

Licensing/Gambling Hearing

To: Councillors Hunter, Reid and Wells

Date: Monday, 9 April 2018

Time: 10.00 am

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

AGENDA

1. Chair

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

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members 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. The Determination of an Application by Ambiente Tapas Limited for Premises Licence (Section 18(3)(a) in respect of 59-63 Walmgate, York YO1 9TY (CYC-060429) (Pages 7- 65)

Democracy Officer:

Name: Angela Bielby

Contact Details:

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

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 **(01904) 551550**

Distribution:

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

Press, Library



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.



Licensing Act 2003 Sub Committee

9 April 2018

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for 59-63 Walmgate, York, YO1 9TY

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-060429
3. Name of applicant: Ambiente Tapas Limited
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 licensable activities:

Proposed Activity	Timings
Recorded Music (indoors)	Monday to Sunday 08:00 – 23:30
Late Night Refreshment (indoors)	Monday to Sunday 23:00 – 23:30
Sale of alcohol (on & off sales)	Monday to Sunday 10:00 – 23:30
Opening times	Monday to Sunday 08:00 – 23:30
Non Standard Timings for all licensable activities including opening times	New Year's Eve until 01:00 on New Year's Day. The outside courtyard area to be open 08:00 – 20:00 each day

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 showing how the applicant will address the four licensing objectives is attached at Annex 3.

Special Policy Consideration

8. This premise is not located within the special policy area.

Consultation

9. 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.
10. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

11. North Yorkshire Police made a representation to the application but withdrew it when the applicant agreed to the following conditions being attached to the premises licence if granted:
 - 1) The premises shall operate as a restaurant / cafe not as a bar or vertical drinking establishment providing food and non-alcoholic drinks.
 - 2) Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers, except into the designated outdoor area (Courtyard) as detailed in the premise plan.
 - 3) Customers shall only be served by way of waiter / waitress service.

4) There shall be a minimum of 50 table covers available at all times.

5) A full food menu shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises up to 1.5 hours before the end of permitted hours for the sale of alcohol.

6) An incident log / refusal register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:

- all crimes reported to the venue
- any complaints received regarding crime and disorder
- any incidents of disorder
- any faults in the CCTV system
- any refusal of sale of alcohol
- any visit by a relevant authority of emergency service

With such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry.]

7) A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- operation of the CCTV system (including the downloading of evidence);
- retail sale of alcohol;
- age verification policy;
- conditions attached to the Premises Licence;
- permitted licensable activities;
- the licensing objectives; and
- opening times for the venue.

With such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry.]

8) A colour digital CCTV system shall be installed within the premises and be operational and recording at all times when licensable activities take place and at any other times where members of the public are present on the premises.

9) The CCTV equipment shall have constant time / date generation which must be checked on a daily basis for accuracy.

10) The CCTV system will cover all areas of the premises occupied by the public, as outlined on the Premises Plan

11) The CCTV system must be capable of providing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days consecutive footage.

12) North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be complied with within 48 hours of the request being made.

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

14) The premises shall operate the Challenge 25 policy for the sale of alcohol.

15) The only acceptable proof of age identification shall be a current passport, Photocard Driving Licence or identification carrying the PASS logo (until other effective identification technology eg thumb print or pupil recognition, is adopted by the Premises Licence Holder).

Outside area:

16) There shall be no more than 12 patrons in the outside area (Courtyard) at any one time to prevent public nuisance.

17) There shall be no smoking in the outside area (Courtyard).

12. The agreement is attached at Annex 4.

13. 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 to the following conditions being attached to the licence if granted:

- 1) Bottles should not be disposed of into bins at night and will only be disposed of between 10:00 and 21:00.
 - 2) Clear notices shall be prominently displayed requesting customers to leave the premises and the area in a quiet and orderly manner.
 - 3) Whilst recorded music is being played doors and windows shall remain closed other than for ingress and egress.
14. The Public Protection representation and agreement is attached at Annex 5.

Summary of Representations made by Other Parties

15. Representations have been received from 9 residents on the grounds the licensing objective, the prevention of public nuisance, would be undermined particularly in relation to the proposed use of the outside area. A list of representors is attached at Annex 6. Copies of the representations are attached at Annex 7.
16. A map showing the general area around the venue is attached at Annex 8.

Planning Issues

17. There are no planning issues.

Options

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

Analysis

23. The following could be the result of any decision made this Sub Committee:-
24. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
25. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
26. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
27. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

28. 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.
29. 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

30.

- **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

31. 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.
32. 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

33. 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.

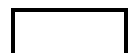
**Report
Approved**



Date 09/03/2018

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** - Operating Schedule
- Annex 4** - North Yorkshire Police representation
- Annex 5** - Public Protection representation & mediated conditions
- Annex 6** - List of Other Representors
- Annex 7** - Copy of representations
- Annex 8** - Map of area
- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation and Policy Considerations

Receipt No
787794
emailed 07/02/18

Reps end 7/03/18



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

060429

**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 Ambiente Tapas 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			
59-63 Walmgate			
Post town	York	Postcode	YO1 9TY
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£25,250	

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 X

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

(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.

Name Ambiente Tapas Limited
Address Green Lane Trading Estate Clifton Moor York YO30 5PY
Registered number (where applicable) 6209010
Description of applicant (for example, partnership, company, unincorporated association etc.) Private Limited Company
Telephone number (if any)
E-mail address (optional) zoe@ambiente-tapas.co.uk

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
2	2	03 2018

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)

The premises previously operated as a bike shop with licensed café and restaurant. It is currently unoccupied.

We will take possession of the premises upon grant of a suitable premises licence & proceed with a fit out to create an 80 cover cafe wine bar & delicatessen at ground floor level. All 80 covers will be seated with table service. There will be an additional 12 seated covers in the rear courtyard. The licenced area on the first floor will provide space for tasting & function rooms.

Food will be served from 8am to 10pm.

The whole of the premises including the external courtyard will be designated as no smoking.

The kitchen will be located in its existing position on the ground floor and no alterations will be made to the extraction which has been installed and maintained in accordance with the current premises licence.

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)

X

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

X

In all cases complete boxes K, L and M

A

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

B

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

C

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

D

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

E

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

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	X
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	8:00	23:30	<u>Please give further details here</u> (please read guidance note 4)		
Tue	8:00	23:30			
Wed	8:00	23:30	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)		
Thur	8:00	23:30			
Fri	8:00	23:30	<u>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</u> (please read guidance note 6) New Years Eve until 00:00 on New Years Day.		
Sat	8:00	23:30			
Sun	8:00	23:30			

G

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

H

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

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	X		
Day				Start	Finish	Outdoors	<input type="checkbox"/>
						Both	<input type="checkbox"/>
Mon	23:00	23:30		<u>Please give further details here</u> (please read guidance note 4)			
Tue	23:00	23:30					
Wed	23:00	23:30	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)				
Thur	23:00	23:30					
Fri	23:00	23:30	<u>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</u> (please read guidance note 6) New Years Eve until 00:30 New Years Day.				
Sat	23:00	23:30					
Sun	23:00	23:30					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption – please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	X
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	10:00	23:30			
Tue	10:00	23:30			
Wed	10:00	23:30			
Thur	10:00	23:30			
Fri	10:00	23:30			
Sat	10:00	23:30			
Sun	10:00	23:30	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 6)		
			New Years Eve until 00:30 on New Years Day.		
			Alcohol will only be available to customers seated in the outside courtyard area between 10:00 and 20:00.		

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

Hours premises are open to the public Standard days and timings (please read guidance note 7)			<u>State any seasonal variations</u> (please read guidance note 5)
Day	Start	Finish	
Mon	08:00	23:30	<p><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> (please read guidance note 6)</p> <p>New Years Eve until 01:00 on New Years Day.</p> <p>The outside courtyard area would only be open to customers from 08:00 to 20:00 each day.</p>
Tue	08:00	23:30	
Wed	08:00	23:30	
Thur	08:00	23:30	
Fri	08:00	23:30	
Sat	08:00	23:30	
Sun	08:00	23:30	

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)

See attached statement.

b) The prevention of crime and disorder

Se attached statement.

c) Public safety

See attached statement.

d) The prevention of public nuisance

See attached statement.

e) The protection of children from harm

See attached statement.

Part 4 – Signatures (please read guidance note 11)

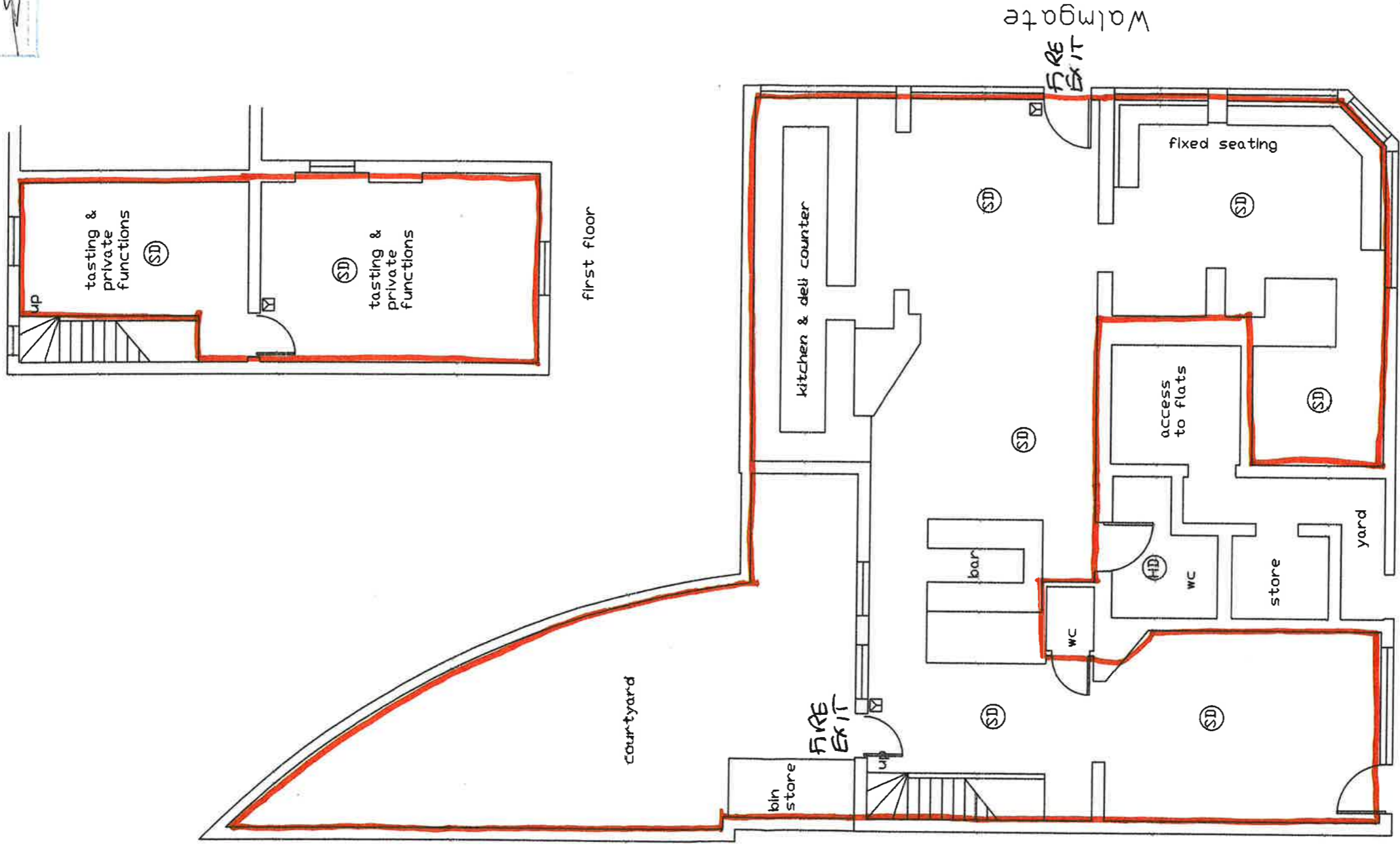
Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Declaration	<ul style="list-style-type: none"> • [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). • The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
Signature	
Date	06/02/2018
Capacity	Company Secretary

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

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) J Z Plummer Ambiente Tapas Limited Green Lane Trading Estate Clifton Moor			
Post town	York	Postcode	YO30 5PY
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) zoe@ambiente-tapas.co.uk			



Key

- Smoke detector
- Heat detector
- Break glass call point
- Licensed area

Premises Licensing Plan
 59-63 Walmgate
 York
 Y01 9TY
 Scale 1:100 at A3
 Feb 18

ground floor
 George Street

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New Café Bar & Delicatessen

59-63 Walmgate, York

Ambiente Tapas Limited have now operated successful, vibrant & disorder free licenced restaurants on Goodramgate since 2010 and on Fossgate since 2014. In seeking a property for an additional site we wish to provide a food lead cafe wine bar showcasing wines and foods from around the world. This will be complimented by a delicatessen which will also sell premium wines on an off licence basis.

In applying for a premises licence for 59-63 Walmgate to cover the sale by retail of alcohol, the playing of recorded music and the provision of late night refreshments we have taken a responsible attitude towards planning the fabric and operation of the new premises around the four licencing objectives, drawing on our experiences from the existing York restaurants and also our restaurant operations in Leeds & Hull.

This attitude extends to an offer to work with the Police, Licencing Authority and other Responsible Bodies in expanding and adapting this statement if deemed appropriate.

General

All staff will be provided with training & supervision to ensure that the four licencing objectives are promoted.

The actions set out below will form an integral part of the standard operation of the premises on a day to day basis from the top down.

The Prevention of Crime and Disorder

A C.C.T.V. system will be installed in the premises.

After installation recordings will be maintained for an appropriate period of time to be agreed with the Police and the Licensing Authority.

After installation at least one C.C.T.V. camera will be in operation at externally at the front of the premises at all times when the premises is in use.

Customers carrying open or sealed bottles or glasses will not be admitted to the premises at any time.

Customers will not be permitted to take open containers of alcohol or soft drinks or glasses from the premises.

All instances of crime and disorder will be reported to the Police as soon as reasonably practicable.

All-inclusive nights or other irresponsible drinks promotions will not be permitted.

The use or possession of controlled drugs will be reported to the Police immediately.

A Personal Licence Holder will be at the premises at all times when alcohol is being sold.

The premises will operate a proof of age policy in accordance within the guidance of the Challenge 25 scheme.

Public Safety

Before the premises is open to the public a Fire Risk Assessment will be undertaken and necessary control measures implemented. This will be reviewed on an annual basis.

Both exit doors will be easily operable without the use of a key.

Exit doors will be regularly checked to ensure that they function satisfactorily.

Exit doors and routes will be kept free of obstructions.

Any internal fire doors will be kept maintained, unobstructed and effectively self-closing and will not be held open other than with approved devices.

Fire resistant doors to service shafts, ducts and cupboards will be kept locked shut.

Step and stair edges will be appropriately highlighted so as to be conspicuous.

Curtains, hangings and temporary decorations will be located so as not to obstruct exits, fire safety signs or fire-fighting equipment.

Notices detailing the actions to be taken in the event of fire or other emergency will be prominently displayed and maintained in good condition.

All fire exits and means of escape will be signed in accordance with BS5499: Part 1: Specification for Fire Safety Signs : 1990.

An evacuation policy will be put into place. All staff members will be trained in fire and emergency evacuation procedures.

Adequate arrangements will be put in place to enable the safe movement within the premises of disabled people and their safe evacuation in the event of an emergency.

Adequate and appropriate First Aid equipment and materials are available on the premises.

At least one suitably trained First Aider will be on duty when the public are present.

In the absence of adequate daylight suitable and sufficient artificial lighting will be provided and maintained in any area accessible to the public.

Fire safety signs will be adequately illuminated.

Emergency lighting will be installed and regularly maintained.

Emergency lighting batteries will be fully charged before the admission of the public.

The emergency lighting battery will have a capacity of 15 minutes to allow adequate evacuation of the premises.

The premises will have either a current and satisfactory National Inspection Council (for) Electrical Installation Contracting (N.I.C.E.I.C.) or Electrical Contractors Association (E.C.A.) periodic electrical installation report.

The premises will have either a current satisfactory N.I.C.E.I.C. or E.C.A. periodic emergency lighting report.

Regular checks will be carried out on the premises' fixtures & fittings & remedial work carried out accordingly.

Portable Appliance Testing will be carried out in according with legislation.

The business operating in the Premises will have current and suitable Public Liability Insurance in the sum of £5,000,000. A certificate will be obtained each year and displayed at the premises.

Alcohol will be available and customers will be made aware that it is available in the following measures:

- Beer & cider - $\frac{1}{2}$ pint
- Spirits - 25ml
- Still wine - 125ml
- Free drinking water will be available at all times when the premises is open to the public.

No alcohol will be sold for less than cost price.

Staff shall not carry out, arrange or participate in any irresponsible promotion of alcohol e.g. games or activities or the provision of unlimited quantities of free alcohol.

Calls for taxis will be made free of charge for customers.

We will operate a complete no smoking policy at the premises.

The prevention of public nuisance

Noise or vibration from the premises will be maintained at a level that will not be audible at the façade of any neighbouring noise sensitive premises.

Doors and windows will be kept closed when regulated entertainment is taking place.

Prominent, clear and legible notices will be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and the area quietly.

Disposal of empty bottles into waste receptacles outside the premises will not be permitted to take place between the hours of 23:00 hrs and 07:00 hrs to minimise disturbance to nearby occupiers.

All ventilation and extract systems will be designed and maintained so as to prevent noxious smells causing a nuisance to nearby properties.

Extract ductwork shall be cleaned every 6 months.

Flashing / bright / flood lights used outside the premises and any security or access lighting installed will not be operated so as to cause a nuisance to nearby occupiers.

All external lighting, including floodlighting, is directed away from adjacent occupiers.

The premises will have a waste collection service six days of the week.

Staff will undertake a litter pick to a distance of 5 metres around the premises daily.

The protection of children from harm

The premises will operate a proof of age policy in accordance within the guidance of the Challenge 25 scheme.

All staff at the premises shall undertake training in the sale of alcohol at six month intervals.

Children under the age of 18 will not be permitted onto the premises unaccompanied by an adult.

Cockerill, Janice

From: Zoe Plummer
Sent: 28 February 2018 14:53
To: Bolland, Samantha
Cc: Booth, Jackie; EAP Licensing Unit
Subject: Re: Agreed conditions - Ambiente Tapas, Walmgate, York

Dear Sam

Thank you for taking the time to talk me through all the conditions.

I am pleased to confirm that we are happy to accept the conditions as stated.

Yours truly

Zoe Plummer
Ambiente Tapas Limited

On 28 February 2018 at 14:36, Bolland, Samantha wrote:

Good afternoon Zoe

The purpose of this email is to document the conditions that the Police seek to have attached to the premises licence so as to ensure that the licensing objectives are not undermined.

In our capacity as a responsible authority, North Yorkshire Police received an application from yourselves for – Ambiente Tapas, 59-63 Walmgate, York, for a premises Licence to be granted. The proposed conditions are consistent with your operating schedule and are listed as follows:-.

PROPOSED CONDITIONS

- 1) The premises shall operate as a restaurant / cafe not as a bar or vertical drinking establishment providing food and non-alcoholic drinks.

2) Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers, except into the designated outdoor area (Courtyard) as detailed in the premise plan.

3) Customers shall only be served by way of waiter / waitress service.

4) There shall be a minimum of 50 table covers available at all times.

5) A full food menu shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises up to 1.5 hours before the end of permitted hours for the sale of alcohol.

6) An incident log / refusal register will be kept at the premises and made available on request to an authorised officer or the police which will record the following:

- all crimes reported to the venue
- any complaints received regarding crime and disorder
- any incidents of disorder
- any faults in the CCTV system
- any refusal of sale of alcohol
- any visit by a relevant authority of emergency service

-with such records being kept for a minimum of one ye [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry];

7) A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- operation of the CCTV system (including the downloading of evidence);

Cockerill, Janice

From: Golightly, Michael
Sent: 06 March 2018 13:10
To: EAP Licensing Unit
Cc:
Subject: FW: Premises License application for Ambiente Tapas, 59-63 Walmgate, York, YO1 9TY

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Sirs

Public Protection objected to the above premises license on grounds of public nuisance, however, I have mediated with the applicant and so long as the following conditions are attached to the premises license our objection is withdrawn:

1. 1. Bottles should not be disposed of into bins at night and will only be disposed of between 10:00 and 21:00.
- 2.
3. 2. Clear notices shall be prominently displayed requesting customers to leave the premises and the area in a quiet and orderly manner.
- 4.
5. 3. Whilst recorded music is being played doors and windows shall remain closed other than for ingress and egress.

Should you have any further queries please do not hesitate to contact me on 01904 551580.

Regards

Michael Golightly
Technical Officer

From: Zoe Plummer
Sent: 06 March 2018 10:00
To: Golightly, Michael
Subject: Re: Premises License application for Ambiente Tapas, 59-63 Walmgate, York, YO1 9TY

Dear Michael

I am pleased to confirm that we are happy to have the three conditions attached to the premises licence as stated.

Kind regards

On 5 March 2018 at 16:12, Golightly, Michael
Dear Zoe

Further to our telephone conversation today. Could you please reply to this email if you accept the following conditions being attached to the premises license for the above premises.

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LIST OF OTHER REPRESENTORS
59 – 63 Walmgate, York

	NAME	ADDRESS	LICENSING OBJECTIVE(S)
1.	Mr R C Price	York	Prevention of Public Nuisance
2.	Mr Kieran Walsh	York	Prevention of Public Nuisance
3.	Ms Sara Catt	York	Prevention of Public Nuisance
4.	Ms Carole Rose	York	Prevention of Public Nuisance
5.	Lee & Ruth Toone	York	Prevention of Public Nuisance
6.	Stephen & June Foster	York	Prevention of Public Nuisance
7.	Dawn Knowles	York	Prevention of Public Nuisance
8.	Margaret Chittock	York	Prevention of Public Nuisance
9.	Stephen Chittock	York	Prevention of Public Nuisance

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27 February 2018

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

Ref: CYC 060429

Dear Sir/Madam

Premises Licence Application: Ambiente Tapas Limited - 59-63 Walmgate YO1 9TY

I make the following representation to the above application.

My name is Raymond Price. I am the Owner/Occupier of
J. My property, and specifically my balcony and three rooms, abut and directly overlook
the property 59-63 Walmgate, York, YO1 9TY. The only windows in all these rooms open directly
on to my balcony and hence the property 59-63 Walmgate.

I am given to understand by Ambiente Tapas Limited that it is their intention to establish a wine bar
at 59-63 Walmgate (anticipating a successful but yet to be applied for change of use application for
the premises from its current A3 Category to A4). For the avoidance of doubt the stated premises
also includes by definition the adjoining premises at 2 George Street.

For clarity I wish to split my representation into two separate parts: the Internal Premises at 59-63
Walmgate and the External Premises accessed via 2 George Street.

Internal Premises

The Internal Premises are defined as the inside of the building and are totally enclosed by it.

I have no objections and support the granting of a Premise Licence solely relating to the use of the
Internal Premises by Ambiente as described in their application but only with the following
conditions:-

1. Bottles should not be disposed of into bins at night and will only be disposed of between 10:00
and 21:00. This condition is for the purpose of preventing a public nuisance by restricting noise,
protecting my residential amenity and promoting The Licensing Objectives (Licensing Act
2003). This restriction replicates the licensing restriction placed on the previous occupying
business Bicy y Mas and for the same reason. The proposed restriction by Ambiente shown in
Section M - The Prevention of Public Nuisance - of their application for a restriction to dispose
between 23:00 and 07:00 is unacceptable as this not sufficient to prevent a public nuisance to
the surrounding residential properties.

2. Section M - The Prevention of Public Nuisance - of the application states that *'The premises will have a waste collection service six days of the week'*. Assuming this involves removing any waste bins/receptacles etc stored in External Premises then this also should not be undertaken between 21:00 and 10:00 in order to prevent a public nuisance caused by noise to the surrounding residential properties.
3. For the purpose of restricting noise and the protection of residents' amenity customers should not take or consume alcoholic drinks outside the Internal Premises (see below).

External Premises

The External Premises are defined as the outside court yard associated with 59-63 Walmgate and accessed from the rear of the property 2 George Street.

The External Premises are totally enclosed and bounded by the following residential properties, many of which face directly on to the External Premises:-

2a George Street
2b George Street
2c George Street
4 George Street

1 Hothams Court
3 Hothams Court
5 Hothams Court
7 Hothams Court

1 St Denys Court
12 St Denys Court
13 St Denys Court
18 St Denys Court
19 St Denys Court
20 St Denys Court

And the following business premises, some of which are believed to contain residential dwellings on the first (top) floor, directly overlooking the External Premises:-

51 Walmgate
53 Walmgate
55 Walmgate
57 Walmgate

Ambiente have stated that they wish the External Premises (not separately defined by Ambiente as such) to be included within their Premises Licence, to use the External Premises as part of their normal business activities, that this will contain 12 covers (seating places), that they intend to serve alcoholic drinks, other drinks and food in the External Premises, and that they intend to use the External Premises for these activities between 10:00 & 20:00 each and every day, including weekends and bank holidays. I can see little of any substance in their application to suggest how Ambiente would proactively prevent the creation of a public nuisance (primarily noise and its effect on nearby dwellings and residents) as a result of this use of the External Premises.

Given this, the granting of a Premises Licence to Ambiente permitting the use of the External Premises in the way that Ambiente describe and intend would create a detrimental effect to my current residential amenity, create a public nuisance, primarily due to noise, within a predominately residential area and not be consistent with promoting the Licensing Objective - Prevention of Public Nuisance (Licensing Act 2003). As such, I object to a Premises Licence being granted/approved for the External Premises of 59-63 Walmgate.

The photograph, taken from the balcony of 20 St Denys Court, illustrates best the External Premises and its relationship to the surrounding, mainly residential properties.



In addition to this I draw your attention to the following:-

1) In Section M - 'Detail the steps you intend to take to promote the four licensing objectives' Ambiente state under the section The Prevention of Public Nuisance that *'Noise and vibration from the premises will be maintained at a level that will not be audible at the facade of any neighbouring noise sensitive premises'*. Clearly the surrounding residential premises are 'neighbouring noise sensitive premises' and Ambiente have not provided any evidence in their application to demonstrate how noise and vibration will be prevented from creating a public nuisance. This statement is therefore incompatible with Ambiente's intentions for the External Premises as it would be impossible for noise generated by the use of the External Premises with 12 covers, and as Ambiente describe in their application, not to be audible at the facade of such properties. Indeed, an independent assessment of the noise generated by the then use of the External Premises as a cafe (Bicis y Mas and unlicensed) was carried out in 2016 by Dragonfly Consulting as a result of concerns raised by residents of St. Denys Court. The report, made available to City of York Council at the time, concluded that *'The use of, or the suggested hours of operation of, the rear yard of 2 George Street for external seating for the café use is not possible without causing an unacceptable impact on the amenity of residents in St Denys Court. These operations would lead to a clear impact ranging from 'moderate' to 'severe'.*

Given this it is inconceivable that, under such circumstance, a Premises Licence would be approved for the External Premises.

2) The Premises Licence issued by City of York Council to the previous occupying business Bicis y Mas on 11 August 2014 (Ref CYC 023576) specifically excluded the External Premises from the licence. The licence was only applicable to the Internal Premises.

In granting Planning Permission (16/00012/FUL) for the use of the External Premises to Bicis y Mas for 12 covers on 7 April 2016 the Planning Committee acknowledged objections to the application made by residents that granting such permission would be detrimental to their residential amenity.

The committee approved the application in the knowledge that:-

- I. The External Premises were not licensed and that this had a bearing on their decision to approve the application.
- II. That the non-licensing of the External Premises was a specific control measure designed to control residential amenity.
- III. That, were the External Premises to be licensed, there would be an undue effect on residential amenity due to noise.
- IV. That, were the External Premises to be used into the evening there would be an undue effect on residential amenity due to noise.
- V. That this matter (noise and loss of residential amenity) would need to continue to be managed through the licensing legislation.

(City of York Council Planning Committee Report 17 March 2016 'Officers agree with residents that if alcohol were permitted to be served in the yard, or if it were to open into the evening, when background noise levels are known to be lower, there would be an undue effect on residential amenity. The times of operation can be controlled via a planning condition. Alcohol is currently not permitted in the outside area; prevented by the premises licence. This matter would need to continue to be managed through the licensing legislation'.)

Given this I believe it is the intention of City of York Council that residential amenity should not be unduly affected by the use of the External Premises and that the External Premises should continue to remain unlicensed. It is therefore incumbent on the Council's Licensing Officer to reject the application insofar as it applies to the External Premises.

Yours sincerely,

R. C. Price

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

5/3/18

Ref: CYC 060429

Dear Sir/Madam

Premises Licence Application: Ambiente Tapas Limited - 59-63 Walmgate YO1 9TY

I wish to register a statement of my objection to part of this application, regarding the use of the rear yard for the consumption of alcohol.

My apartment is adjacent to the yard, and the bedroom windows open onto this area.

The yard had previously been used for diners, with no alcohol being permitted, and there was frequent and somewhat intrusive noise from this.

I am very concerned that if alcohol was being consumed in this area, there would be a significant increase in noise levels and this would have a serious effect on my residential amenity.

I chose to live in this part of York for its relatively calm environment, and I feel that if this application were to be approved in its present form, it would seriously degrade the quality of this area as a place to live. This is especially the case, given that the application covers that hours of 08.00 to 23.30.

I believe that the previous operator of the site was refused, or at least withdrew his application for, a licence to cover consumption of alcohol in the yard, as a result of objections from residents in the surrounding properties who would be affected by the increased noise, and there is no reason why these objections should have changed.

Aside from the question of alcohol consumption in the yard, I have no objections to the application, especially as it includes a clause stating that there will be no smoking on the site. This also was forbidden with its previous operators. On the few occasions that customers broke this rule, their smoke came into my apartment and was very offensive.

I hope you will consider my representation and ensure that this area of the city is not harmed by granting permission to serve alcohol in the yard of 59-63 Walmgate.

Yours sincerely,

Kieran Walsh

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

5th March 2018

Ref: CYC 060429

Dear Madam or Sir,

Premises Licence Application: Ambiente Tapas Limited, 59-63 Walmgate YO1 9TY

I am writing to register my objection to part of this application, regarding the use of the rear yard.

The distance between my apartment (the back of it) and this yard is not great, and my bedroom overlooks the yard. Anything which happens in that yard is going to have a very big impact on me, and my ability to enjoy quietly living in my flat.

Under the previous occupant of the premises, Bicis Y Mas, the yard was in use for consumption of food, but not alcohol, and for much shorter hours than those in the current application. Even then, there was significant and often intrusive noise from loud conversation, and movement of furniture, crockery and bottles to be recycled.

I object to the consumption of alcohol in the yard, which I believe will greatly increase the level of noise, not least due to louder, disinhibited conversation. I object also to the longer hours of use of the yard by customers, which will very evidently be likely to prevent my getting to sleep until late in the night, and bring an end to any peace and quiet in the flat. Even after customers have left, there will be staff outside clearing up, into the small hours. This will all have a disastrous effect on my residential amenity.

The yard of the premises in question is surrounded by residential properties, all at fairly close quarters. The road-facing parts of those properties get traffic noise; the relative quietness of the rear of the properties is an important factor in making this a pleasant place to live in the town centre. Continual noise, till late, from this one business will cause distress to many, many people in this area.

A key clause in the application states that there will be no smoking on the site. This is one of the most important factors in my not objecting to the use of the yard in principle

(providing that this rule is enforced at all times for both customers and staff, alcohol is not consumed within the yard, and the hours of use are much shorter). Smoking was forbidden under the site's previous operators. On the rare occasions that customers did begin to smoke in the yard, this was instantly detectable in my flat, and extremely offensive.

Please do have consideration for the occupants of the affected properties in this very nice part of the city centre, and do not approve this application in its present injurious form.

Yours sincerely,

Sara Catt

town. Yet more bars and more cafes and bars are opening, around York City there must be at least a couple of hundred of bars, cafes, restaurants.

Although I appreciate that hall's brass in the tourist and contributes to the economy, the residents of the City must be considered too.

Early morning deliveries are probably going to be in use at the tables bar, which even would kill cause disruption, I feel that there are adequate bars and restaurants on Walsgate and further up on Fossgate. If the tables bar goes ahead and they going to install double glazing to combat the noise for all the residents. Because the Student Castle Accommodation is opposite to the proposed tables bar, this will no doubt cause more noise and nuisance, obviously I feel obliged to all the other bars and restaurants on Walsgate because they are already there, but I strongly oppose the bar.

Yours Sincerely

3rd MARCH

2018

Dear Sir/Ms/Mx.

A proposal to open a tables bar at the top of George Street. Facing Walsgate. has been made.

As I am a resident here or less opposite this proposed tables bar, I feel the need to place an objection to this bar having a drinks licence.

This Walsgate Cause Public nuisance because of the noise and footfall. Walsgate has numerous Cafe, Restaurants, and Public houses and bars, this Cause noise and nuisance, also it also generates more rubbish and bottles.

Also opposite is the Student Castle that Cause noise and nuisance into the early hours. Obvious because of the noise generated it makes sleeping very difficult which Subjects on my well being. Numerous retail businesses are closing in the

Lee and Ruth Toone

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

6 March 2018

Dear Sir/Madam

**Premises Licence Application: Ambiente Tapas Limited - 59-63
Walmgate YO1 9TY**

As residents of the immediate locale of the above application - and specifically of the external part of the application, which we understand intrinsically involves access via 2 George Street - we object to the following proposal:

- use of the outside courtyard as an extension of the internal premises, including the serving of food and alcohol and, it must be assumed, the use of it by patrons who smoke.

This courtyard is surrounded almost exclusively by residential properties, all of which would suffer from a likely increase in noise nuisance and anti-social behaviour were a licence to be granted. We draw your attention to the fact that City of York Council issued a premises licence to the previous occupants that specifically *excluded* the external premises. This on the basis that "there would be an undue effect on residential amenity." (*Ref: City of York Council Planning Committee Report 17 March 2016*)

**Ruth Toone
Lee Toone**

3 March 2018

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

Ref. CYC 060429

Dear Sir/ Madam

Premises Licence Application : Ambiente Tapas Ltd - 59-63 Walmgate

My name is Stephen Foster - my wife and I are owner/ occupiers of the above address which neighbours onto this application.

Between Merchantgate and George Street in Walmgate there are already 3 public houses, 7 restaurants, a wine bar and a Chinese Takeaway. These businesses do enhance the Walmgate character but they also create noise and to a certain extent - litter.

Add these to the 'imminent' opening of Spark York just off Walmgate, which will contain many more eateries, there does not seem to be any need for yet more establishments of this kind.

The council has recently refused permission for a bar/ restaurant in the old BHS building on the grounds of over capacity and unnecessary noise. Surely these parameters should also apply in this case?

Our objection specifically applies to the intended use for drinkers in the outside area of the establishment which would be detrimental to our residential amenity. It goes without saying that if a licence is granted to the building, it would be impossible to regulate it's use outside.

Finally, we would like to add our support of the submission by one of our neighbours Mr R C Price who has included evidence to planning applications etc

Thank you

Stephen and June Foster

PS I would be interested to know why we, as neighbours, were not informed of this application

Licensing Application for 59-63 Walmgate, York YO1 9TY

I own and occupy

My home is a ground floor apartment which extends from Walmgate at the front to a quiet terrace area at the rear of St Denys Court. The windows at the rear of my property are just 3m from the outside terrace where Ambiente Tapas wish to serve food and alcoholic beverages to customers. There is only a wall between the terrace outside my home and the yard area included in this application.

The area behind the St Denys Court building is a haven of peace and quiet in contrast to the noise of traffic and passers-by in Walmgate. Because of the proximity of their yard to my property the noise that will be generated by their customers will be extremely disturbing, it will seriously reduce the level of amenity which I currently enjoy and it will create a public nuisance.

For this reason I object to the application by Ambiente Tapas for a Premises Licence.

Dawn Knowles

6th March 2018

Representation in Respect of Licensing Application for 59-63 Walmgate, York YO1 9TY

I own

My first floor flat overlooks the rear yard for which the applicant has applied for a licence. The windows are 10 feet from the boundary of that yard.

If Ambient Tapas are allowed to serve customers with alcohol in this yard at any time then the noise generated will be very intrusive inside the property, it will significantly reduce the level of amenity and it will create a public nuisance.

For this reason I wish to object to their application for a premises licence.

Margaret Chittock

6th March 2018

Representation in Respect of Licensing Application for 59-63 Walmgate, York YO1 9TY

I own and

My property faces the rear George Street façade of the subject premises and directly overlooks the enclosed yard at the rear of the premises, as do many other residential properties in St Denys Court, Walmgate and George Street.

I wish to object to the licence application. My objection relates principally to the proposed use of the external area of the premises to serve customers between 10am & 6pm every day, including weekends and bank holidays.

It should be emphasised that although the application address is 59-63 Walmgate, the external part of the subject premises is actually the rear yard of 2 George Street. Whilst Walmgate is a vibrant thoroughfare with a mix of residential and (mostly independent) commercial premises, George Street is a quiet residential side street. The surrounding terraced buildings of Walmgate and George Street together with St Denys Court, the St Denys Hotel, Stamford House and United House all form an effective barrier to noise, separating the large area at the rear of these buildings from the hubbub of the surrounding streets. There is no other commercial activity in this area and all of the properties around this perimeter enjoy a very quiet situation at their rear.

The rear yard of 2 George Street is approximately 6m from my property. The following photograph clearly illustrates that this yard area is overlooked by numerous residential dwellings (15 in total), including nos. 1, 12, 13, 18, 19 and 20 St Denys Court, Nos. 1, 3, 5 and 7 Hothams Court, no 4 George Street and four residential dwellings above the commercial premises of 51, 53, 55 and 57 Walmgate.



View of the outside area of the premises from the window of my property.

If this yard is used as an external area licensed for customers to eat and drink then the noise generated by customers will be very intrusive to me and to other residents of the surrounding dwellings and it will significantly reduce the level of amenity that I currently enjoy.

In making this representation I would make the following points:-

1. The subject Premises were previously issued with a licence by City of York Council on 11th August 2014 (Ref CYC 023576). This licence specifically excluded the rear yard. Also, when

the extant planning permission for the business use of the yard was granted (16/00012/FUL) on 7th April 2016, the Planning Committee acknowledged the objections to the application made by residents that granting such permission would be detrimental to their residential amenity. Specifically, the CYC Planning Committee Report of 17th March 2016 stated:-

'Officers agree with residents that if alcohol were permitted to be served in the yard, or if it were to open into the evening, when background noise levels are known to be lower, there would be an undue effect on residential amenity. The times of operation can be controlled via a planning condition. Alcohol is currently not permitted in the outside area; prevented by the premises licence. This matter would need to continue to be managed through the licensing legislation'.

2. In Section M of the application, 'Detail the steps you intend to take to promote the four licensing objectives', Ambiente state that *'Noise and vibration from the premises will be maintained at a level that will not be audible at the facade of any neighbouring noise sensitive premises'*. This statement would be meaningful if it were accompanied by detailed information on how this would be achieved; unfortunately such detail is missing, and the stated objective of inaudibility is demonstrably impossible to achieve if customers are allowed the use of this rear yard. In 2016 Dragonfly Consulting carried out an assessment on behalf of the residents of St Denys Court. This full report continues to be available on the CYC Planning Portal, and concluded *'The use of, or the suggested hours of operation of, the rear yard of 2 George Street for external seating for the café use is not possible without causing an unacceptable impact on the amenity of residents in St Denys Court. These operations would lead to a clear impact ranging from 'moderate' to 'severe'.*

I believe that not having the external area licensed would have no significant impact on the proposed business. If, however, the use of the yard was permitted in the manner described by the applicant, the noise generated would create a public nuisance. Because of this I object to the approval of the Premises Licence application by Ambiente Tapas.

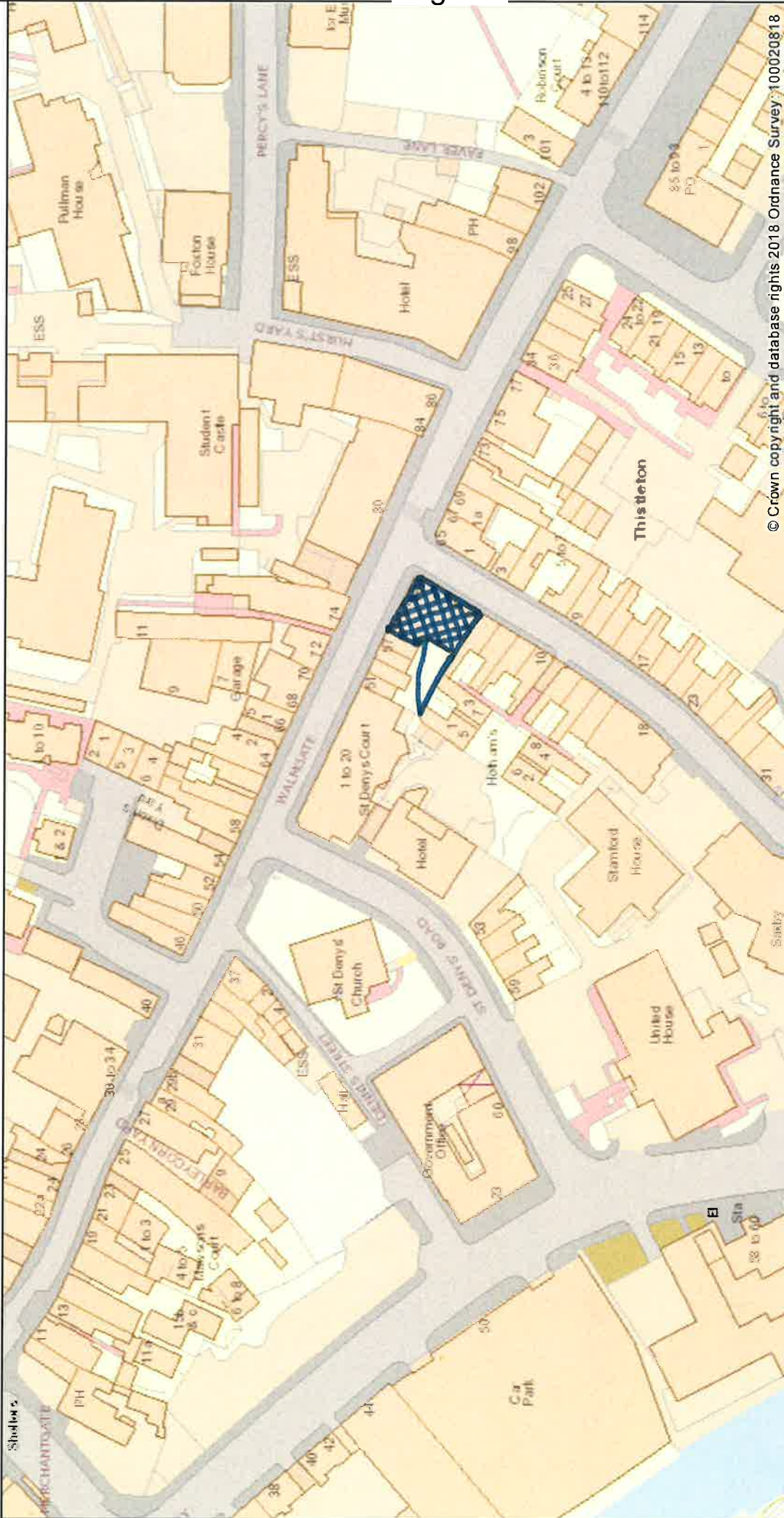
Whilst I appreciate that planning and licensing are entirely separate issues, it is clearly in the public interest for there to be consistency in their objectives. Therefore, I add the following to my objection:

In both the Application for Change of Use A1 to A3, G A White, 59-63 Walmgate YO1 9TY (Ref No: 14/01960/FUL) and Use of Rear Yard for Cafe seating associated with the existing Retail use, Bicis y Mas, 59-63 Walmgate YO1 9TY (Ref No: 16/00012/FUL), the applicants submitted that alcohol would not be served in the rear yard. Both applications were approved and, in consequence, the not serving of alcohol in the rear yard is incorporated within both granted planning permissions. Clearly then it is a given by City of York Council that, through the Premises Licence granted to the previous business occupying the premises, Bicis y Mas on 11th August 2014, and the extant planning permissions, that alcohol cannot be served in the rear yard.

Stephen Chittock

6th March 2018

59-63 Walmgate



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Date: 01 Mar 2018

Author:

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).

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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