

AGENDA SUPPLEMENT

Licensing/Gambling Hearing

To: Councillors Galvin, Melly and Wells

Date: Monday, 31 October 2022

Time: 10.00 am

Venue: Remote via zoom

The Agenda for the above meeting was published on Wednesday 7 September 2022. The attached additional documents are now available for the following agenda item:

- 5. The Determination of an Application by Mr Mehmet Simsek for the variation of a premises licence (Section 35(3) (a) in respect of 5 Whip ma Whop ma Gate, York, YO1 8BL (CYC 061097) – Annex 4 Cumulative Impact** (Pages 1 - 4)

This agenda supplement was published on 26 October 2022.

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9. Cumulative Impact

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

Cumulative Impact Assessment

- 9.5 As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
- 9.6 As required by the Act the Council has formally consulted on the assessment.
- 9.7 By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council

determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

- 9.8 Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
- 9.9 Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
- 9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

Cumulative Impact Area

- 9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
- prevention of crime and disorder
 - prevention of public nuisance
- 9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
 - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
 - late night refreshment premises – takeaways; and
 - off licence premises – supermarkets and convenience stores.
- 9.13 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.
- 9.14 Amber zones have also been identified in this area, again due to the high concentration of licensed premises, the impact of which has led to a high level of occurrences in relation to crime and disorder related issues. Therefore, unless the

application relates to a food led operation, as details in paragraph 9.15, the Council should refuse all applications within the amber zones where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in these zones. A map showing the amber zones can be found in the assessment.

9.15 Applications for the grant or variation of a premises licence in the cumulative impact area may be considered more favourably if the applicant can demonstrate, through the operating schedule, that the premises is going to be predominantly food led with:

- alcohol being sold/supplied ancillary to a meal, with substantial* food being served throughout the duration of the operating hours;
- no vertical drinking, all customers seated at tables;
- set number of table covers;
- table service only, no customers at the bar;
- no drinks promotion, unless they are in line with a food promotion.

*something more substantial than a bag of crisps or a bowl of olives or nuts.

9.16 The Covid 19 pandemic, and government restrictions, have impacted the operation of a number of licensed premises dramatically, with some premises, such as nightclubs and theatres, closing for at least 12 months. Therefore, the evidence base for the cumulative impact assessment does reflect a reduction in crime and disorder related issues during 2020/21, which has made changes to the previously large red zone, providing a smaller red zone areas and introduces an amber zones.

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