/or do not impact properties with sensitive uses or in sensitive locations.

Options

25. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
26. Option 1: Grant a renewal of the licence as requested.
27. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.

28. Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Analysis

29. The following could be the result of any decision made by this Committee:
30. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. Objectors could judicially review the decision.
31. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
32. Option 3: With the exception of a decision to refuse an application on a ground specified in paragraph 12(3) (c) or (d) of Schedule 3 to the 1982 Act, the licence applicant may appeal against the decision made to the Magistrates' Court.

Council Plan

33. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

34. The implications arising directly from this report are:
- **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – The Council has the ability to control the licensing of sexual entertainment venues having adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Paragraph 8 of Schedule 3 to the 1982 Act provides that where it determines to grant a sex establishment licence, the Council is empowered to impose such conditions or restrictions as it deems appropriate.

Paragraph 12 of Schedule 3 to the 1982 Act sets out a number of mandatory grounds for refusal of a sex establishment licence and also discretionary grounds for refusal of a sex establishment licence.

In considering this application the Committee should have regard to:

- Schedule 3 to the 1982 Act, as amended by Policing and Crime Act 2009.
- The Council's Policy for the Determination of Applications for Sexual Entertainment Venues.
- The Home Office – Sexual Entertainment Licence – Guidance for England and Wales which states that “Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12” [of Schedule 3 to the 1982 Act].

In addition when making their decision Members must give consideration to the rights the applicant has under the European Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

Members of the Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application on its own merit.

- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

35. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
36. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report, there are no known risks involved with this recommendation.

Contact Details

Author:

Lesley Cooke
Licensing Manager
Ext 1515

Chief Officer Responsible for the report:

Michael Slater
Assistant Director
Planning & Public Protection
Ext 1300

**Report
Approved**



Date 01/03/2018

Wards Affected: Micklegate

Annexes

- Annex 1** - Copy of application for renewal
- Annex 2** - Copy of current Sex Establishment Licence to be renewed
- Annex 3** - Copy of Premises Licence issued under the Licensing Act 2003
- Annex 4** - Copy of CYC Standard Condition for Sexual Entertainment Venues
- Annex 5** - Copy of Police Objection
- Annex 6** - Map showing location of premises
- Annex 7** - Legislation Extracts – Renewal Applications



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

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 - CONTROL OF SEX ESTABLISHMENTS
Application for the Grant / Renewal / Transfer of a Sex Establishment Licence

TYPE OF VENUE

- Sexual Entertainment Venue
- Sex Shop
- Sex Cinema

TYPE OF APPLICATION

- Grant
- Renewal
- Transfer

APPLICANT DETAILS

1. Is the applicant:
- An individual (please answer questions 2, 5 to 9)
 - A company or other corporate body (please answer questions 3, 5 to 9)
 - A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town: Post code:

Telephone numbers:

Date of birth:

Email address:

3. Name of applicant (company name): Upstairs VIP Ltd

Address of registered or principal office: 53-55 Micklegate York

Post town: Post code: YO1 6LJ

Registration number: 07831359

Email address: MansionYork@Mail.com

4. Name and address of applicant:

Names and addressed of applicant's partners (please use additional sheet):

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

Andrew G. WHITNEY.
Gemma PRIESTLEY.

- 6. a. Has the applicant ever been known by any other name? YES NO
- b. Has the applicant ever been convicted of a criminal offence? YES NO
- c. Has the applicant ever been refused a sex establishment licence? YES NO
- d. Has the applicant ever had a sex establishment licence revoked? YES NO
- e. Has the applicant ever been served with a winding up petition? YES NO

If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

53-55 Micklegate
York
YO1 6LJ

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? YES NO

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

No.

PREMISES DETAILS

10. Please state the name the business will be known as:

Upstairs VIP.

11. Is the premises a Building Vehicle Vessel Stall

12. Where is it proposed to use the vehicle, vessel or stall?

13. Does the company propose to only operate on the internet?
(if yes answer Q14 to 19 only)

14. Premises address:

53-55 Micklegate

Post town

York

Post code

YO1 6LJ

Telephone number at premises

01904 500995.

15. Which part of the premises is to be used as a sex establishment?

Upstairs - 1st Floor.

16. Is the applicant owner lessee sub-lessee other

17. If the applicant rents the property state:

a. Name and address of landlord:

b. Name and address of the superior landlord:

c. Total annual rental:

d. Length of unexpired term:

e. Notice required to terminate tenancy:

18. Please provide details of the building management company (if appropriate):

N/A.

19. State the current use of the premises:

Nightclub, Bar & S.E.V.

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises? YES/NO

21. Can members of the public access the premises:
 a. Directly from the street? YES/NO
 b. From other premises? YES/NO
 c. Not at all? (internet sales only) YES/NO

22. Are the premises currently being used as a sex establishment?
 Please provide details of the business currently operating the business:

Upstairs VIP.

OPERATING SCHEDULE

23. Opening hours: (if internet sales only please tick here and continue to Q 26)

Monday	Tuesday	Wednesday	Thursday	Friday
21:00-03:00	21:00-03:00	21:00-03:00	21:00-03:00	21:00-03:00
Saturday	Sunday			
21:00-03:00	21:00-03:00			

Any non-standard timings:

18:00 to 04:30 on York Race Days.

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.

a. Please provide details of any lender, mortgage or others providing finance:

b. Please provide details of any merchandising agreements:

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).

a. Will the manager be based at the premises YES/NO
 b. Will the management of the premises be the manager's sole occupation YES/NO

26. Who will be in control of the premises in the manager's absence (relief manager)?

a. Will the relief manager be based at the premises in the absence of the manager? YES/NO

If you have ticked no to any of the above please provide details.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION

27. Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:

Please note that a drawing of the front elevation is required to be submitted with this application.

28. Please describe how the interior of the premises is obscured to passersby:

29. Please describe any proposed window displays:

30. Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:

APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY

31. Is the proposal for full nudity? YES / NO

32. Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:

33. State measures to ensure employees age and right to work in the UK:

34. Describe training and welfare policies:

Please enclose a copy of the welfare policy for performers (or equivalent document).

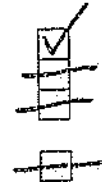
35. Please set out any further information you wish the authority to take into account.

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

CHECKLIST & ENCLOSURES

Enclosures

I have made or enclosed payment of the fee
I have enclosed three sets of plans of the premises
I have enclosed a drawing of the street elevation of the premises.
In the case of an application to transfer the licence, include the completed Consent to Transfer form



DECLARATION

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days. A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be publicised in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected

No: CYC/019257



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 3 AS AMENDED BY POLICING AND CRIME ACT 2009

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of a Sex Establishment Licence to:

Upstairs VIP Ltd
53-55 Micklegate
York
YO1 6LJ

to use the premises known as:

Upstairs
(1st Floor Mansion Nightclub)
53-55 Micklegate
York
YO1 6LJ

for the purposes of a sex establishment comprising a sexual entertainment venue as defined in Schedule 3 to the above Act.

This Licence is granted subject to the conditions set out in the schedule below.

A fee of £1080.00 (747017) has been paid for this licence.

This licence shall continue in force from the date hereof until 30 November 2017 unless previously revoked.

Granted on 10 February
2017

Signed
For and on behalf of the
Director of Communities & Neighbourhoods

SCHEDULE

1. A copy of this Licence and any Regulations prescribing standard conditions made by the authority must be kept exhibited in a position visible to customers.
2. Any external indication of the nature of the business is prohibited.
3. The creation of any new windows or other openings in the external structure of the building is prohibited.
4. This licence only covers the first floor of 53-55 Micklegate, York, YO1 6LJ.
5. That the standard hours of opening be limited to Monday to Sunday 21:00 hours to 03:00 hours. Non-standard hours of opening to be extended on York Racecourse Race Days only 18:00 hours to 04:30 hours.
6. Where a Licensee is a body corporate or an un-incorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change. Such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
7. The Licensee or a responsible person nominated by him in writing for the purpose of managing the sex establishment in his absence and of whom details (including 2 photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the premises during the whole time they are open to the public. This condition shall be read in conjunction with condition 8 below.
8. The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the sex establishments in his unavoidable absence, and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 30 minutes of the sex establishments

opening for business and is to be available for inspection by the Police and by authorised officers of the Council.

9. The name of the person responsible for the management of a sex establishment be he/she the Licensee or a Manager approved by the Council shall be prominently displayed within the sex establishment throughout the period during which he/she is responsible for its conduct.
10. The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
11. The Licensee shall maintain good order in the premises.
12. A notice stating that persons under the age of 18 may not enter the premises shall be prominently displayed at the entrance.
13. The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
14. No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.
15. Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.
16. A copy of the licence and of these conditions shall be exhibited in a prominent place within the premises where the public may see and read them. These displays shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these conditions shall be retained in a clean and legible condition.
17. No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
18. No change between the uses of a sex shop, sex cinema or sexual entertainment venue shall be effected without the consent of the Council.
19. The Licence Holder shall comply with requirements relating to external appearance of the licensed premises as the Council may consider reasonably necessary. The Licensee shall give prior notice to the Council of any proposed change to the external appearance of the premises and

shall support the prior notice by the submission of detailed drawings to show the proposed changes.

20. Without prejudice to the generality of condition 19 above, no display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises unless the prior approval of the Council has been received in writing.
21. The entrance doors to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
22. Windows and openings to the premises other than the entrances shall be obscured in a manner and with such material as may be approved by the Council. Plans and drawings showing the proposed scheme shall be submitted to the Council for prior approval. This condition shall not be construed as lessening the obligation of the Licensee under condition 21 hereof.
23. Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of time that the sex establishment is open to the public.
24. The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
 - a) All doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - b) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - c) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.
25. No fastening of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than 1 person (including employee be present in any such booth or cubicle at any time).

26. Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
27. All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.
28. The premise will be conducted in a decent, sober and orderly manner at all times. Steps will be taken to ensure that none of the following takes place:
 - a) indecent behaviour including sexual intercourse
 - b) the offer of any sexual or other indecent service for reward
 - c) unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971.
 - d) any acts of violence against persons or property and/or the attempt or threat of such act likely to cause a breach of the peace.
29. All performers shall be over 18 years of age.
30. Notices to be displayed within the premises and at the entrance informing customers of the "House Rules" that affect them and a warning that "adult entertainment" is provided within the premises.
31. Written information shall be given to the dancers/entertainers advising them of the house rules for performers and customers and possible consequences of failure to comply.
32. Adult entertainment shall not take place in a location that could be viewed from outside the premises.
33. Advertising of adult entertainment either on the premises or otherwise shall not include any photographs or images which indicate that entertainment involving nudity or sexual performance takes place on the premises.
34. CCTV for both monitoring and recording shall be installed, maintained and operated in accordance with Data Protection guidelines and will cover all areas where dancing takes place, including each dance booth. All cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a period of 28 days with times and dates indicated. These recordings shall be kept secure and shall be made available to an authorised officer of the Local Authority or a Police Officer on request. The new CCTV system must be in place by 1st June 2015.

35. Performers shall be provided with separate dressing/changing rooms which shall be located so as to be separate and set apart from the public facilities. No person other than performers and authorised staff will be allowed in or near the dressing/changing room. Safe and controlled access to the dressing/changing room will be maintained at all times.
36. There shall be at least one female member of staff authorised to be responsible for the safety and welfare of the performers.
37. At least two SIA (Security Industry Authority) registered door supervisors shall be present when the sexual entertainment premises are open to the public with one SIA door supervisor being positioned on the first floor landing throughout the performance (therefore being present in the area in which the performance takes place) and one at the main entrance to the premises on the ground floor.
38. Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose. Audience participation shall not be permitted.
39. Dance entertainment shall only be performed in the areas of the club as marked on the plans deposited with the Licensing Authority and with the Authority's approval. These areas can only be changed with the approval of the Licensing Authority.
40. If performers are invited to have a drink with a customer, the performer will remain fully clothed during this period. Performers will not be paid commission on the sale of beverages.
41. On leaving the premise performers will be escorted to their transport by a door supervisor.
42. Adult entertainment shall not take place before 9.00 pm, except for York Race Days as specified elsewhere in the licence.
43. The premises licence holder shall ensure that the house rules for both customers and performers are strictly adhered to.
44. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times.

ANNEX 1

House Rules (Customers)

1. Dancers may only dance to seated customers.
2. Customers must remain clothed at all times.
3. Dancers must not be touched by the customer while they are dancing except for the placing of gratuities into the hand or garter of the dancer at the beginning or conclusion of the performance.
4. No person shall take any video recordings or photographs by any means of the authorised adult entertainment.
5. No persons other than performers and authorised staff shall be permitted in the dressing/changing rooms.
6. Dancers shall re-dress at the conclusion of the performance.
7. Customers who fail to comply with these rules shall be removed from the premise by the management or security staff
8. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
9. The duty manager and security staff will ensure that all customers and performers adhere to the house rules.

ANNEX 2

House Rules (Performers)

1. All performers shall be over 18 years of age. Prior to engagement all performers will provide documentation that they are aged 18 years or over. Checks will be made to make sure the necessary legal work permits to work in the United Kingdom are in place. Should performers be employed from an agency the same checks will be carried out. Management shall keep written record of these checks which shall be available to authorised officers of the council and the Police.
2. No performer shall be allowed to work, if under the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
3. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
4. Performers shall not use any props or clothing in the act which portrays them as a minor.
5. Garters worn for the collection of gratuities shall be situated no higher than mid thigh.
6. Dancers shall re-dress at the conclusion of the performance and are to remain clothed (minimum bikini top and bottoms) at all times except when giving a performance.
7. Performances of adult nature must be restricted to the designated areas.
8. All staff and performers are forbidden to give personal details including real name and address or other contact details of any other performer or staff member to a customer. Performers are strongly advised not to pass their own personal details to customers.
9. The duty manager and security staff will ensure that all customers and performers comply with the house rules.



LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Premises licence number
CYC - 009397

Part 1 Premises details

Postal address of premises:

Mansion Nightclub
53-55 Micklegate

Post town: **York**

Post code: **YO1 6LJ**

Telephone number: 01904 620602

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Films
Live Music
Recorded Music
Performances of Dance
Activities like music/dance
Late Night Refreshment
Supply of Alcohol

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

FILMS

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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LIVE MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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RECORDED MUSIC

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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PERFORMANCES OF DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
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Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00
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ACTIVITIES LIKE MUSIC/DANCE

Indoors

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

LATE NIGHT REFRESHMENT

Indoors

Monday 23:00 - 05:00	Tuesday 23:00-05:00	Wednesday 23:00-05:00	Thursday 23:00-05:00
Friday 23:00-05:00	Saturday 23:00-05:00	Sunday 23:00-05:00	

SUPPLY OF ALCOHOL

Monday 10:00-04:30	Tuesday 10:00-04:30	Wednesday 10:00-04:30	Thursday 10:00-04:30
Friday 10:00-04:30	Saturday 10:00-04:30	Sunday 10:00-04:30	

Non Standard Timings for Films, Live Music, Recorded Music, Performance of Dance and Activities like Music/Dance:

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.

Non Standard Timings for Supply of Alcohol:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 05:30

An additional hour on the morning clocks go forward.

The Opening Hours of the Premises

Monday 10:00-05:00	Tuesday 10:00-05:00	Wednesday 10:00-05:00	Thursday 10:00-05:00
Friday 10:00-05:00	Saturday 10:00-05:00	Sunday 10:00-05:00	

Non Standard Timings:

From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

On York Racecourse race days 10:00 - 06:00

An additional hour on the morning clocks go forward.

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

On and off the premises

Part 2

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

Name: Mansion Nightclub Limited

Address: 53-55 Micklegate
York
YO1 6LJ

Telephone number: 01904 620602

Email address:

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

8235320

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

Name: Mr Andrew Whitney

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
 - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –

(a) games or other activities which require or encourage, or are designed to require or encourage individuals to –

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

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

7. The responsible person must ensure that –

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

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

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

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

MANDATORY CONDITION - ALCOHOL PRICING

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

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

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

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

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

where –

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

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

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

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to -

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section -

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

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

Embedded Restrictions

STANDARD PRE-EXISTING CONDITIONS APPLICABLE TO ON LICENCE WITH NO CHILDREN'S CERTIFICATE

- 1) The restrictions to permitted hours do not prohibit:
 - a) the sale or supply of alcohol to, or consumption of alcohol by, any person residing at the licensed premises
 - b) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied
 - c) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Private Entertainment

As the provisions of the Private Places of Entertainment (Licensing) Act 1967 was previously adopted and applied throughout the City of York Council area, private entertainment for gain may be provided throughout the premises without limitation by virtue of the previous Justices Licence.

Recorded Music

Recorded music may be played throughout the premises without limitation in line with previous provisions as set out in Section 182 of the Licensing Act 1964.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

Prevention of Crime & Disorder

1. SIA registered door staff will be employed at the premises.
2. CCTV cameras cover both the interior and the exits to the club.
3. The premise will participate in any radio link scheme linking a majority of local licensed premises to the police.
4. The maximum occupancy of the premises will be 500 persons.
5. All off sales of alcohol shall be made in sealed containers.

Public Safety

6. Complies with current local authority and fire service safety regulations with regard to emergency lighting, fire alarms and electrical installation checks etc.

Public Nuisance

7. Notices will be displayed at the Micklegate exit asking customers to leave the premises quietly.
8. During the operation of amplified equipment and regulated entertainment all doors, including fire doors, shall be kept shut when not in use. With the exception to the front door which may remain open during opening hours, providing that the noise emanating does not cause a nuisance to any noise sensitive premises.
9. Notices will be displayed in the car park asking customers to have regard for neighbours by leaving the area quietly.

Protection of Children from Harm

10. No under 18s are allowed on the premises unless at an arranged under 18 event run in conjunction with the local authority and police.

11. Proof of age scheme is in operation.

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

Review Conditions

1. All music in the basement area shall be via the dBX DriveRack PA noise limiter or similar noise limiter to be agreed with City of York Council's Environmental Protection Unit prior to use.
2. Prominent, clear and legible signs shall be displayed in the DJ area to inform DJs that all music is to be played through the noise limiter provided.
3. An alarm system shall be installed and be operational during hours of opening to the public which alerts staff when the rear fire door has been opened.
4. Prominent, clear and legible notices shall be displayed on all fire exits stating that fire exits are for emergency use only.
5. Documented patrols shall be carried out by members of staff at no less than hourly intervals during the hours of opening to the public. These checks shall be undertaken outside the building to the front and rear to check for noise from inside the premises and noise from customers outside the venue to ensure compliance with Condition 8.
6. Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years.
7. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
8. No music or amplified sound shall be audible at the boundary of the car park to the rear of the premises.
9. During hours the premises is open to the public, fire doors shall be fitted with non-locking restrictions which prevent their opening except in an emergency.

Hearing Conditions

1. There will be no entry / re-entry to the premises (save for persons who have gone to the designated smoking area) after 04:00hrs.
2. A CCTV system will be installed and maintained at the premises. Images will be retained for a minimum period of 28 days and be made available to officers of the responsible authorities on request.
3. The outside smoking area will be monitored by a designated member of staff whose duty it is to ensure that no disturbance is caused by those using the smoking area.
4. The premises will operate a written queuing and dispersal policy to ensure customers leave quietly. That policy will be operated and a copy made available to officers of the responsible authorities on request.
5. Bottle bins will be emptied between 09:00hrs and 23:00hrs.
6. All windows and doors opening onto the rear car park area of the premises shall be kept closed during regulated entertainment. Except for any door used for access which forms a lobby consisting of a minimum of 2 doors, one at each end of the lobby. These lobby doors shall be kept closed except for ingress and egress and fitted with a self closing device.
7. In relation to Review Condition 5. The documentation of patrols shall be made in the course of the patrol or on completion of each patrol. The patrol documents shall be kept for a minimum of 3 months and made available to the Licensing Authority or any responsible authority on reasonable request.

Annex 4 – Approved Plan

Plan Number Y-BSP-3422-13-100

For and on behalf of
The Director of Communities
& Neighbourhoods

Date: 23/07/2015

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

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

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ANNEX 4

Standard Conditions

Sexual Entertainment Venues

General

1. In accordance with Home Office guidance, where a condition conflicts with a condition in a Licensing Act 2003 premises licence, the more onerous applies.
2. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
3. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
4. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
5. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

6. The licence or a certified copy must be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence must be kept on the premises and be available for inspection by an authorised officer of the Council.

Hours of opening

7. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	21:00 – 03:30	Friday	21:00 – 04:30
Tuesday	21:00 – 03:30	Saturday	21:00 – 04:30
Wednesday	21:00 – 03:30	Sunday	21:00 – 03:30
Thursday	21:00 – 03:30		

Conduct of the premises

8. Relevant entertainment will only be performed by the dancer. There must be no audience participation.
9. Dancers will only perform on the stage area, or in booths/areas for VIPs as identified on the plan attached.
10. There must be no physical contact (touching) by a customer of a dancer while a performance is taking place, except for the placing of gratuities into the hand of the dancer at the beginning or conclusion of the performance. A dancer may have physical contact with the customers while the performance is taking place, this is restricted to touching the customers knees (including sitting on their knee), lower legs, upper chest, arms, face and head. There will be no physical contact of the pubic area or genitals.
11. Any performance will be restricted to dancing and the removal of clothes. There will not be any other form of sexual activity or stimulation which, for the avoidance of doubt, includes kissing.
12. Sex toys must not be used and penetration of the genital area by any means must not take place.
13. Dancers shall re-dress at the conclusion of the performance.
14. Customers will not be permitted to throw money at the dancers.
15. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
16. No person shall take any photographs, videos or other similar recordings (including mobile phones and video streaming) of the authorised relevant entertainment.

External appearance

17. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.

Persons who appear to be under the age of 25 will be required to show proof of age.

18. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
19. Access to the licensed area of the premises should be through a lobby area which is constructed in such a way that the inside of the licensed premises where relevant entertainment takes place is not visible to passing members of the public when the doors of the premises are opened.
20. Windows and opening to the premises, other than entrances, shall be obscured in a manner and with such material approved by the council. Door entrances shall also be obscured by blinds or material approved by the council so as to prevent any member of the public from seeing through to the premises whilst relevant entertainment is taking place.
21. External signage will only be illuminated between 9.00pm and 5.00am, and movable signs placed outside the premises will be removed between 4.30am and 9.00pm.

Advertising

22. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
23. Staff employed or subcontracted by the premises will not verbally or otherwise promote, tout or advertise the premises, except by way of flyers. Staff employed or subcontracted by the premises will not direct potential customers to transport connected with the premises.
24. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Therefore, the distribution of flyers is only permitted

between the hours of 9.00pm and 3.30am. The licensee will remove any leaflets/flyers from the highway within a 100 metre radius of the premises by 5.00am. Flyers must not be distributed by and to persons Under the age of 18 years.

Layout of the premises

25. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
26. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
27. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.
28. Where works necessitate the premises being closed for a long period of time, the premises shall not reopen for the purpose of the licence, until the licensee has been notified in writing by the council of the satisfactory completion of the work.
29. All parts of the premises shall be well maintained and kept in a clean condition to the satisfaction of the council.

Management of the premises

30. Where the licensee is a body corporate, or an un-incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
31. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst relevant entertainment is being performed. Any such nomination will be produced on demand to an authorised officer of the council or the police.

32. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
33. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue (“the manager”), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
34. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee’s control of the premises.
35. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
36. No person under the age of 18 will be admitted to the premises.
37. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
38. The licence holder will not employ any person under the age of 18 in any capacity.
39. The licensee will comply with all statutory provisions and any regulations made hereunder.
40. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of practice for the dancers. This code must be given to all dancers and displayed in staff areas. This code must be made available upon request to both the police and Authorised officers.
41. The licensee will provide, for approval in writing of both the police and the licensing authority, a code of conduct for customers, this must be printed in a manner which is clear and easy to read during normal operation of the premises. This code must be prominently displayed at each entrance to the premises, at the entrance to any private dance areas and in suitable locations

within the licensed premises, such locations to be agreed with the council, such as at bars.

42. Price lists for both drinks and sexual entertainment will be clearly displayed at each entrance to the premises, at each bar and at each table.
43. Suitable and sufficient training will be provided to all staff including the nominated responsible person. The training will be recorded and the training records must be made available upon request to both the police and authorised officers.
44. The name of the person responsible for the management of the premises, whether the licensee or manager, shall be displayed in a conspicuous position within the premises throughout the period during which he/she is responsible for its conduct.

Safety and security

45. A colour digital CCTV system will be maintained and operational at the premises at all times when licensable activities are being carried out and at any other times when member of the public are present on the premises.
46. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence, including corridors, stairways, each dance booth and VIP areas (excluding within toilets and changing rooms). The CCTV system will cover the main entrances and external areas of the premises occupied by the public, for example queuing areas, beer gardens, smoking areas and car parks.
47. The locations of CCTV cameras are identified on the site plan of the premises. No amendments to the locations of the cameras will be made without prior consultation with North Yorkshire Police and the council.
48. The CCTV system will be of a satisfactory resolution quality which will enable the identification of persons and activities, and other fine details such as vehicle registration number plates.
49. Recorded CCTV images will be maintained and stored for a continuous period of 28 days. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy.
50. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard DVD player.

51. The nominated person (“the manager”) must be trained in the use of any such CCTV equipment and be able to produce CCTV images to the police or Licensing Authority.
52. CCTV footage will be controlled and kept in a secure environment to prevent tampering and unauthorised viewing.
53. The data controller, under the Data Protection Act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of the police or an authorised officer of the council, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.
54. A minimum of two Security Industry Authority registered door staff (numbers to be subject to police and licensing authority approval) will be present on the premises during the performance of relevant entertainment.
55. A refusals/incident/accident register will be maintained and shall record all refusals relating to alcohol, access to the premises and all incidents or accidents.
56. The licensee will ensure that a fire safety risk assessment is carried out in connection with the premises, and is retained on the premises at all times and available for inspection by an authorised officer or a member of the Fire Authority.
57. The licensee will maintain good order in the premises at all times, and ensure that persons entering or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents in the vicinity and persons passing by.

Staff welfare

58. Dancers will be aged 18 years or over.
59. Before a dancer is permitted to work on the premises the licensee will ensure that the dancer:

- a) has not been convicted of theft, drug offences or prostitution
- b) has the right to work in the UK

The licensee will keep records of the checks, including copies of any documentation such as a basic disclosure, passport, visa, driving licence or national insurance number provided by the dancer.

60. All premises that provide relevant entertainment will provide dancers with copies of the following documents:
 - a) A copy of the conditions attached to the Sex Establishment Licence;
 - b) Details of any other conditions applied by management of the premises;
 - c) A copy of the code of practice for dancers;
 - d) A copy of the code of conduct for customers;
 - e) Price lists for drinks and sexual entertainment.
61. Dancers will be provided with separate secure dressing rooms, facilities to secure valuables and proper sanitation facilities. No person other than performers and authorised staff will be allowed in or near the dressing rooms, therefore safe and controlled access will be maintained at all times. The documents detailed in condition 60 will be displayed in the dressing rooms.
62. There will be at least one female member of staff authorised to be responsible for the safety and welfare of the dancers. This staff member must be on the premises at all times when licensable activities are taking place.
63. All booths and VIP areas used for private dances must be visible to supervision and must not have closing doors, any curtains used must be approved by the council in writing.
64. All booths and VIP areas used for private dances must be directly supervised by either a SIA registered door supervisor, or a member of staff who has direct contact with a SIA registered door supervisor working on the premises at all times the booths/areas are in use. Direct supervision does not include remote supervision by CCTV.
65. Dancers will only be present in the licensed area in a state of nudity when they are performing on stage or providing a private dance.
66. Any person on the premises who can be observed from outside the premises will be properly and decently dressed.
67. The practice of fining is prohibited.
68. Customers and staff must not be allowed to interact while using the smoking area, and where possible a separate smoking area should be provided for staff. Dancers must be covered up at all times with knee length robes or coats whilst using the smoking areas.
69. Throughout the lap or table dance customers will remain seated and fully clothed, with their hands clearly visible, either resting on the arms of the chair/sofa or on the seat cushion, or customers must be asked to sit on their hands.

70. If a dancer is invited to have a drink with a customer, the dancer will remain fully clothed during this period. Dancers will not be paid commission on the sale of beverages.
71. On leaving the premises dancers will be escorted to their transport by a SIA registered door supervisor.

Vessels, vehicles and stalls

72. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
73. The requirements of condition 72 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
74. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

75. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
76. The licensee may apply to the council to vary any of the terms of the licence.
77. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

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Ref :- DAC/ 22012018/01

Licensing manager
City of York Council
Hazel Court Eco Depot
James Street
York
YO10 3DS

22nd January 2018

Renewal of SEV licence for Upstairs VIP Ltd
53-55 Micklegate, York

Dear Licensing Services,

North Yorkshire Police received an application to renew the Sexual Entertainment Venue Licence at Upstairs VIP Ltd, 53 -55 Micklegate , York.

On the 27th April 2017, after public consultation, a new Sexual Entertainment Policy was approved by the City of York Council which included amended Standard Conditions applicable to Sexual Entertainment Venues.

Condition 7 (Standard Conditions) specifically relates to the hours of opening and states :-

Except with the written consent on the council, the premises will only open to the public during the following hours :-

<i>Monday 21:00-03:30</i>	<i>Friday 21:00-04:30</i>
<i>Tuesday 21:00-03:30</i>	<i>Saturday 21:00-04:30</i>
<i>Wednesday 21:-03:30</i>	<i>Sunday 21:00- 03:30</i>
<i>Thursday 21:00-03:30</i>	

The operating hours requested are Monday to Sunday 21:00hrs until 03:00 hrs and from 18:00hrs until 04:30hrs on York race days.

North Yorkshire Police do not oppose the renewal of the Sexual Entertainment Licence, however they are opposed to the extension of hours on York race days, especially allowing Sexual Entertainment to begin at 18:00hrs.

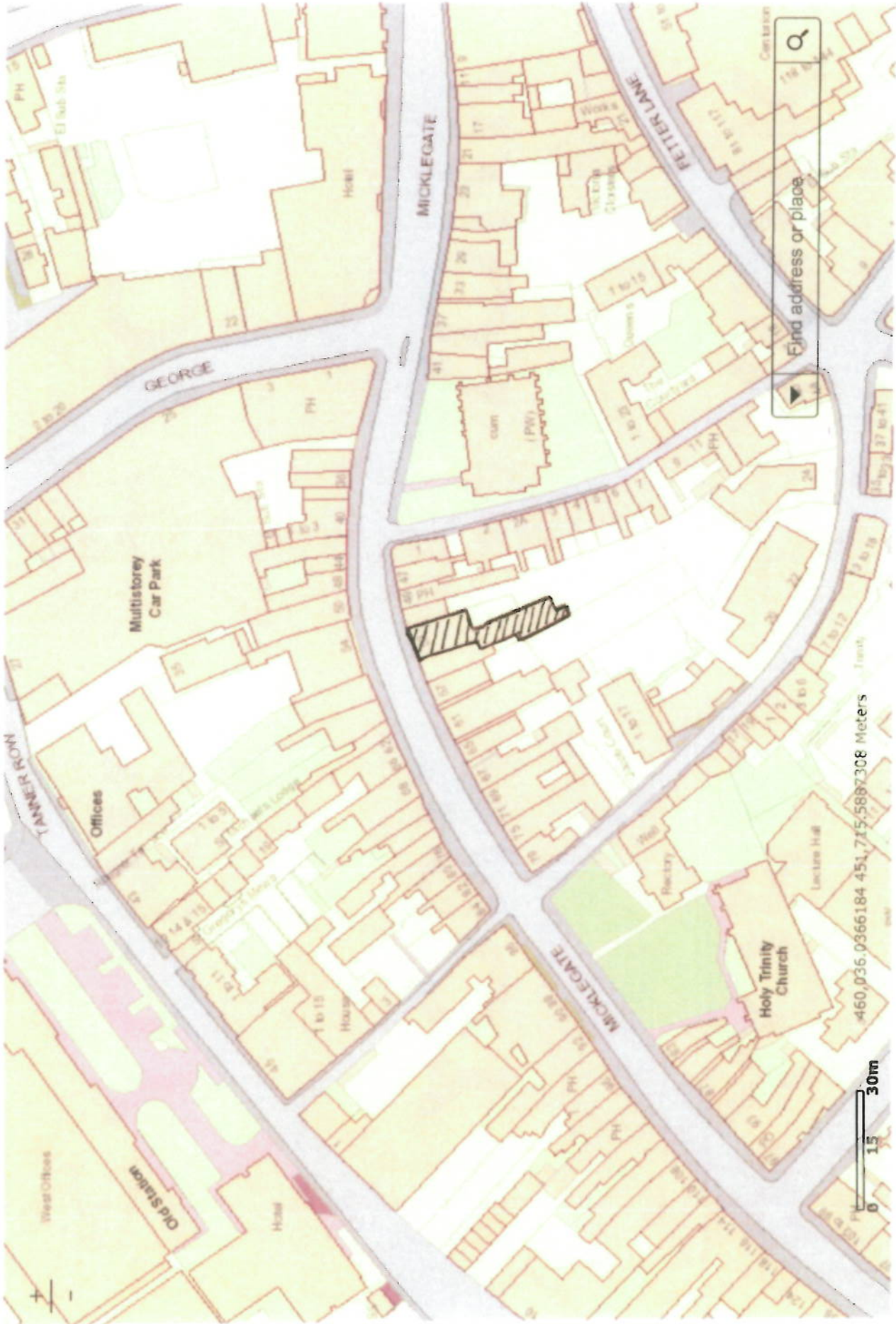
North Yorkshire Police would ask the licensing committee to adhere to their new policy and prevent Sexual Entertainment to take place prior to 21:00hrs.

Yours Sincerely

PC 1770 Deborah Chadwick
Alcohol Licensing Unit
Scarborough Police Station
Northway
Scarborough
YO12 7AD

01609 643306
07880 243857

ANNEX 6



460,036,0966184 451,715,5887308 Meters

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Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).

2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.27 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators may have under Article 1 of Protocol 1 to the European Convention

which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council's Policy for the Licensing of Sex Establishments Licensing Policy and the Standard Conditions for Sexual Entertainment Venues applies to this application.
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.
7. The Committee is reminded that it must comply with the Council's Public Sector Equality Duty (as required to do so under s.149 of the Equality Act 2010), and have due regard to the potential impact on gender equality.

NOTE FOR MEMBERS

Extracts from Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant, However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- a) to a person under the age of 18;

- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard -
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it if one or more of the above grounds, it must provide the applicant with reasons for the decision in writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality

and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.



Meeting of Gambling, Licensing & Regulatory Committee

18 June 2018

Report of the Assistant Director – Planning and Public Protection

Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009 Renewal of Sex Establishment Licence for The Adult Shop, 70B Gillygate, York, YO31 7EQ

Summary

1. This report seeks Members determination of an application to renew a Sex Establishment Licence for a sex shop which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of The Adult Shop, 70B Gillygate, York, YO31 7EQ.
2. Name of applicant: Lilacgrange Limited
3. Summary of Application: The application is to renew an existing Sex Establishment Licence which permits the premises to operate as a sex shop during the following times; Monday to Saturday 10:00 hours to 20:00 hours and Sunday 12:00 hours to 17:00 hours. A copy of the renewal application is attached at Annex 1.
4. A sex establishment licence is valid for 12 months. The licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sex establishment, in this case a sex shop. A copy of the licence to be renewed is attached at Annex 2.

Recommendations

5. Members are asked to determine the application for the grant of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by Policing and Crime Act 2009.

Reason: To consider renewal of the sex establishment licence as required by the legislation.

Background

6. Sex shops are defined in the legislation as any premises, vehicle or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating sex articles; or other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity; or acts of force or restraint which are associated with sexual activity.
7. These premises have operated as a sex shop since 1997. There have been no complaints received in relation to the premises since the initial licence was granted.
8. City of York Council's Licensing of Sex Establishments Licensing Policy was reviewed and a revised policy was adopted on 27 April 2017 with immediate effect. A copy of this policy can be found at https://www.york.gov.uk/downloads/file/2964/sexual_entertainment_venues_-_policy_and_procedurepdf.
9. A copy of City of York Council's Standard Conditions for Sex Shops is attached at Annex 3.

Consultation

10. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application for renewal to be considered valid.
11. There were no objections received to the application.
12. A map showing the location of the premises is attached at Annex 4.

Relevant Legislation – Grounds for Refusal

13. When considering the renewal application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act.

Mandatory grounds for the refusal of an application

14. The mandatory grounds for the refusal of an application for a sex establishment licence are that the applicant:
- a) is under the age of 18;
 - b) is for the time being disqualified from holding a sex establishment licence;
 - c) is not a body corporate, and is not in resident or has been resident in an EEA state for six months immediately preceding the date of the application;
 - d) is a body corporate which is not incorporated in an EEA state;
 - e) has in the period of twelve months preceding the date of application been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the reversal has been reversed on appeal.
15. There are no mandatory grounds for refusing this application.

Discretionary grounds for the refusal of an application

16. Discretionary grounds for the refusal of an application for a sex establishment licence are that:
- a) the applicant is unsuitable to hold a licence by reason of having been convicted of an offence or any other reason;
 - b) if the licence were to be granted, the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant of such a licence if he made the application himself;
 - c) the number of sex establishments, or sex establishment of a particular kind, in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality;
 - d) the grant would be inappropriate, having regard –
 - to the character of the relevant locality;
 - to the use to which any premises in the vicinity are put;

- to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.
17. When considering the suitability of the applicant to hold a licence the council will take into account such matters it considers to be relevant.
 18. Guidance on relevant locality can be found at Annex 5, paragraphs 3.32 to 3.38.
 19. Within the licensing policy the council has determined a limit on the number of sexual entertainment venues permitted within the Authority area, however, this limit does not apply to sex shops. These applications must be dealt with on a case by case basis.

Options

20. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:
21. Option 1: Grant a renewal of the licence as requested.
22. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
23. Option 3: Refuse the application for renewal on one of the mandatory grounds or on one or more of the discretionary grounds within paragraph 12 to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

Analysis

24. The following could be the result of any decision made by this Committee:
25. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. Objectors could judicially review the decision.
26. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
27. Option 3: With the exception of a decision to refuse an application on a ground specified in paragraph 12(3) (c) or (d) of Schedule 3 to the 1982

Act, the licence applicant may appeal against the decision made to the Magistrates' Court.

Council Plan

28. The approved City of York Council Policy will support the Council's Plan for a prosperous city for all and a council that listens to residents.

Implications

29. The implications arising directly from this report are:

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – The Council has the ability to control the licensing of sexual entertainment venues having adopted Schedule 3 to Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009.

Paragraph 8 of Schedule 3 to the 1982 Act provides that where it determines to grant sex establishment licence, the Council is empowered to impose such conditions or restrictions as it deems appropriate.

Paragraph 12 of Schedule 3 to the 1982 Act sets out a number of mandatory grounds for refusal of sex establishment licence and also discretionary grounds for refusal of a sex establishment licence.

In considering this application the Committee should have regard to:

- Schedule 3 to the 1982 Act, as amended by Policing and Crime Act 2009 (Annex 5).
- The City of York Council Licensing of Sex Establishment Licensing Policy which can be found at https://www.york.gov.uk/downloads/file/2964/sexual_entertainment_venues_-_policy_and_procedurepdf.
- The Home Office – Sexual Entertainment Licence – Guidance for England and Wales which states that “Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12” [of Schedule 3 to the 1982 Act].

In addition when making their decision Members must give consideration to the rights the applicant has under the European Convention on Human Rights. Article 1 (entitles every person to peaceful enjoyment of their possessions) and Article 10 (freedom of expression) are particular rights that may be relevant. Members should consider whether interference with these rights is necessary and proportionate for the prevention of crime or disorder, for the protection of health or morals or for the protection of the rights and freedoms of others or, in the case of Article 1, whether interference can be justified in the general interest.

Members of the Committee should not allow themselves to predetermine the application or to be prejudiced in favour or opposed to the licence and shall only determine the application on its own merit.

- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

30. All Members are aware that any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of reputation and potential financial penalty.
31. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with the proper grounds for considering the application as set out within this report, there are no known risks involved with this recommendation.

Contact Details

Author:

Lesley Cooke
Licensing Manager
Ext 1515

Chief Officer Responsible for the report:

Michael Slater
Assistant Director
Planning & Public Protection
Ext 1300

**Report
Approved**



Date 31/05/18

Wards Affected: Guildhall

Annexes

- Annex 1** - Copy of application for renewal
- Annex 2** - Copy of existing licence to be renewed
- Annex 3** - Standard Conditions for Sex Shop
- Annex 4** - Map showing location of premises
- Annex 5** - Legislation Extracts – Renewal Applications

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

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 – CONTROL OF SEX ESTABLISHMENTS
Application for the Grant / Renewal / Transfer of a Sex Establishment Licence

TYPE OF VENUE

- Sexual Entertainment Venue
- Sex Shop
- Sex Cinema

TYPE OF APPLICATION

- Grant
- Renewal
- Transfer

APPLICANT DETAILS

1. Is the applicant:

- An individual (please answer questions 2, 5 to 9)
- A company or other corporate body (please answer questions 3, 5 to 9)
- A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town:

Post code:

Telephone numbers:

Date of birth:

Email address:

3. Name of applicant (company name): LILACGRANGE LTD

Address of registered or principal office: 70B GILLYGATE

Post town: YORK Post code: YO31 7EQ

Registration number: 05842814

Email address:

4. Name and address of applicant:

Names and addressed of applicant's partners (please use additional sheet):

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

ANTHONY BARTLETT-MOORE (DIRECTOR)

- 6. a. Has the applicant ever been known by any other name? ~~YES~~ / NO
- b. Has the applicant ever been convicted of a criminal offence? ~~YES~~ / NO
- c. Has the applicant ever been refused a sex establishment licence? ~~YES~~ / NO
- d. Has the applicant ever had a sex establishment licence revoked? ~~YES~~ / NO
- e. Has the applicant ever been served with a winding up petition? ~~YES~~ / NO

If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

THE PREMISES ARE THE TRADING ADDRESS
AND HEAD OFFICE
(70B GILLGATE, YORK, YO31 7EQ)

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? ~~YES~~ / NO

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

No.

PREMISES DETAILS

10. Please state the name the business will be known as:

THE ADULT SHOP

11. Is the premises a Building Vehicle Vessel Stall

12. Where is it proposed to use the vehicle, vessel or stall? N/A

13. Does the company propose to only operate on the internet? (f yes answer Q14 to 19 only) NO

14. Premises address 70B GILLYGATE

Post town YORK

Post code YO31 7EQ

Telephone number at premises 01904 613638

15. Which part of the premises is to be used as a sex establishment?

GROUND FLOOR SHOP (AS EXISTING)

16. Is the applicant owner lessee sub-lessee other

17. If the applicant rents the property state:

a. Name and address of landlord:

b. ~~Name and address of the superior landlord.~~

c. Total annual rental:

d. Length of unexpired term:

e. Notice required to terminate tenancy:

18. Please provide details of the building management company (if appropriate):

NONE

19. State the current use of the premises:

SEX SHOP.

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises? ~~YES~~ / NO

21. Can members of the public access the premises:
 a. Directly from the street? YES / ~~NO~~
 b. From other premises? ~~YES~~ / NO
 c. Not at all? (internet sales only) ~~YES~~ / NO

22. Are the premises currently being used as a sex establishment? **YES**
 Please provide details of the business currently operating the business:
LILACGRANGE LTD
70 B GILLYGATE
YORK YO31 7EQ

OPERATING SCHEDULE

23. Opening hours: (If internet sales only please tick here and continue to Q 26)

Monday	Tuesday	Wednesday	Thursday	Friday
10:00 - 20:00	10:00 - 20:00	10:00 - 20:00	10:00 - 20:00	10:00 - 20:00
Saturday	Sunday			
10:00 - 20:00	12:00 - 17:00	(ALL AS EXISTING)		

Any non-standard timings:

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.

NO
 a. Please provide details of any lender, mortgage or others providing finance:

NONE

b. Please provide details of any merchandising agreements:

NONE.

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).

ANTHONY BARTLETT-MOORE

a. Will the manager be based at the premises YES / ~~NO~~
 b. Will the management of the premises be the manager's sole occupation ~~YES~~ / NO

26. Who will be in control of the premises in the manager's absence (relief manager)?

PHILLIP BENTON

a. Will the relief manager be based at the premises in the absence of the manager? YES / ~~NO~~

If you have ticked no to any of the above please provide details.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION

27. Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:

Please note that a drawing of the front elevation is required to be submitted with this application.

28. Please describe how the interior of the premises is obscured to passersby:

29. Please describe any proposed window displays:

30. Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:

RENEWAL

APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY

31. Is the proposal for full nudity? YES / NO

32. Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:

33. State measures to ensure employees age and right to work in the UK:

34. Describe training and welfare policies:

Please enclose a copy of the welfare policy for performers (or equivalent document).

35. Please set out any further information you wish the authority to take into account.

NOT SEXUAL ENTERTAINMENT VENUE

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

No

CHECKLIST & ENCLOSURES

Enclosures

I have made or enclosed payment of the fee
I have enclosed three sets of plans of the premises
I have enclosed a drawing of the street elevation of the premises
In the case of an application to transfer the licence, include the completed Consent to Transfer form

DECLARATION

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days. A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be publicised in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected.

Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence, makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to an unlimited fine.

SIGNATURES

Signature of applicant or applicant's solicitor or other duly authorised agent, If signing on behalf of the applicant please state in what capacity. /

Signature Signature

Name (print) ANTHONY BARTLETT MOORE Name (print)

Date 26th APRIL 2018 Date

Capacity DIRECTOR Capacity

Contact name (where not previously given) and address for correspondence associated with this application:

Post town Post code

Telephone number (if any)

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

Ref no: MAU 008669/17



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of licence to:

Lilacgrange Ltd
70B Gillygate
York
YO31 7EQ

to use the premises known as:

The Adult Shop
70B Gillygate
York
YO31 7EQ

for the purposes of a sex establishment comprising a sex shop as defined in Schedule 3 to the above Act.

This Licence is renewed subject to the City of York Council Standard Conditions Application to Sex Establishment Licences and to the additional conditions set out in the schedule below.

This licence shall continue in force from the date hereof until 30 April 2018 unless previously revoked.

Granted on 11 July 2017

Signed
For and on behalf of Economy & Place

SCHEDULE

1. The sound from the video preview facility must be inaudible externally and in adjoining premises.
2. That the hours of opening be limited to 10:00am to 8.00pm, Monday to Saturday, and 12 noon to 5:00 pm on Sunday.
3. The attached Standard Conditions also apply to this licence.

Extract from the Local Government (Miscellaneous Provisions) Act 1982

APPEALS (*Sched. 3, para. 27*)

27. - (1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say -
- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
 - (b) an applicant for the variation of terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
 - (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - (d) a holder of any such licence whose licence is revoked

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the relevant area.

(2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.

(3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3) or (d) above shall not have the right to appeal under the paragraph.

(4) In this paragraph -

'the relevant area' means-

- (a) in relation to premises, the petty sessions area in which they are situated; and
 - (b) in relation to a vehicle, vessel or stall, the petty sessions area in which it is used or, as the case may be, desired to be used as a sex establishment;
- and

'the relevant date' means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.

(5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.

(6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final; and accordingly in section 28(2)(b) of the Supreme Court Act 1981 for the words 'or the Gaming Act 1968' there shall be substituted the words 'the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982'.

(7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.

(8) Subject to sub-paragraph (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.

(9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(10) Where a licence is revoked or an application for the renewal of a licence is refused, the licence shall be deemed to remain in force -

- (a) until the time of bringing an appeal under this paragraph has expired and, if such an appeal is brought, until the determination or abandonment of the appeal; and
- (b) where as appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.

(11) Where -

- (a) the holder of a licence makes an application under paragraph 18 above; and
- (b) the appropriate authority impose any term, condition or restriction other than one specified in the application,

the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.

(12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.



STANDARD CONDITIONS

THE ADULT SHOP 70B GILLYGATE, YORK, YO31 7EQ

General

1. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
4. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

5. The licence or a certified copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council.

Hours of opening

6. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	10:00 – 20:00	Friday	10:00 – 20:00
Tuesday	10:00 – 20:00	Saturday	10:00 – 20:00
Wednesday	10:00 – 20:00	Sunday	12:00 – 17:00
Thursday	10:00 – 20:00		

Conduct of the premises

7. The premises will be conducted primarily for the purpose of the sale or hire of goods by retail.
8. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene or offensive nature.

9. No part of the premises will be used by prostitutes.
10. All sex articles or other items displayed for sale, hire, exchange or loan within the premises will be clearly marked to show the price being charged.
11. All printed material offered for sale, hire, exchange or loan will be available for inspection prior to purchase and a notice to this effect will be displayed in a conspicuous position within the premises.
12. No film, DVD or video recording (or computer game) will be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
13. No moving picture will be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.
14. Items offered for sale, hire, exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984 (as amended).

External appearance

15. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

16. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
17. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
18. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises on the public highway.

Advertising

19. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
20. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Flyers must not be distributed by and to persons under the age of 18 years.

Layout of the premises

21. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
22. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
23. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

24. Where the licensee is a body corporate, or an un-incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.
25. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue ("the manager") will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
26. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
27. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue ("the manager"), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
28. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee's control of the premises.
29. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
30. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
31. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.

32. No person under the age of 18 will be admitted to the premises.
33. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.
34. The licence holder will not employ any person under the age of 18 in any capacity.

Variation of conditions

35. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
36. The licensee may apply to the council to vary any of the terms of the licence.
37. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.



STANDARD CONDITIONS

SEX SHOPS

General

1. Unless stated otherwise, the licence hereby granted will remain in force for one year from the date on the licence, after which it will cease to be in effect unless an application for renewal is submitted in the manner prescribed by the council.
2. The licence may be revoked by the council if at any time the holder is convicted of an offence of using the licensed premises, or other premises for which a similar licence has been granted, other than in accordance with the terms, conditions or restrictions of the licence or is convicted of any offence under any enactment defined in paragraph 1 of Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended.
3. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.
4. The name of the premises must be approved by the council in writing. Any change to the name of the premises must be approved by the Council in writing.

Exhibition of the licence

5. The licence or a certified copy shall be prominently displayed at all times so as to be readily and easily seen by all persons using the premises and all authorised officers. A copy of the conditions attached to the licence shall be kept on the premises and be available for inspection by an authorised officer of the council.

Hours of opening

6. Except with the written consent of the council, the premises will only open to the public during the following hours:

Monday	09:00 – 20:00	Friday	09:00 – 20:00
Tuesday	09:00 – 20:00	Saturday	09:00 – 20:00

Wednesday 09:00 – 20:00 Sunday 12:00 – 20:00
Thursday 09:00 – 20:00

Conduct of the premises

7. The premises will be conducted primarily for the purpose of the sale or hire of goods by retail.
8. The licensee, or any other person concerned in the conduct or management of the premises, will only obtain custom by means of personal solicitation or touting from the premises in such a way that it does not cause concern to the public or the licensing authority. All literature used will not contain images or text of a sexually explicit, obscene or offensive nature.
9. No part of the premises will be used by prostitutes.
10. All sex articles or other items displayed for sale, hire, exchange or loan within the premises will be clearly marked to show the price being charged.
11. All printed material offered for sale, hire, exchange or loan will be available for inspection prior to purchase and a notice to this effect will be displayed in a conspicuous position within the premises.
12. No film, DVD or video recording (or computer game) will be exhibited, sold or supplied unless it has been passed by the British Board of Film Classification and bears a certificate to that effect.
13. No moving picture will be provided on display at the licensed premises unless it is that of advertising videos on a loop system or allowing a prospective purchaser a short preview of films upon request, being no longer than 3 minutes in length.
14. Items offered for sale, hire, exchange or used in any promotion/advertising must not contravene any current legislation i.e. Section 12 Video Recordings Act 1984 (as amended).

External appearance

15. There will be a notice displayed inside each entrance or doorway to the premises, clearly visible on entering the premises, which states the following words and no others:

STRICTLY NO ADMITTANCE TO PERSONS UNDER 18 YEARS OF AGE

This premises operates a Challenge 25 policy.
Persons who appear to be under the age of 25 will be required to show proof of age.

16. The external appearance of the premises must be approved by the council in writing. Any change to the external appearance must be approved by the council. The operator must advise of any change in writing including a drawing of the existing and proposed street elevation. This must be approved by the council in writing before work is undertaken.
17. The frontage of the licensed premises will be of such a nature that the inside of the licensed premises are not visible and the contents of the licensed premises should not be visible when the doors of the licensed premises is open.
18. There will be no illuminated or protruding signs fixed to the premises and no signs placed outside the premises on the public highway.

Advertising

19. Any unsolicited written, visual or auditory advertisement material, posters, signage or window display must not be of a sexually explicit or suggestive nature, will not contain images or text of a sexually explicit, obscene or offensive nature and must be approved by the council in writing.
20. The distribution of flyers will only be permitted in such a way where it does not cause public offence. Flyers must not be distributed by and to persons under the age of 18 years.

Layout of the premises

21. Access to ground floor premises may only be through two or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises. The first set of entry doors must be fitted with a device to provide for their automatic closure and such a device shall be maintained in good working order.
22. No access will be permitted through the premises to any other adjoining or adjacent premises except in the case of an emergency.
23. No alterations (including temporary alterations) will be made to the structure and installations on the premises, without the prior written consent of the council. This condition will not require notice to be given in respect of routine maintenance works. Where there is any doubt the licensee should seek advice from the council.

Management of the premises

24. Where the licensee is a body corporate, or an un-incorporated body, any change of director, company secretary or other person responsible for the management of the body will be notified in writing to the council within 14 days

of such change. Such details as the council may require in respect of the change of personnel will be furnished within 14 days of a request in writing from the council.

25. The licensee, or a responsible person nominated by him/her in writing for the purpose of managing the venue (“the manager”) will have personal responsibility for and be present on the premises whilst the premises are open to the public. Any such nomination will be produced on demand to an authorised officer of the council or the police.
26. The licensee will ensure that any person nominated by him/her under the above:
 - a) has been provided with a copy of the conditions relating to the premises and is fully conversant with them; and
 - b) is in possession of a written nomination referred to about at all times when they are in charge of the premises.
27. Where the licensee, director, company secretary, or responsible person nominated for the purpose of managing the venue (“the manager”), is convicted of an offence, they must, as soon as practicable after the conviction, inform the council of the conviction giving details of the nature and date of the conviction, and any sentence imposed.
28. The licensee will retain control over all parts of the premises and will not let, licence or part with possession of any part of the premises. The council must be notified immediately in the event that any part of the premises affected by the termination of a lease or other event affecting the licensee’s control of the premises.
29. The licensee will ensure that the public is not admitted to any part or parts of the premises that has not been approved by the council.
30. The holder of the licence will keep a record of all employees who are asked to work on the premises which will include their full name, date of birth, current and previous address and any convictions recorded against that person (subject to the Rehabilitation of Offenders Act 1984).
31. An authorised and certified copy of the full personal record or a record of an individual will be produced on demand to an authorised officer of the council or the police.
32. No person under the age of 18 will be admitted to the premises.
33. The licensee will operate a Challenge 25 age verification policy. People who appear to be under the age of 25 will be required to show proof of ID prior to admittance. A notice to this effect, in accordance with condition 18 will be displayed on the premises.

34. The licence holder will not employ any person under the age of 18 in any capacity.

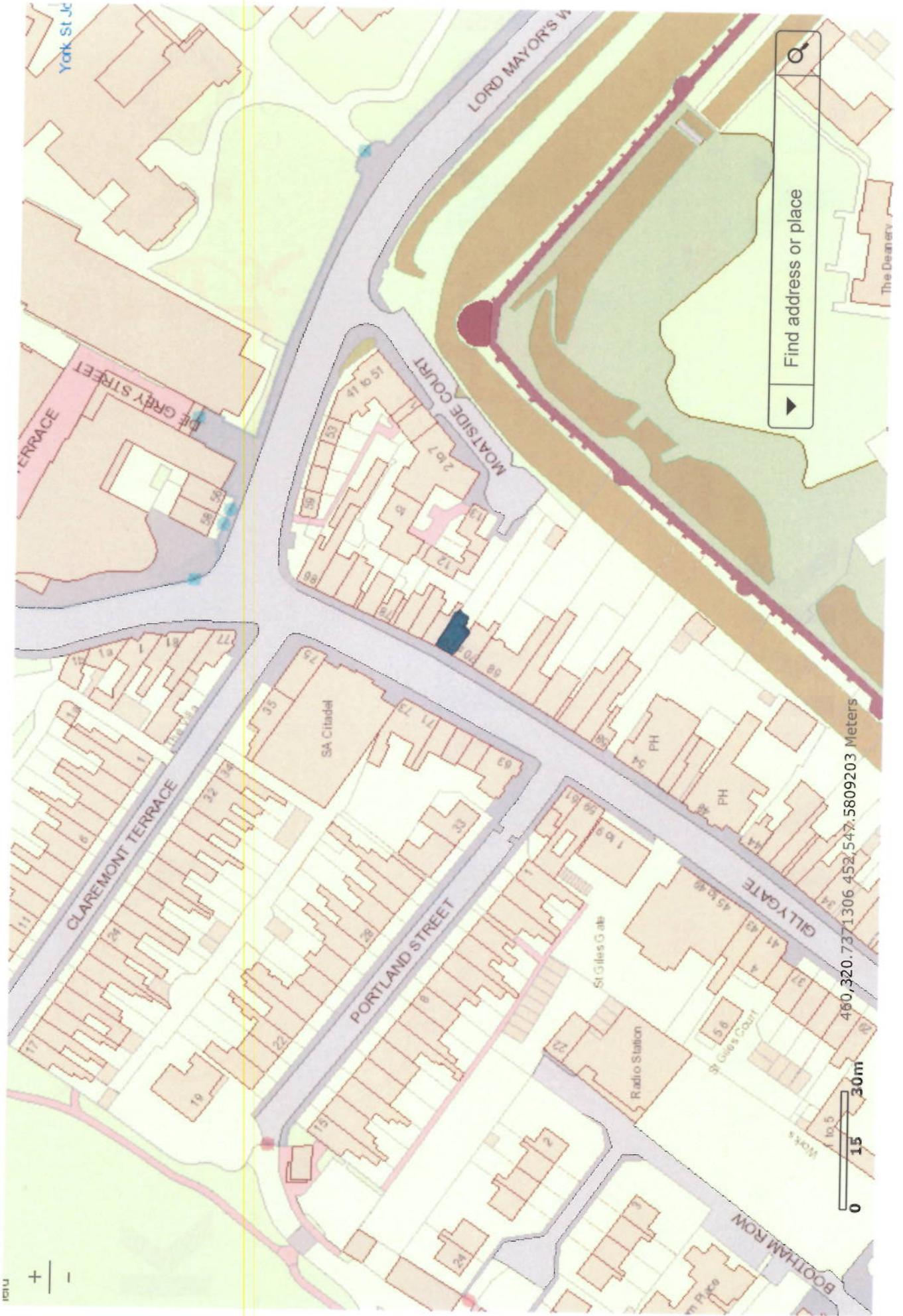
Vessels, vehicles and stalls

35. In the case of licensed premises that are a vessel, vehicle or stall, the licensee shall not move the vessel, vehicle or stall from the location specified in the licence unless 28 days written notice is given to the council of such intended removal. The council may require the licensee to lodge such written application as it may deem appropriate and pay such a fee as it may deem reasonable in respect of such application.
36. The requirements of condition 35 will not apply to a vessel, vehicle or stall habitually operating from a fixed location, which is regularly moved, whether under its own propulsion or otherwise, from another place for storage purposes. This place must be specified in the licence and must not be used for the purposes for which the licence is granted and any other location than that specified in the licence.
37. Vehicles must not be used for personal solicitation, touting or advertising.

Variation of conditions

38. The council may, at the time of grant or renewal of the licence, waive, modify or vary these conditions or impose additional conditions as appropriate.
39. The licensee may apply to the council to vary any of the terms of the licence.
40. Applications to vary conditions of the licence must be advertised by the licensee in the same manner as the application for the grant, renewal or transfer of the licence.

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Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).

2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.27 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators may have under Article 1 of Protocol 1 to the European Convention

which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council's Policy for the Licensing of Sex Establishments Licensing Policy and the Standard Conditions for Sex Shops applies to this application.
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.
7. The Committee is reminded that it must comply with the Council's Public Sector Equality Duty (as required to do so under s.149 of the Equality Act 2010), and have due regard to the potential impact on gender equality.

NOTE FOR MEMBERS

Extracts from Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant, However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is

determined is equal to or exceeds the number which the authority consider is appropriate for that locality;

- d) that the grant or renewal of the licence would be inappropriate, having regard -
- i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it if one or more of the above grounds, it must provide the applicant with reasons for the decision if writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority's view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the 'character' of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by

- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.