

## **Licensing/Gambling Hearing**

**To:** Councillors Mason, Wells and Pavlovic  
**Date:** Monday, 26 February 2018  
**Time:** 10.00 am  
**Venue:** The King Richard III Room (GO49) - West Offices

### **A G E N D A**

#### **1. Chair**

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

#### **2. Introductions**

#### **3. Declarations of Interest**

At this point in the meeting, Members 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.

#### **4. Minutes (pages 9-34)**

To approve and sign the minutes of Licensing Hearings held on:

- 8 February 2018
- 9 November 2017
- 2 November 2017
- 4 September 2017
- 21 August 2017
- 17 July 2017
- 26 June 2017

#### **5. The Determination of an Application by Revolucion de Cuba Ltd for a Premises License (Section 18(3)(a)) in respect of New Street, York, YO1 8ND (CYC-060019) (pages 35-159)**

## Democracy Officer:

Name: Becky Holloway

Telephone – (01904) 553978

Email - [becky.holloway@york.gov.uk](mailto:becky.holloway@york.gov.uk)

For more information about any of the following, please contact the Democratic Services Officer above:

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

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## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR HEARINGS**

### **Introduction**

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

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

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

The purpose of the hearing is

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

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

### **Representations at Licensing Hearings**

The Applicant, Ward Councillors, and Representors who have made written submissions will be allowed to speak at the Sub-Committee. At

any hearing of an application, the Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee. A time limit has been set because of the pressures on the Sub-Committees to hear so many applications in a short period of time. **Each party will have 15 minutes to address the Sub-Committee, give any further information, and call any witnesses.** If any party considers this time to be insufficient then a request in writing may be made to the Democracy Officer for an extension of time at least 2 working days before the hearing. However, this will not be automatically granted and will be at the discretion of the Sub-Committee.

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

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

**The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may extend or expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be repeated or made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

A Representor **may not** introduce any new ground or objection not referred to in the written submission. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

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

### **Procedure prior to the Hearing**

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

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

### **Procedure at the Hearing**

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*], welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.

7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case [*maximum 15 minutes*].
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses [*maximum 5 minutes each party*]
  - (i) Police
  - (ii) Other Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.
12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case [*maximum 15 minutes each party*]
  - (i) Police
  - (ii) Other Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties
13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation [*maximum 5 minutes per Representor*].
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.

15. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*
  - (i) Police
  - (ii) Other Responsible Authorities
  - (iii) Ward Councillors
  - (iv) Interested Parties
16. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes]*.
17. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor *(if present)* on law and jurisdiction.
18. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and wait in reception while the Sub-Committee considers the evidence.

### **Procedure after the Hearing**

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

- paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
- paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
- paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

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



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- Applicant
- Representors & the relevant Responsible Authorities

City of York Council

Committee Minutes

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Meeting	Licensing/Gambling Hearing
Date	8 February 2018
Present	Councillors Funnell, Mason and Wells

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**29. Chair**

Resolved: That Cllr Mason be appointed as Chair for the hearing.

**30. The Determination of an Application by Revolucion de Cuba Ltd for Premises License (Section 18(3)(a)) in respect of New Street, York, YO1 8ND. (CYC-060019)**

The Chair reported that a procedural error had come to light that morning as the Applicant Company had been served with papers instead of their solicitors. The Applicants' solicitors had been contacted by telephone and confirmed to the Clerk that they were unaware of the hearing.

The hearing was adjourned until 10am on 26 February to enable Notice to be served correctly. All parties in attendance were informed of this date at the hearing.

Cllr A. Mason, Chair

[The meeting started at 10.00 am and finished at 10.05 am].

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Meeting	Licensing/Gambling Hearing
Date	9 November 2017
Present	Councillors Douglas (Chair), Looker and Reid

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**25. Chair**

Resolved: That Cllr Douglas be appointed as Chair for the hearing.

**26. Introductions****27. Declarations of Interest**

Members were asked to declare any personal interests not included on their Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda.

No additional interests were declared.

**28. The Determination of an Application by Deighton Lodge Ltd for a premises license Section 18(3)(a) in respect of Deighton Lodge, Rush Farm, York Road, Deighton, York, YO19 6HQ. (CYC-059320)**

Members considered an application by Deighton Lodge Ltd. For a premises license Section 18(3)(a) in respect of Deighton Lodge, Rush Farm, York Road, Deighton, York, YO19 6HQ.

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

1. The prevention of crime and disorder.
2. Public safety.

3. The prevention of public nuisance
4. The protection of children from harm

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

1. The application form.
2. The Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that there had been four representations received, that Public Protection and North Yorkshire Police had agreed mediated representations and that consultation had been carried out in accordance with the Licensing Act 2003.
3. The applicant's representations at the Hearing and those of Mr Alan Moore, her representative. The applicant advised that Deighton Lodge Ltd currently hosted 15 weddings a year licensed through temporary event notices (TENs) and that a planning application had been submitted to increase this number to 30 which would require a permanent licence. The applicant explained that she wished to serve food and drink in the garden upon the arrival of guests and to provide live music outside during wedding ceremonies and to accompany the serving of refreshments. She reported that wedding guests supported the local economy and that services brought in were sourced locally. The applicant was aware of previous complaints leading to a noise abatement notice but reported that the disuse of marquees and extensive work to the barn had resolved the sound-proofing problems and no complaints had since been received. Mr Moore reported that sound checks completed in the local vicinity during a wedding had confirmed the work had been successful. Finally, the applicant explained that she would be willing to agree conditions on the license to reduce the impact of the business on local residents.
4. The written representations made by Deighton Parish Council and Primrose Hill Farm which raised concerns about noise and disruption to local residents in the run up to, and during, events.

5. The representations made by Ms Broomer and Mr Morris in writing and by Ms Broomer and Cllr Mercer (on behalf of Mr Morris) at the Hearing. Cllr Mercer stated that noise nuisance came from guests' cars arriving and departing as well as from music during the event, and that the ambition to contain events solely within the barn was unrealistic as it was likely guests would wish to go outside during the evening. Ms Broomer reported additional problems including deliveries arriving at neighbouring addresses, poor security at the site during the day, several instances of loud music late into the night, increased litter, and highway safety concerns including a collision outside the venue. It was felt that the imposition of conditions would not provide sufficient mitigation of these issues.
6. The mediated representations made by North Yorkshire Police and CYC Public Protection who, combined, recommended a total of 12 conditions to reduce the impact on local residents including restrictions on time periods in which music could be played and food and drink could be served.

Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(4) of the Licensing Act 2003 which it considered necessary for the promotion of the Licensing Objectives:

- Option 1: Grant the licence in the terms applied for. This option was rejected.
- Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.
- Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was rejected.
- Option 4: Reject the application. This option was rejected.

***In coming to their decision of approving the above Option 2 the Sub-Committee imposed conditions 1-6 recommended by North Yorkshire Police and conditions 3-8 as***

***recommended by CYC Public Protection Unit. The Sub-Committee also imposed the following additional conditions:***

<b>Proposed Activity</b>	<b>Timings</b>
Live Music shall be indoors only	Friday, Saturday & Sunday and Bank Holiday Monday 10:00 – 23:00
Recorded Music shall be indoors only	Friday, Saturday & Sunday 10:00 – midnight  Bank Holiday Monday 10:00 – 23:00
Late Night Refreshment indoors only	Friday, Saturday & Sunday 23:00 – midnight
Sale of alcohol (on sales)	Friday, Saturday & Sunday 10:00 – midnight  Bank Holiday Monday 10:00 – 23:00
Opening times	Friday, Saturday & Sunday 09:00 – 00:30  Bank Holiday Monday <b>10:00 – 23:00</b>

- No music (live, recorded, or amplified) to be played outside the barn at any time.
- No late-night refreshments to be sold or served outside the barn.
- The contact details for the wedding co-ordinator shall be provided to Deighton residents prior to any events taking place (together with any changes to those details) and the



wedding co-ordinator shall be contactable by Deighton residents for the duration of all events held at the venue.

The Sub-Committee took into account the representations regarding public nuisance from the premises but felt that the imposition of suitable and proportionate conditions would enable weddings to continue while protecting local residents. The Sub-Committee attached great weight to the fact that the Council's Public Protection Unit and Police had not raised concerns that the licence should not be granted. They also considered that the applicant was able to offer evidence that activity leading to previous complaints had since been discontinued or appropriately adapted. Concerns raised about the noise of cars arriving and departing would be reduced through the earlier finish time, and the prevention of serving refreshments and playing music outside would minimise nuisance noise to the surrounding area.

The Sub-Committee concluded that the application was acceptable with the above mandatory and additional conditions attached which addressed representations made both in writing and at the hearing, as it met all the licensing objectives.

The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

Cllr Douglas, Chair

[The meeting started at 10.00 am and finished at 11.55 am].

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Meeting	Licensing/Gambling Hearing
Date	2 November 2017
Present	Councillors Crisp, Richardson and Looker (Chair)

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**20. Chair**

Resolved: That Cllr Looker be appointed as Chair for the hearing.

**21. Introductions****22. Declarations of Interest**

Members were 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 the agenda.

No additional interests were declared.

**23. Minutes**

The minutes were deferred to a future hearing when those who had been present at the meetings were in attendance.

**24. The Determination of an Application by RJJ Morwood-Leyland for a Temporary Event Notice Section 105 (2)(a) in respect of The Crescent Community Venue, 8 The Crescent, York, YO24 1AW. (CYC-CYC-001538)**

Members considered an application by Mr RJJ Morwood-Leyland for a Temporary Event Notice Section 105(2)(a) in respect of The Crescent Community Venue, 8 The Crescent, York, YO24 1AW.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objective was relevant to the Hearing:

1. The prevention of public nuisance.

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were

presented, and determined their relevance to the issues raised and the above licensing objective, including:

1. The application form
2. The Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that consultation had been carried out in accordance with the Licensing Act 2003.
3. The applicant's representations at the Hearing and those of his representatives Mr Harkirit Singh Bopari and Ms Morwood-Leyland. They advised that the two events would include an International DJ night held on Friday and a student night held on Saturday. It was explained that the applicant had acknowledged mistakes made at a previous event regarding sound control that led to a complaint from a local resident and that steps had been put in place to mitigate the likelihood of this reoccurring. These steps were included in the applicant's written representations and included insulation and sealing of a firedoor, the recruitment of an in-house sound engineer, and new electronic equipment for undertaking accurate sound checks. It was explained that the event in question had been fully booked out and that not going ahead would have negative consequences for the venue and the event's promoter.
4. The representations made by the Environmental Protection Unit at City of York Council, in writing and at the hearing. They stated that they had been encouraged by the attitude of the applicant and what had been done to improve sound control to date. However, they considered that work was still needed to soundproof the roof and to replace the firedoor and that there was consequently a risk of noise nuisance during the proposed events. They explained that if a noise abatement notice was served as a result of a complaint on either of the events covered by the TEN this would limit the remit of the support that the applicant could access from EPU and that the safer option would be to postpone the events until after the full scheme of works had been completed.

Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 105 of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

**Option 1:** Modify the terms of the TEN if agreed by the relevant persons and the applicant prior to the hearing being held or dispensed with pursuant to S106. This option was **rejected**,

**Option 2:** Issue a counter notice refusing authorisation of the TEN. This option was **rejected**,

**Option 3:** Choose not to issue a counter notice. This option was **approved**.

In coming to their decision of approving the above **Option 3** the Sub-Committee was satisfied that allowing the temporary event to take place would not undermine the licensing objective of preventing public nuisance. The Sub-Committee was mindful that only one formal complaint had been received in the previous two years and that the applicant had acknowledged the mistakes made and had put in place measures to reduce the likelihood of these reoccurring. The Sub-Committee also took into account confirmation from the EPU representative that through use of a noise limiter the noise level of the proposed event could be controlled by the applicant, and the applicant's undertaking to carry out noise monitoring during the event using a noise limiter set at an appropriate level to seek to prevent noise nuisance. The Sub-Committee was satisfied that although the applicant would not have completed the programmed soundproofing works to the roof and fire door by the time of this event, the applicant had demonstrated that he would manage the noise levels responsibly and that the applicant understood the serious consequences for any future events should any public nuisance occur during this event.

The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

The Sub-Committee also asked the applicant to note the following points:

- An earlier submission of the TEN application with a longer lead-in time for the event may have made it easier for the applicant to mitigate against the points raised by the objector.
- Should the event, licensed under the TEN, lead to a noise abatement notice being served this would have serious consequences for the business and would reduce the level of support available to the applicant from EPU officers.

Councillor Looker, Chair

[The meeting started at 10.00 am and finished at 11.35 am].

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Meeting	Licensing Hearing
Date	4 September 2017
Present	Councillors Gillies, Orrell and Taylor

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**16. Chair**

Resolved: That Councillor Gillies be appointed to Chair the meeting.

**17. Introductions****18. Declarations of Interest**

Members were 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 the agenda.

Councillor Gillies declared a personal, non-pecuniary interest as one of the representors had been Leader of the Labour Group when he was Leader of the Conservative Group.

**19. The Determination of an Application by Make it York for a Premises Licence Section 18 (3) (a) in respect of Shambles Market, York, YO1 8RY (CYC-058836)**

Members considered an application by Make it York for a Premises Licence Section 18(3)(a) in respect of Shambles Market, York, YO1 8RY.

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

- The prevention of public nuisance
- The prevention of crime and disorder

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were

presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form, in particular the existing licence conditions and the additional steps agreed to be taken by the applicant to promote the four licensing objectives.
2. The Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that the premises were inside the special policy area (as approved by Full Council on 27 March 2014) and that consultation had been carried out in accordance with the Licensing Act 2003.
3. The applicant's representations at the Hearing and those of Chris Price – Head of City Centre for Make it York. They advised that they were aware this application fell within the special policy area and the implications of this. With this in mind they had consulted with North Yorkshire Police and the Licensing Officer to agree additional conditions listed on the application form.
4. The three written representations received from residents.

In respect of the proposed licence, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 35(4) that it considered necessary for the promotion of the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

**Option 1:** Grant the licence in the terms applied for and including any applicable mandatory conditions of the Licensing Act 2003. This option was **rejected**.

**Option 2:** Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003. This option was **approved** with the following modified conditions:

- All alcohol sales to be ancillary to meals
- No off sales to be permitted



- Hours of operation will be 12:00-21:00 for all licensable activities
- Toilets to be opened until 21:00 for the duration of all events
- The licensable area will be as shown on the amended map (attached).

**Option 3:** Grant the licence to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions of the Licensing Act 2003 as amended. This option was **rejected**.

**Option 4:** Reject the application. This option was **rejected** as the Sub-Committee saw no reason to reject the application based on the Licensing Objectives and City of York Council Licensing Policy.

The Sub-Committee noted the residents' concerns as to the potential effect of the premises on the special policy area. Having applied the policy, the Sub-Committee noted that the applicant was required to establish that the application would not add to or increase issues already experienced in the area. The Sub-Committee considered this point very carefully and in coming to their decision to approve Option 2, the Sub-Committee was mindful of the fact that no representations had been received from responsible authorities. They had concerns over the 'cobbled area' outside of the food court attracting groups of people who would be vertical drinking and so amended the licensable area and conditioned that alcohol only be served ancillary to meals to prevent vertical drinking and to ensure that the premises would be food-led. They felt that off sales were not suitable in this part of the City Centre as they may contribute to anti social behavior issues. Hours of operation were reduced to 12:00-21:00 for all licensable activities, given that this was a residential area and to minimise public nuisance. It was conditioned that the public toilets on Silver Street be opened for the duration of all events running to 21:00, with an informative that toilets could be opened at all other times alcohol was being served to reduce instances of anti-social behavior as detailed in the written representations.

The Sub-Committee considered that the application with above modified and additional conditions would not add to or increase issues already experienced in the area or undermine the promotion of the licensing objectives. Accordingly, in all of the

circumstances of the case it was felt that the decision of the Sub-Committee was reasonable and proportionate. All conditions offered by the Applicant in the application, including the operating schedule, for granting the premises licence under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

The Sub-Committee concluded that the application was acceptable with the above mandatory conditions attached which addressed representations made in writing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

Councillor Gillies, Chair

[The meeting started at 10.00 am and finished at 11.00 am].

Meeting	Licensing Hearing
Date	21 August 2017
Present	Councillors Douglas, Mason and Pavlovic

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**11. Chair**

Resolved: That Councillor Mason be appointed to Chair the meeting.

**12. Introductions****13. Declarations of Interest**

Members were 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 the agenda. None were declared

**14. Minutes**

Resolved: That the minutes of the Licensing Hearing held on 26 June and the Taxi Licensing Hearing held on 17 July be approved as a correct record and signed by the Chair.

**15. Determination of an Application by Mr Shaun Binns & Mrs Jamie-Leigh Binns for a Premises Licence Section 18(3)(a) in respect of 7 Kings Staith, York, YO1 9SN (CYC-058743)**

Members considered an application by Shaun Binns and Mrs Jamie-Leigh Binns for a Premises Licence Section 18(3)(a) in respect of 7 Kings Staith, York, YO1 9SN.

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

1. Prevention of public nuisance.
2. Prevention of crime and disorder.

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

1. The application form.
2. The Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that the premises were inside the special policy area (as approved by Full Council on 27 March 2014) and that consultation had been carried out in accordance with the Licensing Act 2003.
3. The applicants representations at the Hearing. They advised that they only intend to serve alcohol from 8 am to residents with breakfast, for example a champagne or bucks fizz breakfast . Furthermore, the applicants stated that they intended to operate the premises as a bistro, that all the tables would be waiter/waitress served and that they had agreed to all the police requirements regarding door staff. With 30 indoor covers, the premises would not be able to accommodate groups of people vertical drinking.
4. The representations made in writing and at the hearing by a local resident. He felt that the applicant had addressed his concerns regarding the serving of alcohol from 8.00 am as this would be indoors only before 10am. However, he was opposed to vertical drinking and felt that the premises should be required to remain as a restaurant.

In respect of the proposed licence, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 35(4) that it considered necessary for the promotion of the licensing objectives.

Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

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

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

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

Option 4: Reject the application. This option was **rejected**.

In agreeing **Option 2**, any applicable mandatory conditions of the Licensing Act 2003 as amended were imposed on the licence together with the 21 conditions proposed by the applicant's operating schedule (as set out in paragraphs 9, 10 and 11 of the Licensing Officer's report) subject to the following modifications:

- Change 9 b) to: There shall be a minimum of 30 table covers available indoors at all times the premises are trading.
- Change 9c) to: 'Customers shall be served by way of waiter/waitress service only'.

The following additional condition was also imposed on the licence:

Between the hours of 08:00 and 10:00 each and every day alcohol shall only be served ancillary to the provision of food.

The Sub-Committee noted the local resident's concerns as to the potential effect of the premises on the special policy area. Having applied the policy, the Sub-Committee noted that the applicant was required to establish that the application would not add to or increase issues already experienced in the area. The Sub-Committee considered this point very carefully and determined that given the absence of representations from responsible authorities that this was not likely. The Sub-Committee noted the operating schedule and considered that it had received sufficient assurances from the applicant in order to have a high level of confidence that the premises would be operated responsibly and that the application with the mandatory and above modified and additional conditions would not add to or increase issues already experienced in the area or

undermine the promotion of the licensing objectives. Accordingly, in all of the circumstances of the case it was felt that the decision of the Sub-Committee was reasonable and proportionate. They reminded the applicant of the necessity of complying with all of the conditions.

The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

Councillor Mason, Chair

[The meeting started at 10:00 and finished at 11:00].

Meeting	Licensing/Gambling Hearing
Date	17 July 2017
Present	Councillors Hayes, Mason and Looker

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**6. Chair**

Resolved: That Councillor Mason be appointed to Chair the meeting.

**7. Declarations of Interest**

Members were 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 the agenda. None were declared.

**8. Exclusion of Press and Public**

Resolved: That the press and public be excluded from the meeting during consideration of agenda item 5 (minute 10 refers) on the grounds that it contained information relating to an individual. This information is classed as exempt under paragraphs 1 and 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006.

**9. Minutes**

Resolved: That the minutes of the Environment Appeals panels held on 20 February be approved as a correct record and signed by the Chair.

**10. Appeal against Revocation of Private Hire Driver's Licence**

Members considered an appeal against the decision to revoke a private hire driver's licence.

Consideration was given to the oral and written representations from both parties.

Resolved: That the decision to revoke the private hire driver's licence be upheld.

Reason: Having considered all the information before them the Sub-Committee felt there were no special circumstances to deviate from Council policy in this instance.

Councillor Mason, Chair

[The meeting started at 10.05 am and finished at 11.15 am].



Meeting	Licensing Hearing
Date	26 June 2017
Present	Councillors Douglas, Mercer and Looker

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**1. Chair**

Resolved: That Councillor Douglas be elected to Chair the meeting.

**2. Introductions**

**3. Declarations of Interest**

Members were 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. None were declared.

**4. Minutes**

Resolved: That the minutes of the Licensing Hearings held on the 27 February and 15 May 2017 be approved as a correct record and signed by the Chair.

**5. Determination of an Application by Punch Taverns Plc for Variation to Premises Licence Section 35 (3)(a) in respect of Fulford Arms, 121 Fulford Road, York, YO10 4EX (CYC-008985)**

Members considered an application by Punch Taverns Plc for Variation to Premises Licence Section 35 (3) (a) in respect of Fulford Arms, 121 Fulford Road, York, YO10 4EX.

In considering the application, and the representations made, the sub-Committee concluded the following licensing objectives were particularly relevant to this hearing:

3. The prevention of public nuisance.

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

1. The application form, in particular the existing licence conditions and the additional steps agreed to be taken by the applicant in the operating schedule for the current licence to promote the four licensing objectives.
2. The Licensing Officer's report and her comments made at the Hearing. She outlined the application and advised that consultation had been carried out in accordance with the Licensing Act 2003. She also highlighted that there had been no representations made by responsible authorities and that three of the five written representations received from other persons had been withdrawn. In relation to the second bullet point of paragraph 5 of her report, the Licensing Officer clarified that the application is to remove condition 8 and not condition 7.
3. The applicants representations at the Hearing, and those of their solicitor. The solicitor stated that the applicants had been operating for three and a half years and that the change of use had been 'organic', with music and events becoming a more significant part of the business. There was a community focus to these events, with many being for charitable purposes. There were occasional outdoor events but these were covered by Temporary Event Notices (TENs). It was felt that the outdoor events may be where some of the issues highlighted in the written representations had stemmed from. There had only been one complaint in respect of noise made to the Environment Protection Unit (EPU) which was over 12 months old. This had been due to a door being left ajar and this had been rectified immediately, with no complaints since. The applicants had provided all those living in the block of flats opposite the premises with contact telephone numbers to use should they have any complaints. As none had been received, the applicants were confident that there was no disturbance from recorded music. The solicitor also advised the sub-committee that the applicants were withdrawing their application for live music until 02:00.

4. The two of the five representations received in writing that had not been withdrawn (being those at pages 61 to 62 and 68 of the Agenda papers).

In respect of the proposed variations to the licence, the Sub-Committee had to determine whether to take any of the steps mentioned under Section 35(4) that it considered necessary for the promotion of the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

**Option 1:** Grant the variation to the licence in the terms applied for (which application excludes any variation to the current timings for live music) and including any applicable mandatory conditions of the Licensing Act 2003. This option was **approved**.

**Option 2:** Grant the variation to the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003. This option was **rejected**.

**Option 3:** Grant the variation to the licence to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions of the Licensing Act 2003 as amended. This option was **rejected**.

**Option 4:** Reject the application. This option was **rejected** as the Sub-Committee saw no reason to reject the application based on the Licensing Objectives and City of York Council Licensing Policy. The varied licence shall be subject to all the other conditions and the operating schedule for the current licence.

In coming to their decision to approve Option 1, the Sub-Committee was mindful of the fact that no representations had been received from responsible authorities and that three of the written representations received had been withdrawn before the hearing due to their concerns being addressed by the applicants. Outdoor events would be covered by Temporary Event Notices and the applicants had been proactive in writing

to significant numbers of local residents to inform them on the previous occasions where such events had taken place. There were several measures in place to minimise disturbance to local residents including temporary glazing and sole use of a side door when live music was taking place. They also noted that the applicants had withdrawn the application for live music until 02:00, which addressed many of the issues contained in the written representations.

The Sub-Committee concluded that the application was acceptable with the above mandatory conditions attached which addressed representations made both in writing and at the hearing, as it met all the licensing objectives. The Sub-Committee made this decision taking into consideration the representations, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

Councillor Douglas, Chair

[The meeting started at 10.15 am and finished at 11.15 am].



## Licensing Act 2003 Sub Committee

26 February 2018

Report from the Assistant Director – Planning & Public Protection

### **Section 18(3) (a) Application for a premises licence for Revolucion de Cuba, New Street, York, YO1 8ND**

#### **Summary**

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-060019
3. Name of applicant: Revolucion de Cuba Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application: The proposal is to allow for the provision of the following activities:

<b>Proposed Activity</b>	<b>Timings</b>
Live Music (indoors)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00
Recorded Music (indoors)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00
Performances of Dance (indoors)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00

Late Night Refreshment (indoors)	Sunday to Wednesday 23:00 – 00:30 Thursday 23:00 – 01:30 Friday & Saturday 23:00 – 02:30
Sale of alcohol (on & off sales)	Sunday to Wednesday 10:00 – 00:00 Thursday 10:00 – 01:00 Friday & Saturday 10:00 – 02:00
Opening times	Sunday to Wednesday 10:00 – 00:30 Thursday 10:00 – 01:30 Friday & Saturday 10:00 – 02:30
Non-Standard Timings for all licensable activities	From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.  An additional hour on the evenings preceding a Bank Holiday.  An additional hour on the day British Summer Time begins.

### **Background**

6. A copy of the application is attached at Annex 1. A copy of the plan of the premises is attached at Annex 2.

### **Promotion of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

8. General

- 1) Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the licensing objectives.

9. The prevention of crime and disorder

- 1) A CCTV system shall be maintained and operated at the premises with cameras positioned both internally and externally.
- 2) Recorded CCTV images will be maintained and stored for a period of 28 days and shall be produced to the Police or Licensing Authority upon request.
- 3) CCTV will be in operation at any time a person is in the premises. 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 PC or DVD player.
- 4) Any person left in charge of the premises must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.
- 5) SIA registered door supervisor(s) will be employed every Friday and Saturday from 21:00 until close. At all other times SIA registered door supervisor(s) shall be employed at the premises at such times and in such numbers as a risk assessment, to be carried out by the DPS, deems necessary to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity. When employed, door staff will wear high visibility armbands.
- 6) SIA registered door supervisor(s) will be employed on all race days (unless prior consent has been obtained from the police that SIA are not required), from 17:00 until close.
- 7) When employed, a register of those door staff employed shall be maintained at the premises and shall include:
  - i. The number of door staff on duty;
  - ii. The identity of each member of door staff;
  - iii. The times the door staff are on duty.
- 8) Staff will be trained in the laws relating to underage sales, and that training shall be documented and repeated at 6 monthly intervals.
- 9) A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.
- 10) A representative of the premises will engage in any Pub Watch arrangement.

- 11) A member of staff will be responsible for monitoring the toilets on a regular basis from 19:00 to close Thursday to Saturday.
- 12) A full meals menu and waiter/waitress service shall be available at the premises.

10. Public Safety

- 1) A first aid box will be available at the premises at all times.
- 2) Regular safety checks shall be carried out by staff.
- 3) Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
- 4) The premises shall maintain an Incident Log and public liability insurance.
- 5) One pint and half pint capacity drinking glasses and highball tumblers shall be of strengthened glass.

11. The Prevention of Public Nuisance

- 1) Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
- 2) No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to nuisance.
- 3) The exterior of the building shall be cleared of litter at regular intervals.
- 4) Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.
- 5) Doors and windows at the premises will be closed, after 23:00 daily, save for access and egress.
- 6) A Dispersal and Smoking Policy will be implemented and adhered to (Policies attached to the application).
- 7) The emptying of bins into skips, and refuse collections will not take place between 23:00 and 07:00.
- 8) The external roof terrace area shall not be used outside the hours of 11:00 and 23:00 daily. Staff and door staff (when employed) shall assist with the orderly clearing of the area prior to 23:00 daily.



- 9) There shall be no external regulated entertainment.
- 10) The doors to the external roof terrace area shall be kept closed between 11:00 and 23:00 daily, save for access and egress and shall be kept closed between 23:00 and 11:00 daily except in an emergency.
- 11) The number of customers in the external roof terrace area shall not exceed 84 at any one time.
- 12) There will be no public access into the external area at ground floor level on New Street when the premises are closed.

12. The protection of children from harm

- 1) A “Challenge 21” Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 21. The only acceptable forms of ID are photographic driving licences, passports, HM forces warrant cards, EU/EEA national ID card or similar document or form of identification with the “PASS” hologram.
- 2) Staff training will include the “Challenge 21” Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

**Special Policy Consideration**

13. This premise is located within the special policy area approved by full council on 27 March 2014. A copy of the policy is attached at Annex 3.

**Consultation**

14. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory

requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.

15. All procedural aspects of this application have been complied with.

### **Summary of Representations made by Responsible Authorities**

16. North Yorkshire Police have made a representation on the grounds that the licensing objectives, Prevention of Crime and Disorder and Prevention of Public Nuisance will be undermined by the granting of this application. The grounds for representation are:

- 1) The application relates to a new premises licence in respect of a bar / restaurant in the centre of York's Cumulative Impact Zone (CIZ). An area which City of York Council has identified as being under stress from crime and disorder and public nuisance in its Statement of Licensing Policy.
- 2) The location of the premises is on New Street, covering three floors including a roof terrace. The venue has a substantial open floor plan, and has applied to be licensed until 02:30 hours on a Friday and Saturday. The venue lies within a "hotspot Zone" surrounded by five licensed premises and a boutique hotel (Judges Court) which is adjacent to the site. The applicant seeks opening hours on a Friday and Saturday of 02:30 hours, which is common for vertical drinking establishments and late night refreshment venues, but it is uncommon for a restaurant.
- 3) The applicant has not provided any information as to why this application should be considered to be an exception to the CIZ policy and the applicant should demonstrate specifically, if they are to be issued a premises within the CIZ, how they would actively promote the licensing objectives. Until this is demonstrated, the licensing policy advises that any application for an alcohol licence should be rejected.
- 4) The plan shows a number of design and layout weaknesses, namely:-
  - Recessed ground floor outside drinking area (noise leakage, management by door staff eg pinch point at the main entrance).
  - Live highway directly outside premises (outside foot street hours).
  - Neighbouring pavement cafes.

- Toilets on first floor (no natural surveillance to mitigate crime and disorder).
  - External roof top terrace (capped capacity of 84 persons, management of public nuisance and noise, smoking after 23:00hours when it must close).
  - Ground floor consists of a large open space (no fixed seating which means seating can be removed to enable vertical drinking).
  - Substantial bar on ground floor (not commonly associated with a server point in a restaurant).
- 5) The conditions within the operating schedule appear generic and not tailored counter the problems associated with York city centre, more specifically they do not deal with how they seek to promote the licensing objectives within the CIZ in line with the licensing policy.
- 6) Negative impact that adding yet another large capacity venue in the heart of York's CIZ will have on current multi-agency initiatives set-up to tackle York's current issues within the city's day and night-time economy.
17. The Police representation is attached at Annex 4.
18. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the licensing objectives of both prevention of crime and disorder and prevention of public nuisance. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIZ.
19. The Licensing Authority representation is attached at Annex 5.
20. City of York Council Public Protection (Environmental Protection) made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence were to be granted in the terms applied for. Public Protection withdrew the representation after mediation with the applicant who agreed the following conditions be attached to the licence if granted:
- 1) Electronically amplified music emitted from the rooftop bar shall be played or reproduced through loud speakers and a tamper proof noise limitation device.

- 2) A direct contact number for the duty manager shall be made available to nearby premises on request.
  - 3) Any complaints received from local premises to be acted upon immediately.
  - 4) Any noise complaints to be logged in a log book and actions taken also logged.
  - 5) The log book shall be made available to the local authority on request.
21. The Public Protection representation and agreement is attached at Annex 6.

### **Summary of Representations made by Other Parties**

22. Relevant representations have been received from two other parties. The first representation is from a York resident and is attached at Annex 7. The second representation is from a hotel adjacent to the subject premises and is attached at Annex 8. Both representations are on the grounds that if the licence were to be granted it would undermine the licensing objective of prevention of public nuisance and would add to the problems already experienced by the number of licensed premises within the CIZ.
23. A map showing the general area around the venue is attached at Annex 9.

### **Planning Issues**

24. There are no outstanding planning issues.

### **Options**

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

### **Analysis**

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

### **Council Plan**

35. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
36. The promotion of the licensing objectives will support the Council's Plan for a prosperous city for all and a council that listens to residents.

### **Implications**

37.
  - **Financial** - N/A
  - **Human Resources (HR)** – N/A
  - **Equalities** – N/A
  - **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
  - **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.

- **Information Technology (IT)** – N/A
  - **Property** – N/A
- Other** – none

### **Risk Management**

38. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
39. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

### **Recommendations**

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

### **Contact Details**

**Author:**

Lesley Cooke  
Licensing Manager

Tel No. 01904 551515

**Chief Officer Responsible for the report:**

Mike Slater  
Assistant Director for Planning and Public Protection.

**Report  
Approved**

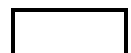


**Date** 22/01/2018

**Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Guildhall**



**For further information please contact the author of the report**

**Background Papers:**

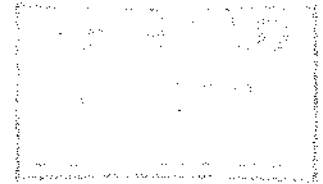
- Annex 1** - Application form
- Annex 2** - Plan of premises
- Annex 3** - Special Policy
- Annex 4** - North Yorkshire Police Representation
- Annex 5** - Licensing Authority Representation
- Annex 6** - Public Protection Representation & Mediated Conditions
- Annex 7** - Resident Representation
- Annex 8** - Hotel Representation
- Annex 9** - Map of area
- Annex 10** - Mandatory Conditions
- Annex 11** - Legislation and Policy Considerations

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Receipt paid by  
Card and emailed  
to solicitor on  
20/12/17

End of Reqs  
10/01/18  
17



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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Revolucion De Cuba Limited

*(Insert name(s) of applicant)*

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

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description Revolucion De Cuba (former BHS Store), New Street			
Post town	York	Postcode	YO1 8ND

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£Unknown

Part 2 – Applicant details

Please state whether you are applying for a premises licence as      Please tick as appropriate

- a) an individual or individuals \*       please complete section (A)
- b) a person other than an individual \*
  - i as a limited company/limited liability partnership       please complete section (B)
  - ii as a partnership (other than limited liability)       please complete section (B)
  - iii as an unincorporated association or       please complete section (B)
  - iv other (for example a statutory corporation)       please complete section (B)
- c) a recognised club       please complete section (B)
- d) a charity       please complete section (B)

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

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

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

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth over		I am 18 years old or		<input type="checkbox"/> Please tick yes	
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
-----------------------------	------------------------------	-------------------------------	-----------------------------	--------------------------------	--

<b>Surname</b>		<b>First names</b>	
<b>Date of birth over</b>		I am 18 years old or <input type="checkbox"/> Please tick yes	
<b>Nationality</b>			
Current postal address if different from premises address			
Post town		Postcode	
<b>Daytime contact telephone number</b>			
<b>E-mail address (optional)</b>			

**(B) OTHER APPLICANTS**

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

<b>Name</b> Revolucion De Cuba Limited
<b>Address</b> 21 Old Street, Ashton-under-Lyne, OL6 6LA
<b>Registered number (where applicable)</b> 08838595
<b>Description of applicant (for example, partnership, company, unincorporated association etc.)</b> Private limited company
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD	MM	YYYY
1	6	012018

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

DD	MM	YYYY

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

Cuban themed bar and restaurant.

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

--

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

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

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

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



Supply of alcohol (if ticking yes, fill in box J)



**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 4)		
Tue					
Wed			<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat					
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon					
Tue					
Wed			<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			Please give further details (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 5)
Wed			
Thur			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 6)
Fri			
Sat			
Sun			



**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon					
			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)		
Tue					
			<b><u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Wed					
Thur					
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place <u>indoors or outdoors or both</u> -- please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	10:00	00:00	<b>Please give further details here</b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	10:00	00:00			
Wed	10:00	00:00	<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5)		
Thur	10:00	01:00			
Fri	10:00	02:00	<b>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)  From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.  An additional hour on the evenings preceding a Bank Holiday.  An additional hour on the day British Summer Time begins to disapply its effect.		
Sat	10:00	02:00			
Sun	10:00	00:00			

## F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon	10:00	00:00			
Tue	10:00	00:00			
Wed	10:00	00:00	<b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 5)		
Thur	10:00	01:00			
Fri	10:00	02:00	<b>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat	10:00	02:00	From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
Sun	10:00	00:00	An additional hour on the evenings preceding a Bank Holiday.		
			An additional hour on the day British Summer Time begins to disapply its effect.		

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	10:00	00:00	<b>Please give further details here</b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	10:00	00:00			
Wed	10:00	00:00	<b>State any seasonal variations for the performance of dance.</b> (please read guidance note 5)		
Thur	10:00	01:00			
Fri	10:00	02:00	<b>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</b> (please read guidance note 6)  From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.  An additional hour on the evenings preceding a Bank Holiday.  An additional hour on the day British Summer Time begins to disapply its effect.		
Sat	10:00	02:00			
Sun	10:00	00:00			

**H**

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<p><b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)</p>	Indoors	<input checked="" type="checkbox"/>
Mon	10:00	00:00		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	10:00	00:00	<p><b><u>Please give further details here</u></b> (please read guidance note 4)</p>		
Wed	10:00	00:00			
Thur	10:00	01:00	<p><b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)</p>		
Fri	10:00	02:00			
Sat	10:00	02:00	<p><b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)</p>		
Sun	10:00	00:00	<p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>An additional hour on the evenings preceding a Bank Holiday.</p> <p>An additional hour on the day British Summer Time begins to disapply its effect.</p>		

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	23:00	00:30	<b>Please give further details here</b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	23:00	00:30			
Wed	23:00	00:30	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
Thur	23:00	01:30			
Fri	23:00	02:30	<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 6)  From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.  An additional hour on the evenings preceding a Bank Holiday.  An additional hour on the day British Summer Time begins to disapply its effect.		
Sat	23:00	02:30			
Sun	23:00	00:30			

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	10:00	00:00			
Tue	10:00	00:00			
Wed	10:00	00:00			
Thur	10:00	01:00			
Fri	10:00	02:00			
Sat	10:00	02:00			
Sun	10:00	00:00	<p><b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6)</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>An additional hour on the evenings preceding a Bank Holiday.</p> <p>An additional hour on the day British Summer Time begins to disapply its effect.</p>		

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

Name
Date of birth
Postcode
Personal licence number (if known)
Issuing licensing authority (if known)



K:

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

n/a

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<u>State any seasonal variations</u> (please read guidance note 5)
Day	Start	Finish	
Mon	10:00	00:30	<p><b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 6)</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p> <p>An additional hour on the evenings preceding a Bank Holiday.</p> <p>An additional hour on the day British Summer Time begins to disapply its effect.</p>
Tue	10:00	00:30	
Wed	10:00	00:30	
Thur	10:00	01:30	
Fri	10:00	02:30	
Sat	10:00	02:30	
Sun	10:00	00:30	



Please see attached operating schedule and policies.

**Checklist:**

**Please tick to indicate agreement**

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

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

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

**Part 4 – Signatures** (please read guidance note 11)

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

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

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

Please see attached operating schedule and policies.

**b) The prevention of crime and disorder**

Please see attached operating schedule and policies.

**c) Public safety**

Please see attached operating schedule and policies.

**d) The prevention of public nuisance**

Please see attached operating schedule and policies.

**e) The protection of children from harm**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)</li> </ul>
<b>Signature</b>	Kuit Steinart Levy LLP
<b>Date</b>	18 December 2017
<b>Capacity</b>	Solicitors and Authorised Agents

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

<b>Signature</b>	
<b>Date</b>	
<b>Capacity</b>	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) Kuit Steinart Levy LLP, 3 St Mary's Parsonage			
<b>Post town</b>	Manchester	<b>Postcode</b>	M3 2RD
<b>Telephone number (if any)</b>	0161 838 7888		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) rebeccaingram@kuits.com			

#### Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. In terms of specific regulated entertainments please note that:

**OPERATING SCHEDULE**

**REVOLUCION DE CUBA, NEW STREET, YORK**

Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the Licensing Objectives.

**A) The Prevention of Crime and Disorder**

1. A CCTV system shall be maintained and operated at the premises with cameras positioned both internally and externally.
2. Recorded CCTV images will be maintained and stored for a period of twenty-eight days and shall be produced to the Police or Licensing Authority upon request.
3. CCTV will be in operation at any time a person is in the premises. 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 PC or DVD player.
4. Any person left in charge of the premises must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.
5. SIA registered door supervisor(s) will be employed every Friday and Saturday from 21:00 until close. At all other times SIA registered door supervisor(s) shall be employed at the premises at such times and in such numbers as a risk assessment, to be carried out by the DPS, deems necessary to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity. When employed, door staff will wear high visibility armbands.
6. SIA registered door supervisor(s) will be employed on all race days (unless prior consent has been obtained from the police that SIA are not required), from 17:00 until close.
7. When employed, a register of those door staff employed shall be maintained at the premises and shall include:
  - (i) the number of door staff on duty;
  - (ii) the identity of each member of door staff;
  - (iii) the times the door staff are on duty.
8. Staff will be trained in the laws relating to under age sales, and that training shall be documented and repeated at 6 monthly intervals.
9. A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.
10. A representative of the premises will engage in any Pub Watch arrangement.
11. A member of staff will be responsible for monitoring the toilets on a regular basis from 7pm to close Thursday to Saturday.
12. A full meals menu and waiter/waitress service shall be available at the premises.

**B) Public Safety**

1. A first aid box will be available at the premises at all times.
2. Regular safety checks shall be carried out by staff.

3. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.
4. The premises shall maintain an Incident Log and public liability insurance.
5. One pint and half pint capacity drinking glasses and highball tumblers shall be of strengthened glass.

#### **C) The Prevention of Public Nuisance**

1. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.
2. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to nuisance.
3. The exterior of the building shall be cleared of litter at regular intervals.
4. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.
5. Doors and windows at the premises will be closed, after 23:00 daily, save for access and egress.
6. A Dispersal and Smoking Policy will be implemented and adhered to (see attached).
7. The emptying of bins into skips, and refuse collections will not take place between 23:00 and 07:00.
8. The external roof terrace area shall not be used outside of the hours of 11:00 and 23:00 daily. Staff and door staff (when employed) shall assist with the orderly clearing of the area prior to 23:00 daily.
9. There shall be no external regulated entertainment.
10. The doors to the external roof terrace area shall be kept closed between 11:00 – 23:00 daily, save for access and egress and shall be kept closed between 23:00 – 11:00 daily except in an emergency.
11. The number of customers in the external roof terrace area shall not exceed 84 at any one time.
12. There will be no public access into the external area at ground floor level on New Street when the premises are closed.

#### **D) The Protection of Children From Harm**

1. A "Challenge 21" Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 21. The only acceptable forms of ID are photographic driving licences, passports, HM forces warrant cards, EU/EEA national ID card or similar document or a form of identification with the "PASS" hologram.
2. Staff training will include the Challenge 21 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.
3. Notices advising what forms of ID are acceptable must be displayed.

4. Notices must be displayed in prominent positions indicating that the Challenge 21 policy is in force.

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**DISPERSAL POLICY**  
**REVOLUCION DE CUBA, YORK**

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The purpose of this Dispersal Policy is to ensure, so far as it is possible, that minimum disturbance or nuisance is caused to our neighbours and to ensure that the operation of the premises makes the minimum impact upon the neighbourhood in relation to potential nuisance and anti-social behaviour. This will be achieved by exercising pro-active measures towards and at the end of the evening.

By ensuring that this Dispersal Policy document is brought to the attention of Management and Staff we will seek to encourage the efficient, controlled and safe dispersal of our patrons during our closing period.

1. At the end of the evening management and staff will assist with the orderly and gradual dispersal of patrons.
2. Staff Members (including door personnel when employed) will advise patrons to leave the premises quickly and quietly out of respect for our neighbours.
3. Notices will be displayed requesting our customers to leave quietly and in an orderly manner out of consideration to neighbours and their attention will be drawn to these notices by members of staff.
4. We will ensure the removal of all bottles and drinking receptacles from any patron before exiting the premises (this does not apply in the case of consumption in any delineated external drinking area.)
5. We will actively discourage our customers from assembling outside the premises at the end of the evening.

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**SMOKING & AL FRESCO DINING POLICY**  
**REVOLUCION DE DUBA, YORK**

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1. Any outside area used by customers wishing to dine, drink or smoke shall be clearly delineated and covered by the CCTV system which will be installed at the premises.
2. Any outside area shall be monitored by staff (or door staff) regularly when in use.
3. Outside areas will be cleaned regularly.
4. Suitable receptacles shall be provided for smokers to dispose of cigarette butts.
5. Signs will be displayed requesting customers keep noise to a minimum.
6. Patrons who disregard signage and verbal instructions regarding noise will be asked to move inside and/or leave the premises.
7. Open containers of alcohol shall not be permitted to be taken beyond the boundary of the outside area.





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## **CITY CENTRE SPECIAL POLICY STATEMENT**

This Special Policy was initially approved by the City of York on 12 April 2005, revised and updated and approved by full Council on 27<sup>th</sup> March 2014. and shall have effect until 2019 unless otherwise reviewed by the Council.

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

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

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

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

### **Effects of the Special Policy**

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

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

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

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

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

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

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

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

**NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE  
(New)  
UNDER THE LICENSING ACT 2003**

We:

North Yorkshire Police            Name: PC 1520 Samantha Bolland, Licensing Officer

Fire Authority            Name: .....

Environmental Health            Name: .....

Health & Safety            Name: .....

Planning Authority            Name: .....

Social Services            Name: .....

Trading Standards            Name: .....

Interested Party            Name: .....

- a) a person living in the vicinity of the premises:
- b) a body representing persons living in the vicinity of the premises:
- c) a person involved in business in the vicinity of the premises:
- d) a body representing persons involved in business in the vicinity of the premises:

Maritime Authority            Name: .....

Hereby give notice of objection to the Premises Licence / Club Premises Certificate as listed below:

Postal Address of premises or club premises:	
<b>Revolucion De Cuba (former BHS store) New Street</b>	
Post town <b>York</b>	Post code (if known) <b>YO1 8ND</b>

This Notice of Objection relates to the following licensing objective:

*(Please tick one or more boxes)*

- |   |   |
|---|---|
| 1) the prevention of crime and disorder | X |
| 2) public safety                        |   |
| 3) prevention of Public Nuisance        | X |
| 4) the protection of children from harm |   |

#### GROUNDS FOR RELEVANT REPRESENTATION

We hereby give notice that we object to the application for a Premises Licence on the following grounds:

1. This application relates to a new premises licence in respect of a bar / restaurant in the centre of York's Cumulative Impact Zone (CIZ). An area which the Full Council at City of York Council has identified as being under stress from crime and disorder and public nuisance in its Statement of Licensing Policy.
2. The location of the premises is on New Street, covering 3 floors including a roof terrace. The venue has a substantial open floorplan, and has applied to be licensed until 02.30am on a Friday and Saturday. The venue lies within a "hotspot zone" surrounded by 5 licensed premises and a boutique hotel (Judges Court) which is adjacent to the site. The applicant seeks opening hours on a Friday and Saturday of 02.30 hours, which is common for vertical drinking establishments and late night refreshment venues, but it is uncommon for a restaurant.
3. The applicant has not provided any information as to why this application should be considered to be an exception to the CIZ policy and the applicant should demonstrate specifically, how if they are to be issued a premises licence within the CIZ, how they would actively promote the licensing objectives. Until this is demonstrated, the Licensing Policy advises that any application for an alcohol licence should be rejected.
4. The plan shows a number of design and layout weaknesses, namely:-
  - recessed ground floor outside drinking area (noise leakage, management by door staff e.g. pinch point at the main entrance)
  - live highway directly outside premises (outside foot streets hours)
  - neighbouring pavement cafes
  - toilets on first floor (no natural surveillance to mitigate crime and disorder)
  - external roof top terrace (capped capacity of 84 persons, management of / public nuisance & noise, smoking after 2300hrs when it must close)
  - ground floor consists of a large open space (no fixed seating which means

seating can be removed to enable vertical drinking)  
- substantial bar on ground floor (not commonly associated with a servery point in a restaurant).

5. The conditions within the operating schedule appear generic and not tailored to counter the problems associated with York city centre, more specifically they do not deal with how they seek to promote the licensing objectives within the CIZ in line with the licensing policy.
6. Negative impact that adding yet another large capacity venue in the heart of York's CIZ will have on current multi-agency initiatives set-up to tackle York's current issues within the city's day and night-time economy.

**Please provide as much information as possible to support this relevant representation: (e.g. please list any additional information, e.g. dates of problems which are included in the grounds for representation)**

#### **1. Premises sits within York CIZ**

1. This application relates to a new premises licence in respect of a bar restaurant in York, in the centre of York's Cumulative Impact Zone (CIZ). York City Council ratified the CIZ in their current Statement of Licensing Policy 2014. The Police object to the granting of the licence on the grounds that the applicant has not demonstrated in the operating schedule that, if granted, this will not add to the cumulative impact in the area.

#### **Additional Evidence**

City of York Council's Statement of Licensing Policy contains a Cumulative Impact Policy (CIZ) covering a large geographical area of the town centre. The council adopted the current policy in 2005 and the current version is effective until 26<sup>th</sup> March 2019. Cumulative Impact is an important licensing concept which, unusually, arises entirely outside of primary legislation. Large concentrations of people are of concern in Cumulative Impact Zones (CIZ) because they may also increase the incidence of disorder or criminal activities in the street.

In my capacity as a Licensing Officer for the City of York I am aware that the top five tier streets that experience the highest level of occurrences. Whilst police are called to occurrences in these areas, they don't always amount to a criminal offence or are they always recorded as a crime; however by virtue of the fact that we receive these calls for service, members of the public are concerned about the behaviour that they are witnessing. The top five tier streets are:

- Coney Street,
- Micklegate,
- Blake Street,
- Goodramgate
- and, Blossom Street.

Geographically, all are in close proximity to each other and encompass a high concentration of nightclubs, public houses, off-licence express supermarkets, late night eateries and cafes as well as hotel and retail premises. Consequently, footfall in this area is high.

The NYP statistical analysis, which was created when the CIZ policy was adopted, shows that Coney Street, from which New Street and the premises is accessed, is also identified in the York City Statement of Licensing Policy:-

***as being under stress because the cumulative effect of the significant number of premises being concerned in the sale and/or consumption of alcohol has led to serious problems of disorder and/or public nuisance affecting residents, visitors and other businesses.***

## **2. Premises location**

The location of the premises is the former BHS site on New Street, (off Coney Street), covering 3 floors including a roof terrace. The venue has a substantial open floorplan, and has applied to be licensed until 02.30am on a Friday and Saturday. The venue lies within a one of the top 5 tier streets, as mentioned above, and is surrounded by 5 licensed premises and a hotel, Judges Court, which is adjacent to the site. The other licensed premises in the immediate vicinity are:

Revolution - 3.30am latest close time  
Pitcher and Piano - 3am latest  
All bar one – 01.30am latest  
Dusk – 2.30am latest  
Blue Fly Lounge 10 (upstairs) – 4.30am latest  
Drawing Board 10a – 4.30am latest

### **(Appendix 2)**

Whilst the applicant describes the venue as a restaurant / bar, North Yorkshire Police believe that although the venue may offer food it will, in essence, be a vertical drinking establishment with a capacity in excess of 700. You will note that applicant seeks hours on a Friday and Saturday until 02.30 hours, which is common for vertical drinking establishments and late night refreshment venues, but is uncommon for a restaurant.

**See Appendix 2, 3.**

## **3. Applicant has not provided any information as to why this application should be considered to be an exception to the CIZ policy and how they will promote the licensing objectives.**

A Cumulative Impact Policy is designed to put the onus on the applicant, to demonstrate to the Licensing Committee's satisfaction that their application will not add to the cumulative impact. In this instance the applicant has not demonstrated in the operating schedule what steps will be taken to promote the licensing objectives.



**Additional Evidence**

Crucially, in this instance the burden of proof is on the applicant to demonstrate that the licensable activities and the behaviour of the clientele once they have left the premises will not contribute to the overall Cumulative Impact in the area, and that they are promoting the four licensing objectives in line with S182 Guidance. Paragraph 8.39 makes reference that the applicant should take steps to demonstrate how they propose to promote the licensing objectives.

The applicant has not made reference to the current CIZ or the high density of licensed premises within a square mile. It is for the applicant to demonstrate as part of the operating schedule, that their premises would not add to the cumulative impact in the CIZ area.

The applicant has also failed to demonstrate why they should be considered to be an exception to the CIZ policy. The applicant has not shown that the Premise would be unique within the hotspot area, that they are offering alternative styles or characteristics to other Licensed premises already located in the immediate vicinity.

As expected, calls for service to North Yorkshire Police are highest on a weekend after 11pm, as explained above. By virtue of the fact that we receive these calls for service highlights that members of the public are concerned about the behaviour that they are witnessing which is directly attributable to licensed premises.

The applicant has not demonstrated within their application how they will operate and disperse persons attending the premises, particularly during the hours of 2300hrs to 0230hrs. It is during this time that calls for service increase with a lot of premises concentrated in the same place all emptying at the same time with intoxicated patrons congregating on Coney Street.

Furthermore, paragraph 8.40 refers to how the applicant will seek to take measures to show ***why they consider the application should be an exception to the policy.*** Whilst the CIZ is not a bar to any and every new venue, it should be if that venue cannot demonstrate how they would mitigate the negative impact on the area or the uniqueness of the venue differentiating it from other Licensed venues in close proximity. The applicant has failed to rebut the Council's Cumulative Impact Policy and does not demonstrate within the application any measures that will control patrons adding to the problems within the area of Coney Street, which is one of the top tier streets for calls for service.

Paragraph 8.44 States:-

***Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.***

The operating schedule in respect of this application appears to be a generic set of conditions. It is not tailored to the unique needs of the York CIZ. The application for this new grant has made no reference to the premises being within a CIZ, nor has it outlined any specific conditions in the operating schedule which will seek to promote

the licensing objectives and mitigate any potential impact within the CIZ .

#### **4. Design and layout weaknesses**

The plan shows a number of design and layout weaknesses, including:

- The recessed outside drinking area, the use of this area will lead to noise breakout in the street and will create a pinch point at the main entrance as door staff will have to manage both persons awaiting entry and customers already using the recessed area.
- situated on a live highway which is a road for vehicular traffic outside foot-streets hours, (between 10.30am- 5pm daily).
- The two premises opposite the venue, Drawing Board and Dusk, have existing Pavement Café licenses which are located on the road after 5pm daily.
- The location of the toilets on the first floor naturally provides an area which is not monitored and therefore will attract crime and disorder (drugs, assaults, sexual offences).
- The external roof top terrace is capped at a capacity of 84 persons and must close at 11pm. The issues arise when the external area is closed, as customers will have to travel back down to the ground floor to smoke. The area is not monitored and therefore customers will use the external area to smoke outside permitted times, creating noise breakout which will impact on the hotel located at the side of the venue.
- The ground floor is a large open space which contains seating, however, from the plans these do not appear to be fixed and therefore can be removed to create space for vertical drinking. The bar is a substantial size and is not commonly associated with a servery point for a restaurant.

#### **5. The conditions in the operating schedule appear to be generic and are not specifically tailored to the problems associated with York city centre.**

What follows is North Yorkshire Police's assessment of the applicants operating schedule highlighting potential weaknesses:

Applicants volunteered condition = in normal font

***Police comment = bold italics***

#### OPERATING SCHEDULE

Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the Licensing Objectives.

#### A) The Prevention of Crime and Disorder

1. A CCTV system shall be maintained and operated at the premises with cameras positioned both internally and externally.

***The condition does not specify that the CCTV has to be recording, that it will be***

*in a digital format or that it will be in colour, all of which are key factors when reviewing CCTV if it was needed in evidence. It also does not specify where the cameras will cover; it would be expected that all areas where alcohol is consumed would be covered as a minimum standard. Technically one camera inside and one outside the building would meet the requirements of the applicant's offered condition.*

2. Recorded CCTV images will be maintained and stored for a period of twenty-eight days and shall be produced to the Police or Licensing Authority upon request.

*There is no mention of the images been of good quality if the CCTV needs to be seized. To promote the prevention of crime and disorder, CCTV has to be of good quality to be able to identify suspects, to protect both staff and customers. These recordings should be available to any responsible authority as defined in the Licensing Act 2003.*

3. CCTV will be in operation at any time a person is in the premises. 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 PC or DVD player.

*This condition does not specify that the system will be recording continuously when the premises are open, staggered or motion sensor CCTV provides gaps in time and are rendered useless in court proceedings. The condition also fails to state that the CCTV system will contain the correct date and time. Recordings with incorrect times shown are of no evidential value if a crime has occurred.*

4. Any person left in charge of the premises must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.

**Agree**

5. SIA registered door supervisor(s) will be employed every Friday and Saturday from 21:00 until close. At all other times SIA registered door supervisor(s) shall be employed at the premises at such times and in such numbers as a risk assessment, to be carried out by the DPS, deems necessary to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity. When employed, door staff will wear high visibility armbands.

*Based on the size of the venue, the fact there are 3 floors including a roof top terrace, outside seating, and, a potential capacity in excess of 600, this condition is weak. The applicant's condition could be satisfied by employing 1 door supervisor as the DPS could deem that one is suitable following an internal risk assessment. This condition could be satisfied using 1 door supervisor throughout opening hours, with a capacity of 740 persons.*

6. SIA registered door supervisor(s) will be employed on all race days (unless prior consent has been obtained from the police that SIA are not required), from 17:00 until close.

***York hosts 17 race days a year and it has been witnessed by North Yorkshire Police officers that on race days, visitors arrive into York already intoxicated as many arrive via public transport and consume alcohol on the way in. It would be expected that door staff would be employed earlier than 17:00 hours as racing commences from 11am on race days.***

7. When employed, a register of those door staff employed shall be maintained at the premises and shall include:
- (i) the number of door staff on duty;
  - (ii) the identity of each member of door staff;
  - (iii) the times the door staff are on duty.

***Agree – the venue should also provide radios for door supervisors to communicate on the basis that they are covering 3 floors.***

8. Staff will be trained in the laws relating to under age sales, and that training shall be documented and repeated at 6 monthly intervals.

***This condition is weak as staff training should include all aspects of Licensing including: retail sale of alcohol; age verification; conditions attached to the licence; permitted licensable activities; the licensing objectives; opening times; serving to drunks; and, not just underage sales.***

9. A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.

***A refusals book / incident register should be kept and be used to record incidents at all points of sale within the venue and should be kept for a minimum of a year.***

10. A representative of the premises will engage in any Pub Watch arrangement.

***Unenforceable condition. There is no pub watch scheme in York and attendance at any meeting of this type is voluntary.***

11. A member of staff will be responsible for monitoring the toilets on a regular basis from 7pm to close Thursday to Saturday.

***The toilets are located on both the first floor and on the roof and are not shown to be covered by any surveillance. The positioning of the toilets put them in a vulnerable position where crime and disorder could take place without constant monitoring during busy trading periods.***

12. A full meals menu and waiter/waitress service shall be available at the premises.

***To satisfy this condition one menu could be held behind the bar. No food has to be served and waiter / waitress service only has to be available, it may not be used. The applicant seeks hours on a Friday and Saturday of 02.30 hours, which***

*is common for vertical drinking establishments and late night refreshment venues, but it is uncommon for a restaurant. This condition needs to be more specific in relation to food service, as currently it could trade as a vertical drinking establishment throughout opening hours.*

B) Public Safety

1. A first aid box will be available at the premises at all times.

*Covered by legislation.*

2. Regular safety checks shall be carried out by staff.

*Covered by legislation, not specific.*

3. Management shall liaise with the Fire Authority as necessary to ensure compliance with all necessary fire regulations.

*Covered by legislation.*

4. The premises shall maintain an Incident Log and public liability insurance.

*Covered by legislation.*

5. One pint and half pint capacity drinking glasses and highball tumblers shall be of strengthened glass.

*Branded glasses use toughened glass as standard – condition is redundant.*

C) The Prevention of Public Nuisance

**Consultation with EPU Officer Michael Golightly, City of York Council.**

1. Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.

**Agree**

2. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to nuisance.

**Agree**

3. The exterior of the building shall be cleared of litter at regular intervals.

**Agree**

4. Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.

**Agree**

5. Doors and windows at the premises will be closed, after 23:00 daily, save for access and egress.

**Agree**

6. A Dispersal and Smoking Policy will be implemented and adhered to (see attached).

**Unenforceable – if the policy is not written into conditions, technically it could be changed.**

7. The emptying of bins into skips, and refuse collections will not take place between 23:00 and 07:00.

**Agree**

8. The external roof terrace area shall not be used outside of the hours of 11:00 and 23:00 daily. Staff and door staff (when employed) shall assist with the orderly clearing of the area prior to 23:00 daily.

**Agree**

9. There shall be no external regulated entertainment.

**Agree**

10. The doors to the external roof terrace area shall be kept closed between 11:00 – 23:00 daily, save for access and egress and shall be kept closed between 23:00 – 11:00 daily except in an emergency.

**Agree**

11. The number of customers in the external roof terrace area shall not exceed 84 at any one time.

**Agree**

12. There will be no public access into the external area at ground floor level on New Street when the premises are closed.

**Agree**

**D) The Protection of Children From Harm**

1. A "Challenge 21" Policy shall be implemented in full and appropriate identification sought from any person who appears to be under the age of 21. The only acceptable forms of ID are photographic driving licences, passports, HM forces warrant cards, EU/EEA national ID card or similar document or a form of identification with the "PASS" hologram.

***Agree***

2. Staff training will include the Challenge 21 Policy and its operation. In particular, staff shall be trained to take such action as is necessary to prevent the sale of alcohol to persons over the age of 18 where those customers are engaged in the distribution of alcohol to persons under the age of 18. The training must be given to a new member of staff before they commence employment and all staff must receive refresher training every 6 months.

***Agree***

3. Notices advising what forms of ID are acceptable must be displayed.

***Agree***

4. Notices must be displayed in prominent positions indicating that the Challenge 21 policy is in force.

***Agree***

North Yorkshire Police does not believe that the information provided by the applicant meets the standard to be considered an exception to the council's Special Policy thereby departing from the presumption of refusing the application and NYP do not support the grant of this application.

**Supplementary Documentation**

**Appendix**

1. Inspector Andrew Godfrey's statement
2. Location map showing 5 licensed premises on Coney St/ New Street surrounding Revolucion De Cuba site
3. Location map Coney St/ New Street / Blake
- 4a Photograph of New Street – View from Coney St to Davygate showing All Bar One, Drawing Board, Blue Fly and Dusk

- 4b. Photograph of New Street – Showing All Bar One, Rev De Cuba site, Drawing Board
- 4c. Photograph of New Street – View from Davygate to Coney Street (reverse view of 4a)
- 4d. Photograph of New Street – Showing front of Revs De Cuba site and All Bar One
- 4e. Photograph of New Street – Showing outside areas of Drawing Board and Dusk

**Signature:**

**Date: 17/01/2018**

**Contact Name and address for correspondence:**

**PC 1520 Samantha Bolland  
Fulford Road Police Station  
Fulford Road**

**Post town: York**

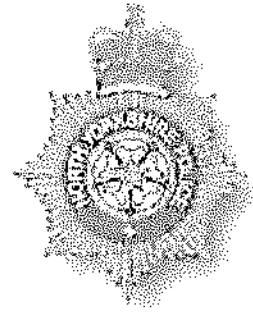
**Post code: YO10 4BY**

**Telephone number (if any) 01609 643274**

**If you would prefer us to correspond with you using an e mail address your e mail address:**

**samantha.bolland@northyorkshire.pnn.police.uk**





**Statement**  
**of**  
**Police Inspector 1463 Andrew Godfrey**  
**North Yorkshire Police**

**Re: Premises Licence Application for Revolucion De Cuba**

1. I am Police Inspector 1463 GODFREY, the Neighbourhood Policing Inspector for York city centre, a role I have performed for the last 4 years. The majority of my 16 year policing career has been spent in both uniform and plain clothed roles within the city centre therefore I believe that I have a good understanding of the issues associated with the city. I am also a trained Public Order Commander and Police Bronze Incident Commander.
2. My current Neighbourhood Policing Inspector's role involves managing a team of Police officers and Police Community Support Officers (PCSO's) who are responsible for delivering policing services in the city centre. An important aspect of my role is to make sure that North Yorkshire Police is alive to issues effecting those who live, work and socialise in the city.
3. York is an attractive tourist destination. In partnership with both statutory and non-statutory agencies we work tirelessly to ensure that it stays that way. Together we resolve a diverse range of issues to keep York safe and to maintain law and order.
4. The city comprises of a wide range of shops, bars, restaurants and tourist attractions. People from all over the world visit York to experience what the city has to offer. Many of city's bars, restaurants and shops are concentrated in close proximity to one another. In recent years there has been a noticeable decline in the number of retail units, a void that has been filled by new licensed premises and restaurant openings e.g. Plunketts, High Petergate which is now the Eagle and

Child pub. Fellini's Italian restaurant, which is now the Hop, McDonalds Furniture store which is Cosy Club, Army and Navy Store which is Sutlers all on Fossgate. Portfolio studio's on Micklegate which is now Brewdog, Jessops camera store which is now Pavement Vaults and Mulberry Hall which is now The Botanist. Licensed premises occupying empty retail units on traditional retail streets has created a clash between shoppers / tourists and those intent on using the city centre to drink to excess. This is particularly evident during the day at weekends. Op Erase.

5. My team are actively engaged with partner agencies in dealing with many issues across the city centre. On Blake Street we often receive reports of anti-social behaviour & violent offences from people converging at the only 24 hour food establishment during the early hours of the morning.

6. The Taxi ranks are also often a hotspot for violence and anti-social behaviour; this has been the case with Duncombe Place. In and around the taxi rank residents report urination, defecation and noise nuisance being a real issue for them overnight. The police response team are aware of these issues and try to police them when not responding to immediate '999' and priority calls. Partner agencies including York Bid have recently secured funding for Taxi Marshals which are starting to have a positive impact in respect of this particular problem. However the Marshals have come under attack and been assaulted by drunken people whilst trying to perform this important role. Granting another alcohol licence to a premises for between 600-800 patrons in this part of the city will simply add to the cumulative effect already being experienced at this 'hot spot' location.

7. Violence in the night-time economy is a legitimate concern for the city centre. A multi-agency group, chaired by myself, manages the night time economy with violent crime being addressed through a multi-agency initiative called Operation SAFARI. Whilst the group meets on a regular basis the issues are difficult to tackle as the crime is so widespread, partly due to the dispersal of licensed premises throughout the city centre. The River Ouse, another 'hot spot', requires attention due to number of people who have lost their lives, a number where alcohol was a contributory factor. This continues to be an issue and people are often found in this location who are depressed and in need of help. In response to the issues with river safety a multi-agency group was formed to improve safety and address education and other physical measures to reduce vulnerability. North Yorkshire Fire and Rescue Service spearhead this initiative. Partners such as York Rescue boat have proved to be a great addition to the city. They regularly locate vulnerable people in and around the river. We do seem to be experiencing more people in need of help after drinking in the city centre. Whilst the river boat is a good addition they can only work limited hours and so are not always available.

8. In recent years York has become an attractive destination for Stag and Hen do's and groups of individual's intent on having a good time whilst drinking copious amounts of alcohol. This is particularly noticeable throughout the day at weekends. People arrive in the city, many by train having been consuming alcohol prior to their arrival, and then continue to drink all day. The problem is that many licensed premises are located in the middle of shopping and tourist areas of the city. This is best illustrated on a Saturday afternoon in Coney Street where you will find people under the influence of alcohol clashing with family's, shoppers and tourists. Coney Street is one of York's busiest streets and is often full of people making their way between shops. The behaviour displayed by groups include being loud, abusive and aggressive which is intimidating for others. People staggering around unsteady on their feet bumping into members of the public and into the road. The city has experienced large groups of females walking around with inappropriate inflatables often depicting genitalia for all to see. These behaviours have led to people feeling unsafe in the city and some have vowed not to return on a Saturday. I am also aware of visitors to the city having bad experiences and complaining about the change in dynamic of the city centre with more people under the influence of alcohol due to the increased number of bars in the city centre. One such couple impressed that they were so disappointed with how York had changed they said they would not return after many consecutive yearly visits. I exhibit a letter AG/1 and an email AG/2 with personal details removed which were received from members of the public visiting York.

9. The problems in York city centre regarding intoxication are further exacerbated on York race days. The levels of drunken people in the city corresponds to the marked increase in reported crime and anti-social behaviour. Granting this licence will simply add to the existing problems. The Cumulative Impact Zone is already saturated with bars.

10. In response to the issues faced in York on a Saturday a multi-agency group was formed under the Operation name "ERASE" This group set about a raft of measures to try and address the concerns of both the public and the licensed trade. The Operation has had some limited success & licensee's agreed a Code of Conduct to tackle inappropriate behaviour. However despite these efforts large groups of people still visit the city with the sole intention to drink, have a good time and cause anti-social behaviour which is having a negative impact on the quality of life for residents and tourists. I believe that many of the incidents of anti-social behaviour go unreported as the public do not feel them worthy of reporting. These people then leave York having had a bad experience leaving negative posts on social media to the detriment of the city's reputation. The Police and partner agencies stance on any ASB or crime is that it will not be tolerated, but we cannot be everywhere all of the time.

11. Revolution De Cuba in York, from what I can tell, is going to operate as a restaurant/bar and its target audience appears to be large groups of young adults to activities often associated with hen and stag do's, for example their 'cocktail making parties'. It would not attract older visitors to York or families. In my opinion, the city centre cannot cope with any more large scale drinking establishments. The expansion of hotels in the city centre, both recently opened and those granted planning will significantly change the dynamic within the city centre over the next few years. The volume of additional bed spaces needs be factored into future strategies as its likely to add further stress to the geographic area covered by the Cumulative Impact Policy.

1453

Signed Inspector Andrew Godfrey

Date 16 January 2018

AG/12

Hi

Firstly thanks for the informative newsletter sent to my private account - well worth the effort - well done.

An observation that Hugh may wish to bear in mind. I have a six bedroomed guest house that attracts mainly well-off folk older than 50. During recent weeks I have received at least six unsolicited comments with regard to the behaviour of hen/stag nights in the city centre. Comments boil down to drunken behaviour that seems to start on the train journey to York - with visitors arriving intoxicated from mid-Friday afternoon. Over boisterous behaviour and language in the city centre, unruly behaviour in McDonalds. Mid Saturday afternoon a group of hens carrying an inflated imitation penis in Parliament street.

York needs tourists with spending power not just for the pubs/clubs but also to spend enjoying the culture and restaurants the city has to offer. Hen/stags concentrate on weekend stays - the folk being put off are longer stay visitors.

Thanks for reading.

Regards

AG/1

→ Walsingham

27 May 2014

Dear Sir,

**The Reputation of the City**

My wife and I travelled to York last weekend to spend over-night in the Hotel du Vin.

It has been some years since we had visited the city and we looked forward to renewing our experience of the well known historic sights.

We discovered that York has become a prime Stag and Hen venue. The consequence is that the city centre streets are the playground of loud boorish groups of inebriated young people shouting at one another and staggering hither and thither amongst the remaining tourists.

When we booked out of the hotel on Sunday, I was told that many hotel guests have similarly commented upon the effect on the city of the drunken party groups.

How very sad for an historic city.

I would be interested to learn from you how the Council views these developments. No doubt the Stag and Hen groups bring income to the city but I anticipate wholesale desertion by traditional tourists as they share our experience.

Yours faithfully,

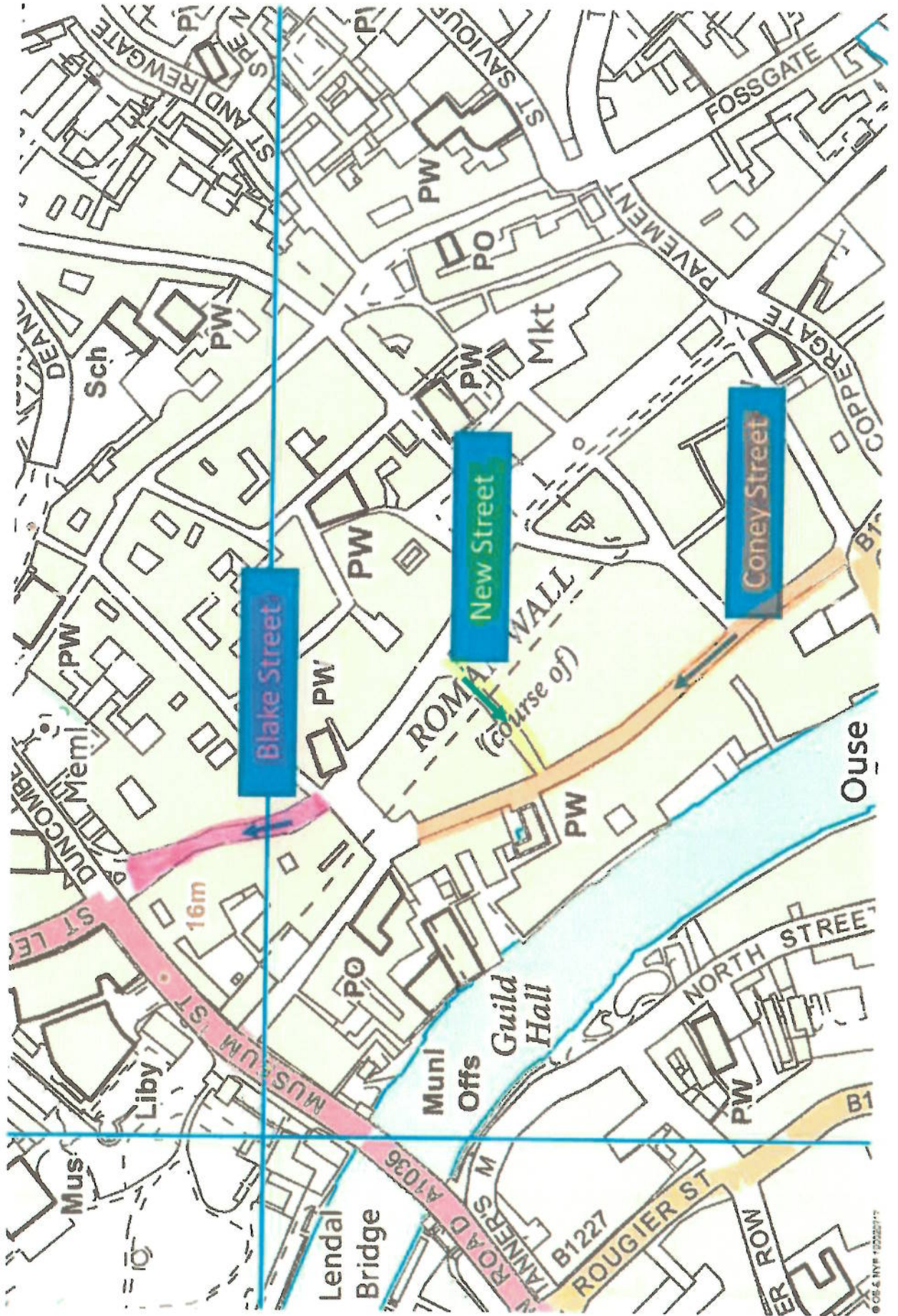
APPENDIX 2.

Coney Street/New Street



APPENDIX 3

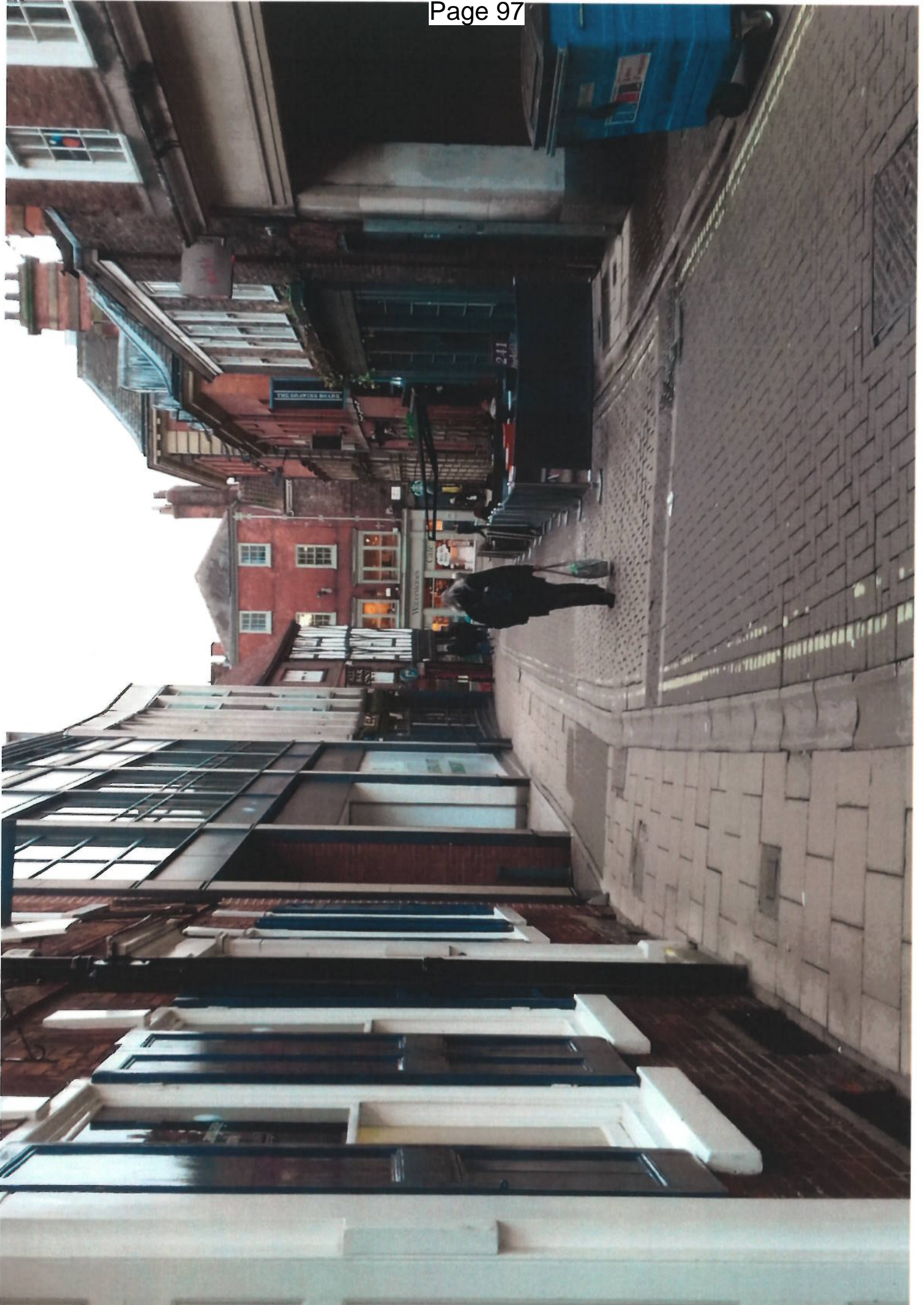
Coney Street/New Street/Blake Street















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**Revolucion De Cuba (former BHS Store), New Street, York**

On behalf of the City of York Council (the Council) Licensing Authority, I am making representations to the application for the grant of a premises licence submitted by Revolucion De Cuba Ltd, for a Cuban themed bar and restaurant, in the former BHS Store located on New Street, York.

The Council's Statement of Licensing Policy incorporates a 'Special Policy' in relation to the saturation and cumulative impact, commonly known as cumulative impact zone (CIZ). This policy was established due to the level of crime and disorder and public nuisance issues within the area due to the high concentration of licensed premises. New Street is located within the CIZ.

The effect of adopting a CIZ is to create a rebuttable presumption that applications within the CIZ will normally be refused if relevant representations are received. It is for the applicant to demonstrate that their application would not add to the cumulative impact already being experienced.

This application is for a new large themed bar within the CIZ. The plans submitted with the application show that the premises are situated over three floors. The ground floor incorporates a large bar area, a number of tables and chairs and there is also an outside area adjacent to the main entrance doors with tables and chairs for 24 covers. The kitchen, cellar, staff areas and customer toilets are located on the first floor. The second floor incorporates a small bar area, a number of tables and chairs, an external roof terrace with a number of tables and chairs, there are also additional customer toilets. A majority of the tables and chairs shown on the plans are moveable and there is adequate space for vertical drinking. The opening hours applied for are 10:00 – 00:30 hours Sunday to Wednesday, 10:00 – 01:30 hours on a Thursday and 10:00 – 02:30 hours on Friday and Saturday.

Within the operating schedule, submitted as part of the application, the applicant fails to demonstrate that this application would not add to the cumulative impact already experienced in the CIZ.

The licensing authority believes that the granting of this application would undermine the licensing objectives of both crime and disorder and public nuisance.

Helen Sefton

Licensing Enforcement Officer

City of York Council

17/01/2018

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**Cockerill, Janice**

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**From:** Golightly, Michael  
**Sent:** 16 January 2018 12:05  
**To:** EAP Licensing Unit  
**Cc:** 'RebeccaIngram@kuits.com'; 'NYPLicensing@northyorkshire.pnn.police.uk'  
**Subject:** FW: premises license application for Revolution De Cuba, 11 New Street (REV99/96)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Sirs

I have mediated with the applicant and so long as the following conditions are attached to the premises license for Revolution De Cuba at 11 New Street, York public protection's objection is withdrawn:

All 1. Electronically amplified music emitted from the rooftop bar shall be played or reproduced through loud speakers and a tamper proof noise limitation device.

In terms of handling any noise complaints that are received about the premises the following conditions have been agreed:

1. 2. A direct contact number for the duty manager shall be made available to nearby premises on request.
2. 3. Any complaints received from local premises to be acted upon immediately.
3. 4. Any noise complaints to be logged in a log book and actions taken also logged.
4. 5. The Log book shall be made available to the Local Authority on request.

Should you have any further queries please contact me on 01904 551580.

Regards

Michael Golightly  
**Technical Officer**

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**From:** Rebecca Ingram [mailto:RebeccaIngram@kuits.com]  
**Sent:** 16 January 2018 11:33  
**To:** Golightly, Michael  
**Subject:** RE: premises license application for Revolution De Cuba, 11 New Street (REV99/96)

Hi Michael,

Thanks for your time just now and for sending this over. I can confirm that we are happy to agree to your conditions as proposed below.

Thank you for your assistance with this matter.

Kind regards,

Becki

From: Golightly, Michael [mailto:michael.golightly@york.gov.uk]  
Sent: 16 January 2018 11:29  
To: Rebecca Ingram  
Subject: premises license application for Revolution De Cuba, 11 New Street

Dear Rebecca

Further to our telephone conversation today in which we discussed the conditions below to be attached to the premise license for Revolution De Cuba at 11 New Street, York. Please reply to this email confirming your client's acceptance of the following proposed conditions I will then forward my response onto our licensing department:

- 1. All electronically amplified music emitted from the rooftop bar shall be played or reproduced through loud speakers and a tamper proof noise limitation device.

In terms of handling any noise complaints that are received about the premises I would advise that the following conditions be attached:

- 1. A direct contact number for the duty manager shall be made available to nearby premises on request.
- 2. Any complaints received from local premises to be acted upon immediately.
- 3. Any noise complaints to be logged in a log book and actions taken also logged.
- 4. The Log book shall be made available to the Local Authority on request.

Should you have any further queries please contact me on 01904 551580.

Regards

Michael Golightly  
Technical Officer

\*\*\*\*\*  
 Help protect the environment! - please don't print this email unless you really need to.  
 \*\*\*\*\*

This communication is from City of York Council.

The information contained within, and in any attachment(s), is confidential and legally privileged. It is for

**Cockerill, Janice**

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**From:** Golightly, Michael  
**Sent:** 12 January 2018 12:26  
**To:** EAP Licensing Unit  
**Cc:** 'RebeccaIngram@kuits.com'; 'NYPLicensing@northyorkshire.pnn.police.uk'; 'Bolland, Samantha'  
**Subject:** premises license application for Revolution De Cuba, 11 New Street

Dear Sirs

Public protection would like to object to the premises license application for Revolution de Cuba at 11 New Street, York, on grounds of public nuisance and concerns over the licensing objectives of the Cumulative Impact Zone (CIZ) being undermined and will be making representations.

I would request that the following conditions need to be agreed with the applicant:

1. All electronically amplified music emitted from the rooftop bar shall be played or reproduced through loud speakers and a tamper proof noise limitation device.

In terms of handling any noise complaints that are received about the premises I would advise that the applicant agree the following:

1. A direct contact number for the duty manager shall be made available to nearby premises on request.
2. Any complaints received from local premises to be acted upon immediately to reduce the noise levels.
3. Any noise complaints to be logged in a log book and actions taken also logged.
4. The Log book shall be made available to the Local Authority on request.

If the above conditions are agreed then our objections will be withdrawn.

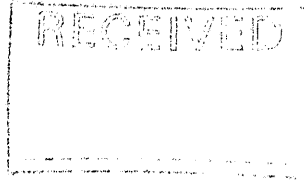
Should you have any further queries please contact me on 01904 551580.

Regards

Michael Golightly  
**Technical Officer**



1.



Heworth Green  
York  
YO31 7TQ.

January 13<sup>th</sup> 2018.

Dear Sirs,

Property at: New Street, York.

Applicant - Revolución De Cuba Limited

I'm writing to object to this Premises Licence Application. It's location on New Street is wholly inappropriate. There are already a number of bars on what is a relatively narrow street and it would be very near indeed to Dusk - as can be seen by the attached photo.

In addition to having an open area fronting onto the street it is proposed to have a roof top bar at the rear, which will adversely affect a number of existing locally run/powered businesses - such as the Judges Court Hotel.

No specific numbers are mentioned in the application except with regard to the outside area but the figure mentioned in that context suggests that the overall capacity would be very considerable.

Nothing is mentioned in the application about

vertical drinking and I accept that this ~~is~~ shouldn't be too much of an issue if the applicants could confirm that what look like tables and chairs on the plan will indeed be translated into the same number on the ground (in the same places).

Turning to the legal side of the issue the property is within the Cumulative Impact Zone (CIZ) - as stated in the Council's Statement of Licensing Policy - and is therefore subject to a presumption against the granting of a licence unless the applicants can rebut the presumption that granting such a licence would undermine the licensing objectives.

I can't see how the applicants can successfully rebut this presumption. Even if they can ~~control~~ control customers while on the premises themselves this bar would add to the drinking capacity in central York and clearly add to the risk of disorder and public nuisance etc.

York - particularly on a Friday and Saturday - is a grim place for ordinary citizens to venture into at night and this would help to make it worse, particularly given its location.

3.

Apart from the question of whether we have now reached saturation point in central York (with this application) you can distinguish this application from other recent ones over the issue of food. Other applications have succeeded where the operators have agreed to it being made clear that the premises will be 'food led' or that a property will be more of a restaurant than a bar. I can't see this approach in this application.

Finally, it's not clear how smokers are to be catered for, given that the outdoor area would not be open at all times.

I reserve the right to amplify these points at any hearing that takes place but in the meantime rely on these submissions.

Yours faithfully.

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2



**NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE (New Grant) UNDER THE LICENSING ACT 2003**

We:

- North Yorkshire Police                      Name:
- Fire Authority                                      Name:
- Environmental Health                      Name:
- Health & Safety                                      Name:
- Planning Authority                      Name:
- Social Services                                      Name:
- Trading Standards                      Name:
- Interested Party                      Name: John Wallace Operations Director of Judges Court Hotel

- ~~a) a person living in the vicinity of the premises:~~
- ~~b) a body representing persons living in the vicinity of the premises:~~
- c) a person involved in business in the vicinity of the premises:
- ~~d) a body representing persons involved in business in the vicinity of the premises:~~

Maritime Authority                      Name: .....

Hereby give notice of objection to the Premises Licence as listed below:

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**Postal Address of premises or club premises:**  
**Revolution de Cuba**  
**(Former BHS Store)**  
**New Street**  
**York**  
**YO1 8ND**

---

This Notice of Objection relates to the following licensing objective:

(Please tick one or more boxes)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) **prevention of Public Nuisance**                    **X**
- 4) the protection of children from harm

**GROUND'S FOR RELEVANT REPRESENTATION**

We hereby give notice that we object to the application for a Premises License on the following grounds:

-New Street lies within the Council's Cumulative Impact Area, and enabling the premises to sell alcohol until late at night would be totally detrimental to its aims and objectives.

-**Noise from New Street.** New Street and Coney Street are already noisy with revelers and cause frequent disturbance to our residents and employees of Judges Court. These streets are often threatening places to walk along in an evening and late at night. A further large bar attracting many hundreds of extra patrons to the area (we note that provision for 420 seats is shown on the planning application with additional guests likely to stand) cannot fail to add to the nuisance already suffered by our customers and staff.

-**Noise from within the building.** Our business, Judges Court, neighbors the rear and side of the proposed bar; we are concerned about the potential for noise breakthrough from within the bar. At it's closest point our building is only 1.8m from the exterior of 11 New Street. Our closest single glazed bedroom windows (we are a listed building with restrictions imposed) are only 2.0m from the side elevation of the proposed bar with seven of our fifteen bedrooms facing this way. We note that the proposed operator already runs a similar establishment (Revolution Bar off Coney Street). That current operation and the operator's own website and publicity material provide an indication of the likely environment that will be generated in the proposed bar with music and late night drinking featuring heavily and long after food service has ceased.

-**Noise and smells plus light disturbance from the bar and kitchens should the emergency access doors be opened.** The plans show the resurrection of the use of double doors just 2.6m from our nearest bedroom single glazed window as emergency access doors. These doors open into the ground floor kitchen which is then open into the main ground floor bar. Should these doors be opened our resident guests and staff cannot fail to suffer nuisance and will likely feel like they are in the bar themselves. We have no objection to these doors being opened in a true emergency but if they begin to be used as a way to ventilate and cool the kitchen or provide access to an outside space for smoking etc then there is nothing between our hotel bedrooms and the interior of the bar.

-**Noise from the roof terrace.** It is almost inevitable that noise from the roof top bar will adversely affect the hotel. Nine of our fifteen bedrooms have single glazed windows between just 8m and 12m from the edge of this terrace. Should this terrace be brightly lit we are further concerned about the disturbance this may cause to our customers who may be trying to sleep.

**Please provide as much information as possible to support this relevant representation: (e.g. please list any additional information, eg dates of problems which are included in the grounds for review)**

-Firstly we believe that Revolucion de Cuba is little more than a night club certainly by the time that evening comes. We would like to suggest that the Licensing Committee should attend a Revolucion de Cuba and witness this first hand before granting any licence. Short of visiting a Revolucion de Cuba we would suggest viewing the below websites to gain an insight into the operation that is seeking this license:

[www.revoluciondecuba.com/](http://www.revoluciondecuba.com/) Official website

<https://www.youtube.com/watch?v=BhMycnFllhA> An official publicity video uploaded by Revolucion de Cuba

<https://www.youtube.com/watch?v=DlsS3Be7pxk> An official publicity video showing a condensed day in the life of a Revolucion de Cuba.

**-Noise from within the building.** We enclose photographs detailing the proximity of the two buildings. We enclose a copy of the Planning approval granted approving the change of use; it affords Judges Court no protection in it's conditions from the noise of the patrons and music inside the bar other than insisting upon sound limiters for the music system. We note that in the Delegated Report associated with this planning permission that 'Public Protection officers do not consider that noise breakout from the ground and first floor building façade closest to the Judge's Court Hotel is likely, as there are no openings other than a pair of emergency doors' but this has yet to be proven and we would like to be afforded some protection should the bar noise emanate through the walls.

**-Noise, smells and light disturbance from the bar and kitchens should the emergency access doors be opened.** We enclose photographs showing the closeness of these doors to our building and bedroom windows. Other than the existence of these doors being dismissed in the Delegated Report as detailed above (copy attached) there are no further references or conditions attached or protection afforded should the doors offer little sound protection or be misused and opened other than in an emergency.

**-Noise from the roof terrace.** We enclose photographs showing the location of the roof terrace overlooking our bedroom windows. We enclose a copy of the Planning Approval for this roof terrace; should all of the conditions imposed be met, the noise nuisance limited by as predicted and the terrace closed at 11pm as instructed then we hope to have few grounds to complain . However we would again seek some protection to be granted to prevent unexpected noise and/or light nuisance occurring particularly since some of our resident guests may wish to be able to sleep before 11pm and we'd suggest that they should be allowed to do so.

**Suggested Conditions that could be attached to the Licence to address these issues:**

**-Firstly we strongly believe that the License for this operator should be refused.** We have no objection to the building being used for sensible restaurant or bar use but for the venue to turn into little more than a night club in the evening is too much for us to really countenance as a neighbouring business reliant on providing a night's sleep to our customers.

Should the Licence be approved we would like to suggest some conditions to protect our business, customers and staff and to limit the damage to the area late at night:

**-Noise from New Street.** As a hotel next to this proposed bar we consider that our clientele would be reasonably tolerant in most instances of a little increased disturbance until 11pm mid-week and a little later at a week-end.

We would like to propose that the license, if granted, for both Live/Recorded music and Late Night refreshment be limited to 11pm on Sunday to Thursday nights then until midnight on Fridays and Saturdays. (We note that the Opening/Closing times on the Licensing Application contain an error and should presumably read 10-02.30 for Friday and Saturday rather than Sat-Sun since Sunday is already listed and Friday is omitted.)

We object to an additional hour on the evenings preceding a Bank Holiday as this will increase late night disturbance for our guests at our busiest points in the year.

We object to an additional hour being granted when BST begins to disapply it's effect; as a hotel our customers are already losing an hours sleep on this night and to grant a further hours potential disturbance will prove unacceptable to them.

We note that a representative of Revolucion de Cuba stated that 'the business would not be viable if it was restricted to a midnight closing time' when Reading Council restricted the hours requested at a Licensing Hearing. We also note that the Glasgow branch of Revolucion de Cuba opened in 2016, is presumably viable yet closes by midnight on every day of the week ([www.revoluciondecuba.com/bar/glasgow/](http://www.revoluciondecuba.com/bar/glasgow/)), numerous other branches also operate with far earlier closing times than those requested for York.

We would propose that later hours could fairly be looked at following a reasonable period after opening when any disturbance can accurately be evaluated rather than calculated from presumptions and guesswork.

**-Noise from within the building.** We would like to be afforded protection from unforeseen noise emanating from the structure by way of having sound limiters positioned by our façade and bedroom windows ensuring that noise nuisance doesn't breach acceptable levels. Short of this we would hope that sound levels for the music system be set with consideration to the noise audible from our property and with allowance for the noise to be generated by bar patrons.

**-Noise, smells and light disturbance from the bar and kitchens should the emergency access doors be opened.** We would like the emergency access doors to be alarmed so that they are only used for their proper use as outlined in the planning application or perhaps for them to automatically switch off the sound system should they be opened; surely wise anyway in emergency situations. We would also like to request that the sound proofing of these doors be guaranteed to be of a suitable level bearing in mind they are just 2.6m from a bedroom window and afford our guests their only protection from the noise inside the bar.

**Noise from the roof terrace.** If the conditions detailed in the planning approval and calculations upon which they are based are adhered to and accurate then disturbance from this area should hopefully have been reduced to tolerable levels for our customers especially since the roof terrace is to be shut by 11pm. We would like to see some further protection and consideration for our property afforded in any license granted should noise nuisance prove to be worse than anticipated, perhaps again by sound monitoring at our noise sensitive facades and by setting the sound levels with consideration to our guests and staff.

Signature:

Date: 14<sup>th</sup> January 2018

<b>Contact Name and address for correspondence:</b> John Wallace, Judges Court, Coney Street	
<b>Post Town:</b> York	<b>Post Code:</b> YO1 9ND
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e mail address your e mail address:</b>  jdw@judgescourt.co.uk	



A photograph showing the proximity of Judges Court and its bedroom windows to the outer (red brick) walls of the proposed bar. The emergency access door from the bar can be seen in the corner (blue)



It measures 2.6m from the emergency access door to the closest bedroom window





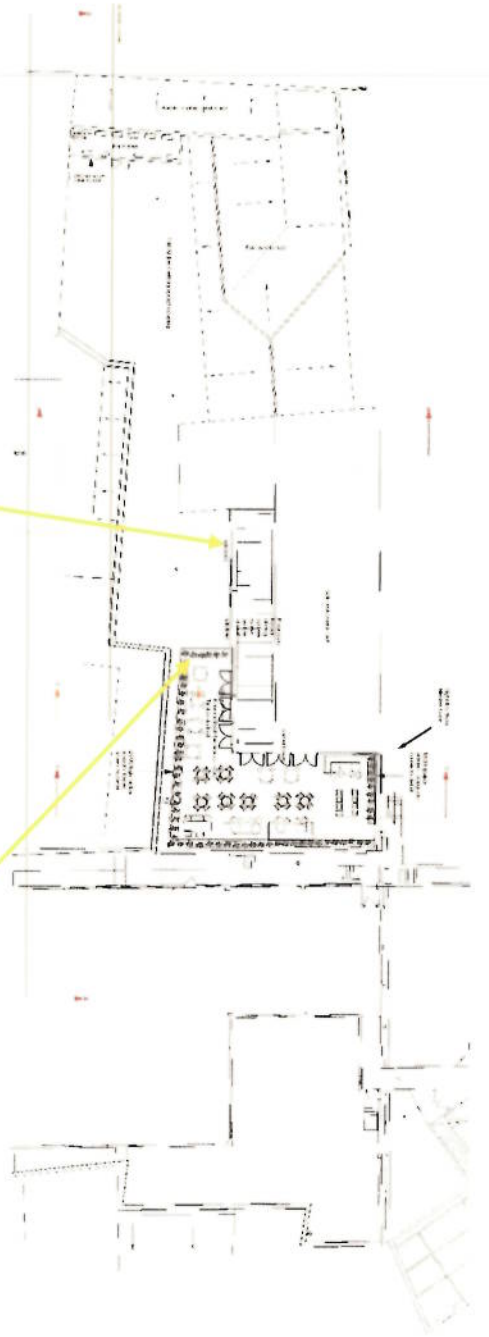
A photograph showing the proximity of the proposed bar and emergency access door to Judges Court's side windows



A photograph from a bedroom window showing the proximity of the roof top bar and location of the terrace

To be converted into the roof top bar

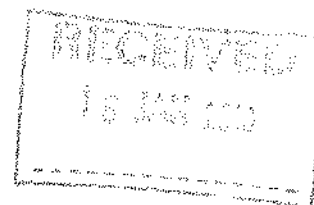
Location of roof top terrace



A photograph showing the proximity of Judges Court's windows to the roof top bar and terrace



CITY OF  
**YORK**  
COUNCIL



**Approve Planning Permission**

**TOWN AND COUNTRY PLANNING ACT 1990**

**To:**

Mr Mark Shearman  
Firstplan  
Bramah House  
65-71 Bermondsey Street  
London  
SE1 3XF

**Application at:** 11 New Street York  
**For:** Formation of roof bar and terrace and installation of external plant and acoustic screening.  
**By:** Revolution Bars Group  
**Application Ref No:** 17/01590/FUL  
**Application Received on:** 31 July 2017

**CONDITIONS OF APPROVAL:**

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

103GG Received 13 November 2017  
101HH Received 26 October 2017  
Acoustic Report Dated August 2017 Ref: 170604-R002B

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 The external terrace hereby permitted shall not be used except between the hours of 11:00 - 23:00 daily.

Reason: To protect the amenity of nearby properties.

4 Prior to the external terrace being brought into use, an operational management plan outlining how the use of the terrace will be managed, particularly when the use of the terrace ceases at 23:00 hours daily, shall be submitted and approved in writing by the local planning authority. The terrace shall be operated in accordance with the measures outlined in the operational management plan for as long as terrace remains in use.

Reason: To protect the amenity of nearby properties.

5 No music shall be played on the external terrace at any time.

Reason: To protect the amenity of nearby properties.

6 The number of customers on the external terrace shall not exceed 84 at any one time.

Reason: To protect the amenity of nearby properties.

7 The doors contained within the south western and south eastern elevation of the rooftop bar shall be kept fully closed at all times other than for access and egress and shall be fully closed between 23:00-11:00 daily, except in an emergency.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

8 The windows contained within the south western elevation of the rooftop bar and the patent glazing contained within the south western facing roofslope of the rooftop bar shall be non-openable.

Reason: To protect the amenity of nearby properties.

9 Prior to the use of the external terrace, details of the colour and finish of the 2.6m high timber acoustic screen hereby permitted shall be submitted to and approved in writing by the local planning authority. The acoustic screen shall be painted and finished in accordance with the approved details within a period of two months of being installed and shall be maintained according to those details.

Reason: In the interests of the character and appearance of the Central Historic Core Conservation Area.

10 The external terrace shall not be occupied by customers until the acoustic screen has been installed as shown on the approved drawing 101HH.

Reason: To protect the amenity of nearby properties.

11 Prior to the use of the rooftop bar, a cross section (scale 1:10) through part of the south western facing roofslope and patent glazing shall be submitted and approved in writing by the local planning authority. The patent glazing shall be installed in the south western roofslope in accordance with these approved details prior to the use commencing.

Reason: To protect the amenity of nearby properties.

12 Prior to the use of the external terrace, details of the living wall (including plant species and fixings) and a management plan shall be submitted and approved in writing by the local planning authority. The living wall shall be installed and maintained in accordance with the approved details and management plan for as long as the rooftop bar and terrace remains operational.

Reason: In the interests of the character and appearance of the Central Historic Core Conservation Area.

13 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

14 No item of plant installed within the plant area shall become operational until the acoustic screen has been installed as shown on the approved drawing 101HH.

Reason: To protect the amenity of nearby properties.

15 Notwithstanding the details shown on Section AA Drawing No 103EE, and prior to the use of the rooftop bar and external terrace, details of the proposed method of screening (including height, materials, colour treatment and finish) for the windows contained within the south western facing elevation shall be submitted and approved in writing by the local planning authority. The screen shall be installed and maintained in accordance with these approved details for as long as the rooftop bar and terrace remains operational.

Reason: In the interests of the character and appearance of the building and the Central Historic Core Conservation Area.

16 All electronically amplified music emitted from the rooftop bar shall be played or reproduced through loud speakers and a tamper proof noise limitation device. The device, the levels set and the installation shall be approved in writing by the local planning authority before the use hereby approved commences. Thereafter the approved levels, equipment, installation, position and type of speakers shall be maintained in accordance with the planning permission; at no time shall they be modified without the written approval of the local planning authority.

Reason: To safeguard the residential amenity of neighbouring properties.

Date: 24 November 2017



M. Slater  
Assistant Director for Planning and Public  
Protection

**FOR RIGHTS OF APPEAL, SEE OVERLEAF**

**Notes to Applicant**

**1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during

the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- Negotiation on the design aspects including extent of terrace area, and external alterations to the rooftop bar.
- Negotiation on the hours of operation for the external terrace.

## Appeals to the Secretary of State

- . If you are aggrieved by the decision of the City Council to attach conditions to the grant of planning permission, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.
- . If you want to appeal, then you must do so within SIX months of the date of this. You must use a form which you can get from The Planning Inspectorate, at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (tel: 0303 444 5433) or which can be downloaded from their web site (<https://www.gov.uk/appeal-planning-inspectorate>).
- . The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- . The Secretary of State need not consider an appeal if it seems to him that the City Council could not have granted planning permission for the proposed development, or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the Development Order and to any directions given under the Order.
- . In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

## Purchase Notices

- . If either the City Council or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state, nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- . In these circumstances, the owner may serve a purchase notice on the City Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## Compensation

- . In certain circumstances, compensation may be claimed from the City Council if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.
- . These circumstances are set out in Section 120 and related provisions of the Town and Country Planning Act 1990.

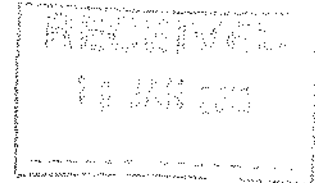
## Note

This permission does not absolve you from the need to obtain approval under the Building Regulations, or to obtain approval under any other Bye-Laws, Local Acts, Orders, Regulations and statutory provision in force, and no part of the proposed development should be commenced until such further approval has been obtained.





CITY OF  
**YORK**  
COUNCIL



**Approve Planning Permission**

**TOWN AND COUNTRY PLANNING ACT 1990**

**To:**

Mr Andrew Astin  
Indigo Planning  
Toronto Square  
Toronto Street  
Leeds  
LS1 2HJ

**Application at:**

BHS 11 New Street York

**For:**

Subdivision and flexible change of use of part of the existing retail unit (A1) to Restaurant (A3) and/or drinking establishment (A4)

**By:**

Lloyds Bank SF Nominees C/o Aberdeen Asset Management,

**Application Ref No:**

16/02639/FUL

**Application Received on:**

17 January 2017

**CONDITIONS OF APPROVAL:**

1 The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted documents:

'Proposed - Unit 3 Ground Floor drawing no. PO1' received 30th March 2017 and 'Unit 3 Proposed - First Floor'

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

4 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozon treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

5 The transfer of bottles from internal areas to the bin store shall only take place during the hours of 09:00 to 21:00.

Reason: In the interests of protecting the amenities of the occupants of surrounding properties.

6 All electronically amplified music emitted from the premises shall be played or reproduced through loud speakers and a tamper proof noise limitation device. The device, the levels set and the installation shall be approved in writing by the Local Planning Authority before the use hereby approved commences. Thereafter the approved levels, equipment, installation, position and type of speakers shall be maintained in accordance with the planning permission; at no time shall they be modified without the written approval of the Local Planning Authority.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with Policy GP1 of the York Development Control Local Plan.

Date: 6 April 2017



M. Slater  
Assistant Director for Planning and Public  
Protection

**FOR RIGHTS OF APPEAL, SEE OVERLEAF**

**Notes to Applicant**

**1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Revised plans were submitted in which the proposed roof bar and pavement cafe were removed from the application.

Account has been taken of all relevant national guidance and local policies and with the attachment of conditions the proposal is considered to be satisfactory

## 2. FOOD PREMISES REGISTRATION

As this application relates to a business that will sell or supply food and/or drink (including alcohol), the proprietor of the business should contact by email at [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) or by telephone on 01904 551525 at their earliest opportunity to discuss registering the business as a food premises (a legal requirement) and to obtain advice on food hygiene & standards, health & safety, odour extraction etc.

## Appeals to the Secretary of State

If you are aggrieved by the decision of the City Council to attach conditions to the grant of planning permission, then you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990.

If you want to appeal, then you must do so within SIX months of the date of this. You must use a form which you can get from The Planning Inspectorate, at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (tel: 0303 444 5433) or which can be downloaded from their web site (<https://www.gov.uk/appeal-planning-inspectorate>).

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the City Council could not have granted planning permission for the proposed development, or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the Development Order and to any directions given under the Order.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

## Purchase Notices

If either the City Council or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state, nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the City Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## Compensation

In certain circumstances, compensation may be claimed from the City Council if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 120 and related provisions of the Town and Country Planning Act 1990.

## Note

This permission does not absolve you from the need to obtain approval under the Building Regulations, or to obtain approval under any other Bye-Laws, Local Acts, Orders, Regulations and statutory provision in force, and no part of the proposed development should be commenced until such further approval has been obtained.



Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

## 2.2 Policies:

CYGP1  
Design

## 3.0 CONSULTATIONS

### INTERNAL

Public Protection

#### Noise

3.1 In terms of noise associated with the development noise is likely to occur primarily as a result of plant/machinery, people noise, music noise, and delivery noise. From initial investigations it would appear that there are few if any residential properties in the area. In addition there are already a number of existing bar/restaurants in the vicinity, with All Bar One and the Blue Fly Café Bar adjacent to and opposite the proposed development site. It is also worth noting that having reviewed Public Protection's complaint database I am unaware of any existing or historic complaints about the existing bars/restaurants on New Street.

3.2 Within the application it is stated that the exact details of any plant or machinery are unknown and will be determined by the final occupier of the property, if permission were granted. Having reviewed the plans it would appear that eight condenser units are proposed on the second floor rear flat roof in addition to air intake and extract fans associated with ventilation for the first floor kitchen.

3.3 Such plant could have an adverse impact on the amenity of the area and also on the nearby hotel located at Judge's Court Hotel. Whilst noise from plant and equipment does have the potential to cause adverse impact I am satisfied that any noise could be adequately controlled through the provision of mitigation measures, such as acoustic enclosures or barriers, and so would recommend that a condition be attached to any permission granted to address this.

3.4 There are slight concerns over the potential for noise breakout affecting the amenity of the area. A possible occupier is Revolution de Cuba (RDC), which is a

chain where live music is likely to take place on a regular basis. Noise breakout from the ground and first floor building façade closest to the Judge's Court Hotel would be unlikely as it would appear that there are no openings. The only concern then relates to the potential for noise from use of the second floor external roof. It is requested that details be provided on the levels of noise anticipated and the level of breakout noise which is likely to occur. It is also requested that the background noise level is established in order to assist in determining the potential impact from plant and machinery. *(CASE OFFICER NOTE: The roof bar and pavement cafe have been removed from the application and, as a result, Public Protection does not consider that a noise report is now required as details of noise with regard to external plant can be dealt with by condition)*

3.5 I would want to ensure that any noise associated with amplified music from the site does not result in loss of amenity to the area as a whole, I would request that a condition controlling amplified music on the premises be attached to any approval granted.

#### Deliveries

3.6 Noise associated with deliveries, waste collection and bottle emptying have the potential for cause noise and result in loss of amenity. It would appear, however, that the proposed bin storage area will be internal to the building and also away from the Judge's Court Hotel façade. As a result it is my opinion that noise from use of this area would be unlikely to result in adverse impact due to noise. However, it may be worth considering restricting hours during which bottle emptying may be carried out to the hours of 09:00 to 21:00. In terms of deliveries I am aware that existing restrictions in the area will determine, to a large extent, the hours during which deliveries can occur. As a result I would anticipate that delivery hours will be controlled by this. In addition any deliveries would likely take place along New Street into the loading bay located on New Street.

#### Odour

3.7 In terms of odour treatment for the kitchen extraction limited information has been submitted with the application. As a result I would therefore request that a condition be attached to any approval for further details to be provided.

#### Food Informative

3.8 A Food informative dealing with advice on food hygiene & standards, health & safety, odour extraction etc should be attached to a planning consent

#### EXTERNAL

Operator of Dusk (bar), 8 New Street

Application Reference Number: 16/02639/FUL

Item No:

Page 3 of 12



3.9 We have lost so much trade due to the fact that none of our regular clientele wish to enter the city on a Saturday and this proposal will add anti social problems on New Street. This is huge bar - the flow of people will increase dramatically and change the feel of the street from being a side street with a couple of independent bars to a destination street which attracts trouble.

3.10 The outside seating area will mean that the space between the areas will be full of people making it almost impossible for taxis and, more importantly emergency services to be able to operate safely. Construction will adversely affect our business for a sizable period of time. Make the development one that is a restaurant only not a massive bar.

Operator of Axis Barber Shop, 19 New Street

3.11 Will have negative impact on the City Centre, specifically drunken and nuisance behaviour. Another Bar is the last thing our street needs let alone York in general. The amount of drunkenness and inflatables in poor taste is a disgrace and is putting people off from coming into York on a Saturday to do shopping. It's having an effect on every decent business.

Three Residents of York (one from Heslington and two from Clifton area)

3.12 Object on the following grounds - there are more than enough bars/restaurants in that area of York; we need more small retail units. It will have negative impact, specifically drunken and nuisance behaviour. The city centre is becoming a no-go area, this will matters worse

Judges Court Hotel

3.13 Object on the following grounds;

- Noise from within building - music features heavily in the proposed operator's offer and there is concern about noise breakthrough from the bar particularly as hotel has single glazed windows
- Noise from pavement cafe, roof bar, kitchen, bar staff in rear courtyard and a/c units on roof - a noise report should be submitted without this and assessment of operating hours cannot be made.
- Roof bar will overlook hotel bedroom windows
- The addition of another bar in the area could cause unsustainable and dangerous levels of crowds in the street
- The roof bar and condenser units on the roof will have a material physical impact on the setting of the listed building

- Even if the developers incorporate noise attenuation the unpredictable nature of noise disturbance could decimate the viability of the hotel operation.
- The application form has the following omissions:
  - a. No indication of how waste is stored or collected
  - b. It indicates that land is contaminated but does not explain its nature
  - c. It states it does not involve loss of non-residential floorspace which is incorrect
  - d. No information on opening hours
  - e. No information on timing and frequency of deliveries – a potential disturbance issue for hotel guests

#### North Yorkshire Police (NYP)

3.14 NPPF paragraphs 58 and 69 state that planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. National Planning Practice Guidance (paragraph 010 Ref ID: 26-010-20140306) states that, "Designing out crime and designing in community safety should be central to the planning and delivery of new development. Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and do all they reasonably can to prevent crime and disorder".

3.15 In addition, 'Safer Places - The Planning System and Crime Prevention' states that 'the siting and design of potential 'honeypots' (places where people congregate and linger) and 'hotspots' (places where criminal and anti-social behaviour is concentrated) require particular attention so as not to bring crime to particular types of area. In circumstances it may be easier to manage a concentration of such places, so long as such concentration is not excessive'.

3.16 Over a 12 month period there were 28 crimes and 34 incidents in New Street between 18.00 and 06.00, which show how the night time economy is having a detrimental impact on crime and disorder. The inclusion of further licensed premises in this street has a realistic potential to increase problems of disorder and public nuisance. (*CASE OFFICER NOTE – the Police also raised concerns about a proposed pavement cafe in the application but this aspect has now been withdrawn from the scheme*)

## 4.0 APPRAISAL

### KEY ISSUES

4.1 The key issues in the assessment of this proposal are the principle of the proposed change of use and the impact upon the character and appearance of the building and the conservation area and the amenities of nearby occupants.

Application Reference Number: 16/02639/FUL

Item No:

## LEGISLATIVE BACKGROUND

4.2 Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

## POLICY CONTEXT

4.3 Central Government guidance is contained in the National Planning Policy Framework, March 2012 (NPPF). This sets out the overarching roles for the planning system. In Paragraph 7 it says planning should contribute to the achievement of sustainable development by balancing its economic, social and environmental roles. Paragraph 14 advises a presumption in favour of sustainable development is at the heart of the Framework. There is, however, a Footnote 9 to Paragraph 14 which contains restrictions where this presumption does not apply and the restrictions include designated heritage assets such as conservation areas. Paragraph 17 lists twelve core planning principles that the Government consider should underpin plan-making and decision-taking, such as seeking high quality design and conserving heritage assets.

4.4 Paragraph 23 says that planning policies should be positive and promote competitive town centre environments that provide customer choice and a diverse retail offer that reflects the individuality of town centres. It also says that local planning authorities should define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations. Annex 2 of the NPPF advises that secondary frontages provide greater opportunities for a diversity of uses such as restaurants, cinemas and businesses.

4.5 Paragraph 186 states that local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development.

4.6 Paragraph 187 adds that local planning authorities should look for solutions rather than problems and decision takers at every level should seek to approve applications for sustainable development where possible. A core principle set out in paragraph 17 is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.7 In terms of the impact on the conservation area, paragraph 132 states that considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed by or lost through alteration or destruction of the heritage asset or development within its setting.

4.8 Paragraph 58 states that planning decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

#### Local Plan

4.9 The Development Control Local Plan was approved for development control purposes in April 2005; its policies are material considerations although it is considered that their weight is limited except where in accordance with the content of the NPPF.

4.10 Policy GP1 requires development proposals to respect or enhance the local environment, be of a design that is compatible with neighbouring buildings and the character of the area and expects new development to ensure that residents living nearby are not unduly affected by noise and disturbance.

4.11 It is considered that retail policies in the 2005 plan that deal with control of uses in shopping streets now have limited weight and that, in terms of the principle of the proposed use, it is the NPPF and Emerging Plan along with its associated evidence base (in particular the Retail Study Update (2014) (RSU) that should be the determining factors.

#### Emerging Plan

4.12 The Appendices to the RSU include a map that identifies a Primary Shopping Area (PSA) within the city centre where retail development is concentrated. In Paragraph 9.28 the RSU recommends the introduction of primary and secondary shopping frontages in York city centre to allow the Council to support vitality and viability by controlling the use of premises in such locations.

4.13 The PSA map identifies that New Street falls within the secondary shopping frontage. Although the RSU advises that Emerging Plan Policy (EPP) R3 should seek to retain a concentration of retail uses within secondary shopping frontage, it also states that non-retail uses should be considered favourably where they will have a positive impact on the shopping character and function of the street (Paragraph 9.31).

4.14 EPP Policy R3 acknowledges the greater diversity referred to in Annexe 2 of the NPPF and in essence recognises a changing town centre environment, where non A1 uses play a much greater role in a competitive town centre and where shopping activity is becoming more of a leisure activity and A3 and A4 uses complement the retail function. The Policy states that proposals for main town centre uses other than retail (including food, drink and entertainment uses) in the PSA will be supported where they complement the retail function, contribute to the vitality and viability of the city centre, have active frontages and would not have a detrimental impact on the overall character and amenity of the PSA.

4.15 For secondary frontages the Policy says that non-retail uses at ground floor level will be considered favourably where they would:

- not result in an over-concentration of non-retail uses that would have a negative impact on the shopping character and function or lead to amenity problems
- have active and attractive shop frontages and avoid dead frontage during the normal trading day
- be compatible with adjoining land uses and not prevent upper floors from being effectively used

## ASSESSMENT

### Principle

4.16 Although New Street is identified as secondary shopping frontage it is not considered that it could be regarded as making a strong contribution to the retail activity of the city centre. In the street on the ground floor, other than the application property, there are 3 bars, 2 cafes, 2 hairdressers and a language school. In essence, in retail terms, it acts more as a link between the greater retail concentrations in the primary shopping frontage streets of Coney Street and Davygate. In this context it is considered that it would be difficult to sustain an argument that the loss of this retail unit within New Street would have an adverse impact on the overall character and amenity of the PSA. The proposal would contribute to commercial activity during the day and evening and it is considered that, in principle, the proposed use would be compatible with existing nearby commercial activities.

### Noise

4.17 With regard to noise, and in particular the potential impact on the Judges Court Hotel, the proposed roof terrace bar has been removed from the application, as has the pavement cafe, which will make a considerable difference to the potential for external noise creation. Public Protection officers do not consider that noise breakout from the ground and first floor building façade closest to the Judge's Court Hotel is likely, as there are no openings other than a pair of emergency doors, and it is considered that any issues of noise with regard to other potential sources (i.e. external plant or bottle emptying/transfer) can be dealt with by condition. In addition, refuse will be kept in a bin store that is located on the opposite side of the building to the hotel, which should eliminate any potential noise disturbance for hotel guests.

### Operating Hours

4.18 Appeal decisions concerning bar/restaurants in the Swinegate area have maintained that attempting to manage noise disturbance in the city centre location through the control the opening hours of individual premises would be ineffective if

there are other operations in the area are not subject to such control. The conclusion has been that it is only noise from the premises itself that should be the focus of planning control (i.e. in respect of amplified music and/or plant /equipment, etc.).

#### Application Form Omissions

4.19 With regards to omissions on the application form, the applicant's agent has updated the form and responded as follows:

- a. Waste – (as mentioned above) this will be kept in a bin store that is located on the opposite side of the building to the hotel and will be separated as required and collected by an appointed contractor.
- b. Contamination – amended to confirm that there is no contamination on site
- c. Non-residential floorspace – these figures now provided
- d. Opening hours – these will be addressed in the licensing application
- e. Timing and frequency of deliveries - the operators will be restricted by the local area delivery policy

#### Servicing

4.20 In respect of servicing, the same limitations apply to all businesses in the city centre footstreets and around the Judges Court Hotel (namely all servicing/deliveries have to be outside the hours of 10.30 to 17.00) and it is not considered that it would be reasonable or acceptable to impose more stringent restrictions on the operator of an A3/A4 user, or indeed any other commercial user, at the application site.

#### Anti-Social Behaviour and Disturbance

4.21 The applicant's agent has advised that the proposed occupier of the unit (RDC) has since met the Police to discuss the proposal and will be submitting a licensing application which will cover opening hours and the prevention of crime and disorder. He has also advised that RDC will implement a management plan at the premises to help address concerns raised regarding customer dispersal and anti-social behaviour.

4.22 The Police comments are noted, however, their figures indicate that, in New Street, between 18.00 and 06.00, there is an average of just over 2 crimes a month and just below 3 incidents a month and although all occurrences of crime and other incidents are regrettable, it is not considered that the application could be refused on the grounds that it would cause crime and disorder and lead to an undermining of the quality of life or community cohesion. It is also worth noting that Public Protection are unaware of any existing or historic complaints about the existing bars/restaurants on New Street.

## Heritage Impact

4.23 As the proposed roof terrace has been removed from the application and the proposal does not include any external alterations, it will not impact on the setting of the adjacent listed building or character of the conservation area. The appearance of any external plant and any necessary screening can be controlled by condition.

## Legislative and NPPF Policy Compliance

4.24 In assessing the proposal officers have considered the impact it would have on the significance of the conservation area, as required by Paragraph 132 of the NPPF, and have judged that there will be no harm. In this respect it is considered that the proposals will preserve the character and appearance of the conservation area and if this application is approved the Local Planning Authority will have properly exercised its duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 5.0 CONCLUSION

5.1 The proposals will respect the character and appearance of the conservation area. It is also not considered that they will cause harm to the vitality or viability of the street or city centre as a whole or create crime and disorder and lead to an undermining of the quality of life or community cohesion. As such it is considered that they satisfy national guidance in the NPPF and Development Control Local Plan Policy and are acceptable. It is concluded that planning consent should be granted.

## 6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted documents:

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or

equipment at the site should not exceed the background noise level at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

4 There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m<sup>3</sup>/s throughout the extraction system.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

5 The transfer of bottles from internal areas of the premises to the designated bin store shall only take place during the hours of 09:00 to 21:00.

Reason: In the interests of protecting the amenities of the occupants of surrounding properties.

6 All electronically amplified music emitted from the premises shall be played or reproduced through loud speakers and a tamper proof noise limitation device. The device, the levels set and the installation shall be approved in writing by the Local Planning Authority before the use hereby approved commences. Thereafter the approved levels, equipment, installation, position and type of speakers shall be maintained in accordance with the planning permission; at no time shall they be modified without the written approval of the Local Planning Authority.

Reason:- To safeguard the residential amenity of neighbouring properties and to



secure compliance with Policy GP1 of the York Development Control Local Plan.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

Revised plans were submitted in which the proposed roof bar and pavement cafe were removed from the application.

Account has been taken of all relevant national guidance and local policies and with the attachment of conditions the proposal is considered to be satisfactory

#### **2. FOOD PREMISES REGISTRATION**

As this application relates to a business that will sell or supply food and/or drink (including alcohol), the proprietor of the business should contact by email at [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) or by telephone on 01904 551525 at their earliest opportunity to discuss registering the business as a food premises (a legal requirement) and to obtain advice on food hygiene & standards, health & safety, odour extraction etc.

#### **Contact details:**

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**Tel No:** 01904 551665

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# Revolucion de Cuba



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**Date:** 15 Jan 2018

**Author:** City of York Council

**Scale:** 1:1,250

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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE  
LICENSING ACT 2003**

**MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

7. The responsible person must ensure that –
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25ml or 35ml; and
    - (iii) still wine in a glass: 125ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### **MANDATORY CONDITION: ALCOHOL PRICING**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 –
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
  - (b) “permitted price” is the price found by applying the formula –  
$$P = D + (D \times V)$$
where –
    - (i) P is the permitted price,
    - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**MANDATORY CONDITION: DOOR SUPERVISION**

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to -
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
  - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**MANDATORY CONDITION: EXHIBITION OF FILMS**

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

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**Legislation and Policy Considerations**

1. The following provisions of The Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s17 application for premises licence; s18 determination of application for premises licence; s23 grant or rejection of application; ss19, 20 and 21 mandatory conditions; The Licensing Act (Mandatory Licensing Conditions) Order 2010; and The Licensing Act 2003 (Mandatory Conditions) Order 2014.
2. The following provisions of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications
3. The following provisions of the Secretary of State's guidance apply to this application: Section 2 The Licensing Objectives; Section 9 Determining applications; Section 10 Conditions attached to premises licences and club certificates; and Section 13 Statements of licensing policy.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 5.0 Applications for Premises Licences, Club Premises Certificates and Variations; 6.0 Guidelines for Applicants; 7.0 Saturation and Cumulative Impact and 8.0 Licensing Hours.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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**Additional Information received from  
representor**

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**ROOF TERRACE AT THE FORMER BHS, YORK**

**ACOUSTIC REPORT REVIEW**

**O'NEILL ASSOCIATES**

**AUGUST 2017**

Prepared By:  
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## 1 INTRODUCTION

An application to convert the former BHS store on New Street, York into a bar and nightclub was granted permission in April 2017. Following this, an additional application (reference number 16/02639/FUL) for a roof top terrace and bar on the site has been submitted. This application included an acoustic report undertaken by ACA Acoustics (ref: 170604-R002) to assess noise impacts on the nearby noise sensitive receptors.

This report is a review of the AQA Acoustics report submitted as part of the roof top terrace and bar application, to determine whether noise impacts have been properly assessed. Each section of the AQA report has been reviewed in turn, and a summary of our findings provided at the end.

## 2 REVIEW

### 2.1 Consultation

The ACA report does not include any reference to consultation undertaken with the York City Council environmental health department, or any other relevant consultees. While not strictly necessary, consultation with environmental health can help inform consultants on any local issues, and any specific guidance that might be appropriate to assess against.

### 2.2 Criteria and Method of Noise Assessment

The report states that;

*'There is no specific formal method for undertaking an assessment of noise from patrons potentially affecting nearby residential receptors'*

The report goes on to reference other guidance, such as the NPPF, NPPG, BS 8233:2014 and the Guidelines for Environmental Noise Impact Assessment as being suitable for the assessment of noise from the rooftop terrace and bar. No reference is made to the *Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs* (2003). This document provides guidance for the assessment and control of noise affecting noise-sensitive properties from the public use of clubs, discos and other similar premises. The main sources considered in this document are music, PA systems, beer gardens, people in general and plant and machinery. It is therefore our opinion that this guidance would cover a rooftop terrace and bar, where music will be played and people will presumably be talking and shouting, and as such should have been used to assess noise from the Development. In addition to providing guidance on the control of noise, the document states that;

*'for premises where entertainment takes place on a regular basis, music and associated sources should not be audible inside noise-sensitive property at any time.'*

It is anticipated that because the bar/rooftop terrace will be open most nights it can be considered that entertainment will take place on a regular basis, and should therefore be inaudible inside noise sensitive receptors.

### 2.2.1 BS 8233:2014

The AQA report goes on to reference BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings*. It reproduces Table 4 of BS 8233:2014, which provides target internal levels in bedrooms for sleeping and resting (35 dB  $L_{Aeq,16hour}$  during daytime hours and 30 dB  $L_{Aeq,8hour}$  during night). It should be noted however that immediately above this table, the standard states that;

*'In general, for steady external noise sources, it is desirable that the internal ambient noise level does not exceed the guideline values in Table 4.'*

It is not considered that music and patron noise from a bar/club is a 'steady' noise source, and as such, the target levels provided in the report are not appropriate to ensure impact on nearby receptors has been properly assessed. It should also be noted that the BS 8233:2014 target levels 'assume normal diurnal fluctuations in external noise' and that in cases where the local conditions do not follow typical pattern (i.e. where levels increase significantly from approximately 6 – 11 pm while a bar is operational), an alternative period may be used. The AQA report has not considered this.

BS 8233:2014 states that in terms of regular individual noise events a guideline value may be set in terms of SEL or  $L_{Amax,fr}$  depending on the character and number of events per night. While no specific level is provided in BS 8233, the World Health Organisation's Guidelines for Community Noise advises that:

*'For a good sleep, it is believed that indoor sound pressure levels should not exceed approximately 45 dB,  $L_{Amax}$  more than 10-15 times per night.'*

The ACA report does not take into account individual noise events, which from a rooftop terrace and bar are likely to be considerable. It should also be noted that York City Council often set a more stringent noise limit of no individual noise event exceeding 50 dB,  $L_{Amax}$  at any point during night-time periods; again, this has not been considered in the AQA report.

The ACA report states that:

*'BS 8233:2014 advises that sound transmission through an open window limits the sound insulation through the façade to 15 dBA.'*

While BS 8233:2014 does specify that an open window reduces insulation to approximately 15 dB (not dBA), it goes on to state that this can vary significantly depending on the window type and the frequency content of the external noise. It should be noted that the ACA report does not assess the windows of the nearest receptor, or take into account the frequency content of noise from the development. In this instance, the nearest window is single glazed unit, and the low frequency content of most modern music is likely to mean that in practice 15 dB reduction is unlikely to be achieved.

### 2.2.2 Section 2.4 Guidelines for Environment Noise Impact Assessment

In section 2.4 of the ACA report, it is stated that where there is no formal assessment methodology, a new noise source should be considered as to whether it is likely to cause a significant increase in the level and character of noise, compared to the existing ambient noise climate. As discussed previously, it is considered that the IOA Guidance on Control of Noise from Pubs and Clubs provides guidance and a limit (inaudibility inside the nearest receptor), which is appropriate for this assessment.

The ACA report uses the Guidelines for Environmental Noise Impact Assessment to determine the significance of any change noise levels from a new noise source. It argues that because the nearest receptor is a hotel (Judges Court Hotel), a relaxed criterion may be appropriate during daytime periods as residents are less likely to be in to room during daytime. No context or judgement is used to justify this relaxed criterion. The hotel has a history of noise complaints from hotel guests, which makes this receptor more sensitive, rather than less.

The ACA report states that a moderate impact is acceptable during daytime hours, between 3 dB to 4.9 dB change in sound level. A moderate impact, as described in Table 4 of the ACA report would be in intrusive perception, where the noise impact can be heard and cause change in behaviour and/or attitude, with a potential for non-awakening sleep disturbance. Given that hotel patrons already complain of sleep disturbance at times, any potential for increase in disturbance would not be acceptable.

### **2.3 Background Sound Level Survey**

Section 4.1 of the report specifies that a background sound survey was undertaken between Friday 9<sup>th</sup> and Monday 12<sup>th</sup> June (i.e. a weekend period). Due to the busy city centre location, it is likely that noise levels during weekend periods will be higher than those during weekday periods. It is likely that the bar will be open throughout the week, and as such it is considered that the background survey, is not representative of the likely operating hours.

The report does not contain any photographs of the equipment in situ, or drawings showing the location of the monitoring position. There is no discussion of the existing sound environment, identification of the main noise sources or an explanation of why the equipment was placed in the selected location. The report states that '*the weather was primarily dry and calm*' however there is no explanation as to how this was determined (i.e. weather station?), or whether periods that were not dry were omitted from the results. Due to the elevated and exposed monitoring location, it is considered that wind could have a significant impact on the results, however no information on wind speeds during the survey has been provided.

This information is generally required as best practice, in order to ensure that any monitoring is representative and easily replicable.

### **2.4 Assessment of Noise from Roof Terrace and Bar**

In order to assess noise from the use of the roof terrace and bar, the report states that average conversational speech is 60 dB(A) at 1 m from the speaker, while raised voices are 65 dB(A). It is considered that noise from the use of a busy terrace, where patrons will be socialising and drinking, is likely to be at least the level of 'raised voices' and could often be nearer to 'shouting', which can be as loud as 78 dB(A) at 1 m<sup>1</sup>. Again, maximum levels have not been considered as part of the assessment.

The report states that a noise model was used to calculate an accumulation of 42 patrons talking simultaneously, which is understood to be half the total capacity of 84 people. Notwithstanding the fact that the patron noise levels could have been underestimated by some 13 dB, the report states that the model has been based on the terrace and bar at half capacity, which could further underestimate levels by around 3 dB in total. It should

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<sup>1</sup> [http://www.engineeringtoolbox.com/voice-level-d\\_938.html](http://www.engineeringtoolbox.com/voice-level-d_938.html)



also be noted that the capacity in the report is based on the number of seats, when in practice is it likely that a significant amount more people could be on the terrace if standing.

The report states that the barrier is 2.6 m high, which also appears to be the height used in the calculations provided in Appendix A. A drawing<sup>2</sup> submitted as part of the development however shows this height as 2.1 m.

Section 5 of the report states that:

*'It is anticipated that no music would be played in the external roof terrace and that music in the second-floor bar will be played at 'background' volume only, such that it is inaudible outside nearby noise-sensitive receptors.'*

The application should confirm that music would not be played in the external roof terrace, rather than anticipated. No information is provided as to what 'background' volume is, or how it is assumed that it would be inaudible at the nearest property. It would be a reasonably easy calculation to determine the maximum speaker level for any music by reverse calculating an inaudible level (e.g. NR15 internally) at the nearest receptor. In our personal experience, this type of bar is unlikely to play music at 'background' level, and music from the bar should be modelled as per other noise sources. If necessary, a noise limit on music noise should be set to ensure the level remains at 'background'.

The report ends by stating that 'occasional individual shouts or laughter may be perceptible', which is likely to be an understatement, and given the existing noise issues experienced by the Hotel, is not considered acceptable.

### 3 CONCLUSION

In summary, it is considered that the report submitted as part of the planning application does not fully assess noise from the roof bar and terrace, as follows;

- The effects have noise have been assessed against incorrect criteria;
  - It does not consider the IOA *Guide on the Control of Noise from Pubs and Clubs*, which states that noise from clubs should be inaudible at the nearest noise sensitive receptors;
  - The limits contained in BS 8233:2014 are for the assessment of 'steady' noise sources;
  - The assessment does not take into account individual noise events or max levels which could interrupt and disturb sleep;
  - It does not consider the YCC criteria of no individual noise events exceeding 50 dB(A) internally; and
  - Makes no assessment of the window of nearby receptors to determine whether 15 dB reduction is likely to be achieved;
- The assessment has not used best practice;
  - No consultation has been undertaken with York City Council;
  - The report argues that a relaxed noise criterion is appropriate, despite the hotel experiencing existing noise problems and therefore being more sensitive to additional noise;

<sup>2</sup> 17\_01590\_FUL\_ELEVATIONS\_AND\_ROOF\_PLAN\_AS\_PROPOSED-1894385

- The survey does not include a significant amount of information required as best practice to ensure measurements are representative and repeatable; and
- The background sound survey did not include quieter weekday periods, and therefore cannot be considered worst case;
- The assessment underestimates predicted noise level from use of the bar and terrace.
  - Assessment assumes 65 dB(A) for raised voices, when the level could be as high as 78 dB(A) for shouting;
  - Predictions based on the bar and terrace at half capacity, potentially underestimating results by around 3 dB;
  - Predictions have been based on a 2.6 m high barrier, while the elevations and roof plan drawing submitted with the application shows this barrier to be 2.1 m high; and
  - No assessment has been made of music from the bar, only states that music would be played at 'background' volume. No information as to what this level is, or how it would be controlled is provided.