

To: Head of Planning,
City of York Council
West Offices,
Station Rise,
York,
YO1 6GA

9th September 2014

Dear Sir

We, the undersigned, request that an immediate Article 4 Direction be issued for The Punch Bowl public house, 134 Lowther St, York YO31 7ND

The reasons for issuing the direction are as follows:

The Punch Bowl is being actively discussed for a change of use to a supermarket selling alcohol, between the owners Enterprise Inns and Tesco PLC. Discussions are at an advanced stage, so it is at imminent risk of being lost as a public house – a community facility in the terms of the 2012 National Planning Policy Framework.

1 Background to the use of Article 4 directions

The Article 4 Direction's purpose is to restrict permitted changes from A4 to any other uses, notwithstanding any subsequent changes to the Use Classes Order, or for demolition of the building. The following government document outlines guidance for the use of Article 4 Directions.

1.1 Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995

The use of Article 4 directions

- Local planning authorities should consider making Article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm a local amenity or the proper planning of the area.
- In deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.

1.2 Section 8 of The National Planning Policy Framework (NPPF) published on 27 March 2012 seeks to promote healthy communities. Paragraph 70 states:

To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, **public houses** and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community;

1.3 Use of these powers is governed by the National Planning Policy Framework (NPPF) paragraph 200 of which advises that:

- The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect a local amenity or the wellbeing of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities).
- An Article 4 direction does not have the effect of preventing the article that it covers from occurring. It merely requires that the owner of the property has to apply for planning permission for the use or development that the Council has chosen to restrict through the Article 4 direction.

2 Evidence to support the application for an Article 4 direction to be issued for The Punch Bowl - with direct reference to the reasons needed for making an Article 4 direction as outlined above in:

- Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995
- National Planning Policy Framework (NPPF)

N.B. All relevant direct quotes from the documents listed above are *italicised in red* in the following sections.

2.1 Paragraph 200 of the National Planning Policy Framework is very clear that there are 2 reasons to consider issuing an Article 4 Direction - *“to protect a local amenity or the wellbeing of the area”*

- A. Appendix D: *“The use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to **protect a local amenity**”*
- B. NPPF Paragraph 70: *“guard against the **unnecessary loss of valued facilities and services**”*
- C. NPPF Paragraph 200: *“should be limited to situations where this is necessary to **protect a local amenity**”*

Directly addressing A, B & C above: Despite difficult market trading conditions, The Punch Bowl is not a moribund hostelry teetering on the brink of viability. If it were, it would be understandable that Enterprise Inns would look to close it. With the present licensee, trade is very much on an upward curve with takings very much increased from the previous incumbents. It is now a thriving irreplaceable *local amenity* offering *valued facilities* that are not available to the same extent in the immediate area to the local neighbourhood.

The uncertainty around The Punch Bowl's future is actually hindering its ability to build on its success by for instance serving handpulled cask ale. Somewhat ironically, 4 handpumps sit on the bar unused whilst there is currently a nationwide Cask Ale & Beer Festival that Enterprise is running in its pubs that The Punch Bowl cannot participate in.

2.3 The Punch Bowl is an asset for residents in the Groves area

Pensioners: It is popular with an eclectic mixture of senior citizens for whom it is an escape from loneliness and living on their own. There is even a specially priced low cost Sunday Lunch (£4.50) aimed at attracting those with limited financial means into a relaxed social environment conducive to social interaction.

Families: It is a family friendly venue serving coffee and cold soft drinks and benefits from the availability of a pool table in a separate area away from the public bar.

Disabled clientele: It is the only public house with free entry in the immediate area (the clubs opposite charge for membership) that offers easy wheelchair access and this is popular with local people and their carers or friends who frequent the pub on a weekly basis. Neither The Castle Howard Ox nor Brigadier Gerard are wheelchair friendly.

Sports Teams: The pub has its own Darts team; Pool team; Dominoes Team and Golf Society. In addition it provides facilities for meetings and socials for teams from St John's University - specifically the football team and netball team. It has sponsored St Johns Rugby team in previous seasons. It has made a special difference in the integration of "town and gown" with students and Groves residents drinking and socialising side by side.

Due to the high standard of darts facilities - inter-county darts competitions are being planned for the forthcoming season. The bowls club opposite use the pub for refreshment after their bowls sessions due to its proximity and large size.

The large function rooms upstairs has been used for Karate instruction classes for local youths - providing them with a positive outlet and use of their time and combatting boredom and anti-social behaviour.

The large function room has also been used as a training facility for 3 day SIA door supervisor courses.

The permanent and irreversible loss of The Punch Bowl would leave a very big degradation of services in an area that already has lost 50% of its public houses.

2.4 The Punch Bowl provides facilities for the local community that are not available elsewhere within a reasonable distance

NPPF Paragraph 70: *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship)*

A large upstairs function room: with an integral bar that can be opened when appropriate. This facility is available to local community groups at no charge, based on them using the pub for alcoholic and non-alcoholic refreshments. It can also be hired for celebrations such as evening weddings receptions, birthday parties, sports club socials (St John's University) and is a viable alternative for those with limited budgets.

There are other facilities nearby that do not match The Punch Bowl's offering. The Conservative & Clarence Clubs opposite require a membership fee for use and/or charge for the hire of their facilities. The Castle Howard Ox does not have a function room of the size or scope to cater for larger parties. The Brigadier Gerard does not have a PRS licence so cannot offer such a facility. The local church hall offers space but is not as big and does not have a bespoke bar for serving draught alcoholic drinks for parties and celebrations - which The Punch Bowl does.

A large ground floor games room: with a pool table, and 2 county standard darts areas with designated oches. This provides both an ad-hoc outlet for local youths to spend their time and for

organised social events such as darts matches. The separate bar housed in the games room means that The Punch Bowl can cater for a large inter-pub darts event with gents and ladies teams on separate boards in a totally separate environment to the front bar, so that regular patrons aren't discouraged from drinking on such nights due to the noise. The front bar's quieter atmosphere is enhanced by being separate to the rear games facility.

Neither The Castle Howard Ox nor Brigadier Gerard has large games rooms with the breadth of facilities that The Punch Bowl offers.

In summary - no other local pub has 3 separate facilities in one building that can all be used at the same time by different groups.

An asset for local charities - fundraising

The Punch Bowl holds monthly charity events and concentrates on 2 nominated charities: St Martins Hospice and McMillan Cancer. It has raised significant amounts of money for each charity and will continue to do so. It has recently established strong links with York Partially Sited group as well. They would all lose out financially with the demise of The Punch Bowl.

2.5 The need for a community to have pubs within an acceptable walking distance

Paragraphs 70 (*local services to enhance the sustainability of communities and residential environments*) and 126 of the National Planning Policy Framework both make strong reference to the need for positive policies to provide community facilities, specifically referring to public houses as community facilities. Residents should not have to travel large distances to visit a public house or be forced to go into the city centre due to the lack of such facilities in their community.

A supermarket does not have the same place in society for community cohesion as a public house which, as demonstrated earlier in this document, is a very important focal point of the community.

The area surrounding The Punch Bowl is already not well served by a good variety and availability of public houses and risks becoming a pub desert.

- Taking the Punch Bowl, Castle Howard Ox, Brigadier Gerard & Tap & Spile - you have just 4 pubs serving 5762 adults in 2723 households in polling districts EA, EB, BA which form the local community.
- The Punch Bowl is one of only 2 pubs (inc. Castle Howard Ox) serving Wigginton Rd from the District Hospital, past the Crichton Avenue turning and up to No. 86. It is the last public house for 1.6 miles going towards Clifton Moor.
- The Punch Bowl is one of only 2 pubs (Castle Howard Ox) serving Haxby Rd - towards the bypass through New Earswick - The Punch Bowl is the last pub for 2.5 miles.

Communities should have amenities such as pubs as part of their immediate vicinity within reasonable walking distance. Residents in the Groves area should not have to travel into York itself to visit a public house, especially if they are not going out for a full evening and want a quiet pint maybe in the last hour before closing.

The removal, one by one, of pubs in this area makes that more of a possibility in the future.

3 Paragraph 200 of the National Planning Policy Framework is very clear that there are 2 reasons to consider issuing an Article 4 Direction - “to protect a local amenity or the wellbeing of the area”

In addressing separately the impact on *the wellbeing of the area* if Tesco replaces The Punch Bowl

- Appendix D: *In deciding whether an article 4 direction would be appropriate, local planning authorities should identify clearly the potential harm that the direction is intended to address.*
- NPPF: *guard against the unnecessary loss of valued facilities and services*
- NPPF Paragraph 70: *ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community*

1.1 Tesco represents a clear threat to the viability of existing established businesses

The potential harm of Tesco can be clearly articulated. Tesco has the financial buying power to offer goods that are already on offer within the immediate vicinity at prices that would undercut these businesses and put their viability at risk.

There is a delicate but successful economic ecosystem operating within the businesses in the area of The Groves and Lowther St. They offer a wide range of services and are mainly owned by private business people as opposed to large chains.

Based on the template of other Tesco stores in and around York, it would have a large stock of aggressively priced alcoholic drinks. This would be in direct competition with 4 other off-licences in the immediate area. Would the area be well served by a 5th off-licence?

It can be strongly argued Tesco would realise a significant market share fairly quickly and that not all of the current businesses would be financially sustainable in the medium term.

Tesco offers a wide ranging selection of pre-prepared sandwiches and accompanying snacks at competitive prices - which would be in direct competition to “Taste” - not 100yds away. It is impossible to imagine this not having a detrimental effect on an *established shop* as highlighted in NPPF Para.70.

Tesco offers a wide ranging selection of branded foodstuffs that would replicate Londis and Spa stores in the immediate area. Does the area have the capacity to sustain an additional supermarket? Given there is a finite total disposable income in the surrounding area, would the presence of a new Tesco just spread the same custom and available takings over 3 stores instead of 2? Would Tesco’s buying power enable them to offer prices that would secure a greater market share than Londis & Spa?

Consideration should also be given to the threat a new Tesco would pose to the pubs and clubs in the area that would be left.

Pubs have faced unprecedented challenges over the last few years with huge pressure coming from high rates of taxation on beer and spirits that cannot all be fully passed onto customers. This has been further exacerbated by the availability of cheap supermarket alcohol which has significantly further eroded pub income.

Since 1987, according to the BBPA, there has been a 187% increase in the price of beer in pubs compared to just a 52% increase in the price of beer sold through supermarkets and other off-licences.

People use cheap alcohol either to drink prior to going to the pub to reduce expenditure on a more expensive product; or just choosing to drink at home in direct preference to the pub due to it being a far cheaper alternative.

If, as expected, Tesco would undercut Londis and Spa with discounted alcoholic products then this would further accentuate the difference in cost between pub and supermarket alcohol and could put further pressure on public houses in the area with a further loss in trade.

In Summary

With direct relevance to what NPPF Para.70 states as *the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs* there is a compelling argument that the opening of Tesco would lead to more far reaching damage to *the wellbeing of the area* than just the loss of The Punch Bowl:

- Would there be a serious risk of the loss of "Taste" sandwich shop?
- A saturation of the same offerings causing the possible loss of either Londis, Townend St or Spa, Lowther St - due to replication of both foodstuffs and alcohol
- The possible loss of one of the two much smaller convenience stores and off-licences due to them being uncompetitive
- Even lower alcohol prices at Tesco that currently being offered at Londis or Spar eroding trade at the pubs and clubs that are left and possibly affecting their long term viability.
- The chip shop on Clarence St and Chinese takeaway and Indian restaurant on Lowther St will lose valuable late night trade from customers leaving The Punch Bowl. Customers leaving pubs & clubs boost the local economy, so if they are forced to drink elsewhere they will use other takeaways and restaurants in the proximity of those pubs rather than those in The Groves.

1.2 Tesco represents a threat to the social and mental health balance of the Groves area

Appendix D states: *...local planning authorities should identify clearly the potential harm that the direction is intended to address.*

The impact of another off-licence needs to be thoroughly scrutinised as part of a planning application by any prospective retailer, not just allowed to happen due to a perceived weakness in planning law - which can be addressed by an Article 4 direction.

The area surrounding the proposed new Tesco is York's central hub for Mental Health services.

There is not another area in York with a higher mental health sensitivity.

A new Tesco would have the closest off-licence proximity to **Arc Light** (drug & alcohol rehabilitation centre) that already has problems with patients buying alcohol from existing off licences; as well as **Bootham Park Hospital** (mental health in-patient and day services), **Sycamore House** (mental health day centre) and **98 Union Terrace** (community mental health team for North York)

A change of use from a public house to an off-licence would be a retrograde step. The advantage of a public house is that there is drinking housed in a managed environment, where a licensee can monitor patron's behaviour over a length of time and refuse service if necessary when people have reached their limit.

This would change to an off-licence serving significantly cheaper alcohol to be consumed off the premises not only in local homes but on the street. Given that the police are already active in working with existing off licences in the area to minimise drinking on the street, do they need an

additional outlet creating potentially more anti-social behaviour and creating a heavier workload to what they undertake at the moment?

If you look at the template that Tesco employs in other outlets such as Goodramgate, Piccadilly and Ouse Bridge there is an emphasis on promoting the sale of alcohol with as much shelf space dedicated to alcoholic products as almost the rest of foodstuffs and comestibles put together.

As recently as March 2014 councillors backed police calls to stop the opening of new pubs and off licences in York. The area is well served by existing amenities for off-sales. There are 4 retail outlets that already serve the area well for general groceries and alcoholic off-sales, whereas the Groves has already lost 2 public houses plus a social club to housing development and retail premises.

4 In Summary

Both Appendix D and NPPF give planning officers and elected officials plenty of scope with which to consider an Article 4 direction for The Punch Bowl, Lowther St, York.

Somewhat unusually, the opening of a Tesco supermarket on the site of The Punch Bowl provides the opportunity for highly persuasive arguments on both counts:

- The protection of a local amenity
- The protection of the wellbeing of the area

Although councils are averse to Article 4 directions on public houses, plenty of precedents have been set. To date, to our knowledge, there have not been any successful claims for compensation following an Article 4 direction.

When making recommendations to elected officials, we ask that planning officers take into account that we realise that an Article 4 direction may not prevent an eventual change of use, but we believe is a powerful tool in forcing Tesco or any other retailer to make a convincing case for their presence in a specific community on a case by case basis.

Yours sincerely

The patrons of The Punch Bowl, 134 Lowther St, York YO31 7ND

Signatures are supplied on the next 2 pages. There are a further 900 signatures that have been collected from Punch Bowl patrons that can be supplied to accompany this document.

We the undersigned wish to say no to Tesco and save the Punch Bowl.

Name	Address	Postcode	Signature
K. McLean	120A Huntington Rd	Y031 8RT	Kitching
N. Dobby	12 Ashville	Y031 8RT	N. Dobby
D SMITH	23 Ashville St	Y021 8RT	D. Smith
J. Ithen Pool	15 Oldington Rd	Y031 8RT	J. Ithen Pool
Summer Davey		Y031 0TP	Summer Davey
Brian Turner	47 Fountayne St	Y031 8TN	Brian Turner
Kathleen Turner	" " "	" "	K. E. Turner
Peter Burson	29 Fountayne St	Y031 8TN	Peter Burson
Jo Smart	22 Oakville Cr	Y031 8RP	Jo Smart
D. Nich	12 Sanford Rd	Y031 9AR	D. Nich
W. Nich	21, MARLBOROUGH ST	Y031 8JA	W. Nich
Lee Mearns	81 Bell Farm Ave	Y031-9A2	Lee Mearns
M. Mearns	28 Kitchener Street	Y031 8SA	M. Mearns
S. CROFT	19 Kitchener St	Y031 0RZ	S. Croft
MC CROFT	19 Kitchener St	Y031 8RZ	Mc Croft
J. Peck	Goldy Hall	Y032 9DT	J. Peck
T. WEMAN	7 Moor Close	Y019 6TA	T. Weman
C. Martin	11 Ashville Street	Y031 8RT	C. Martin
C. Murphy	95 Anthea Drive	Y031 9DX	C. Murphy
D. Ryan	15, KIRKHAM AVE	Y031 9AB	D. Ryan
John Hick	1 HACEY'S TERR	Y031 8SR	John Hick
Davey Telford	FOSSWAY	Y031 8ST	Davey Telford
Jana Mountain	32 Kitchener St	Y031 8SA	Jana Mountain
F. BUNDEED	21, DIAMOND ST	Y031 8LH	F. Bundeed
D. KNIGHTS	KIRKHAM RD	Y031 9AB	D. Knights
D. Brockell	141 Hunting Rd	Y031 8RU	D. Brockell
A.T. Wignall	5, Kitchener St	Y031 8RZ	A.T. Wignall
C. Hunter	FOSSWAY	Y031 8SP	C. Hunter
K. Hurstson	FOSSWAY	Y031 8SL	K. Hurstson
P. Mearns	12 CAMBRIDGE ST	Y024 4AT	P. Mearns
J. KINGSTON	23 Ashville	Y031 8RY	J. Kingston
B. HORTON	58 FOSSWAY	Y031 8SL	B. Horton
C. SINGH	12, Siropoca Court	Y031 8FE	C. Singh
A. J. Peery	107 Huntington Rd		A. J. Peery
S. CURCHER	330 BSL	Y030 6HA	S. Curcher
A. Callaghan	330 BSL	Y030 6HA	A. Callaghan

We the undersigned wish to say no to Tesco and save the Punch Bowl.

Name	Address	Postcode	Signature
A. Milson	13 Panic Era	YO31 8LC	
G. Fiddis	64 CLARENCE ST	YO37 5FE	
C. Wigglesworth	54 Foutayne St	YO31 8HL	
J. Cill	Huntington	YO31 90M	
E. Cassin	Union Terrace	YO31 7ES	
M. J. C. A. G. A. V. I. L. L.	CLARENCE ST-36A	YO31 7EW	
Bulent Cicak	72 Claren st	YO31 7EW	
Mally Sayer	Bungabu Mallo	YO19 5ug	
Saji P. Kuzian	56 Clarence	YO31 7EW	
Sam Kirk	29 Fursham ^{crust}		
John pro	6 Union Corn.	YO31 7EW	
Emily Peacock	40 Clarence St	YO31 7EW	
Jazmyrn Carr	"	"	
SPARTAK	L WIGINTON rd	YO3L 8HG	
Shed build	Munhigh	YO31 9AT	
Esmond Anwar	270 YO31 9B1	YO31 9B1	
K. P. R. O. S. E. R.	CARRAN	YO31	
D. BATTAMS	YO24 2UW		
M. A. C. T. I. O.	40 10 kur	45 hoops street	
R. WILLIS	YO31 8FG	64 Hanson place	
PHAN	YO31 AY	23 St Benedict's rd	
A. SHOHID.	1A Clarence St	YO.31 7EB	
C. Keen 0200	YO24 3DG	4 Howfield Terrace	
B. Moore	47 Grosvenor ^{terrace}	YO30 7AG	
G. Bali	110 fishergate	YO10 4BB	
L. Wilkeson	36 White Rose	YO32 4AT	
P. Torrejon	51A Tower St	YO31 7EG	
L. Cann	59 Clarence St	YO31 7EL	
J. Kingford	58 Kitchen St	YO31 8SA	
A. Harun	30 Redgrave Clx	YO31 8SX	
Sam Boden	15 Hewick Avenue	YO10 3TA	
RAJ ZAMM	33 Broomclose	YO32 9EH	
V. BARRETT	S, YO31 7LU	←	
Oliver Norbury	13, Neville Terrace	YO31 8NF	