

## Licensing Hearing

**To:** Councillors Lisle, Hayes and Richardson  
**Date:** Monday, 17 September 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. Minutes

To approve and sign the minutes of Licensing Hearings held on 2 November 2017, 26 March 2018 and 14 May 2018.

#### 5. **The Determination of an Application by Roots York Restaurant Limited for Determination of Application to Vary Premises Licence, Section 35(3)(a) in respect of The Bay Horse, Marygate, York, YO30 7BH (CYC-009207)**

Democracy Officer:

Name: Laura Clark

Contact Details:

- Telephone – (01904) 552207
- Email - [Laura.Clark@york.gov.uk](mailto:Laura.Clark@york.gov.uk)

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

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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	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/Gambling Hearing
Date	26 March 2018
Present	Councillors Richardson, Looker and Hayes

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**36. Chair**

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

**37. Introductions**

Introductions were made between all parties present.

**38. 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. It was confirmed that Members present had no involvement in the previous decision.

**39. The determination of an appeal against revocation of a private hire drivers license**

Members considered an appeal by a taxi driver against the revocation of his private hire driver's licence.

In considering the appeal and the representations made, the Sub-Committee had to decide whether the decision of the Licensing Manager to revoke the Appellant's licence was appropriate.

In coming to their decision, the Sub-Committee took into consideration the evidence provided by the Appellant and the

Licensing Manager, and determined their relevance to the issues raised and in accordance with relevant criteria.

Having regard to the evidence and representations received, the Sub-Committee considered the options set out in the report.

Following consideration of both oral and written representations from both parties, it was:

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.

Cllr J Looker, Chair

[The meeting started at 10.00 am and finished at 12.14 pm].



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Meeting	Licensing/Gambling Hearing
Date	14 May 2018
Present	Councillors Hayes, Reid and Richardson

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**1. Chair**

Resolved: That Councillor Reid be appointed 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 the agenda. None were declared.

**4. The Determination of an Application by Mr Paul James Rhodes for a Premises Licence [Section 18(3)(a)] in respect of Holtby Grange, Holtby Lane, York, YO19 5XQ (CYC-060806)**

Members considered an application by Mr Paul James Rhodes for a Premises Licence [Section 18(3)(a)] in respect of Holtby Grange, Holtby Lane, York.

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

1. The prevention of public nuisance
2. Public safety

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 Manager's report and her comments made at the Hearing. She outlined the proposed activities and their timings made in the application, and noted the information contained within the annexes to the report (including the operating schedule), adding that annex 3 had been circulated as there was one page missing from the printed pack. She advised that the premises were not located in the special policy Cumulative Impact Zone (CIZ). She reported that the consultation had been carried out correctly in accordance with the Licensing Act 2003. She stated that conditions had been mediated with North Yorkshire Police and City of York Council Public Protection (Environmental Protection). She stated that there had been representations from 19 other interested parties. She outlined the four options available to the committee.

In response to questions raised, the Licensing Manager confirmed that that the application limited the number of people on site to 5000, however, there was no capacity stated in the application. She was asked and explained why amendments may have been made to the application form, such as temporary structures such as tents being classed as indoor, not outdoor structures. In response to a question regarding the portable bar she reported that the licensed area was for the whole site. Following a question regarding planning issues she explained that planning and licensing were separate processes. In response to the requested condition from North Yorkshire Police regarding the use of fireworks, the Licensing Manager confirmed that this condition had not been put in before.

3. The representations by the applicant, Mr Paul Rhodes, at the Hearing. He explained that the Licensing Officer made amendments to the application form as the marquee/tepees were classed as indoor structures. He advised that concerning the maximum of 5000 people, his aim was to hold high end weddings, corporate seminars and functions, and he envisaged a maximum of two weddings per week with corporate functions to be held

during the day. He advised that there was an average of 80-120 attendees at weddings and he did not envisage more than 120 people attending weddings. Mr Rhodes advised that in order to meet customer needs for functions on different days, he had stated 365 days on the application form. He stated that he would be living on site with his family. In relation to addressing public nuisance relating to the track leading up to the property, Mr Rhodes explained that the track was owned by the property and he would work with local taxi companies to arrange travel to and from the premises, and that he would install CCTV (with signage) on the main driveway.

Mr Rhodes advised that people would not be allowed to bring alcohol onto or off the premises and staff would patrol the premises regularly. There would also be signage asking people to be mindful of neighbours. He explained that to mitigate noise, all external doors would be kept closed.

Following his statement, Mr Rhodes was asked a number of questions. He confirmed that the site to be covered by the licence includes the house, barn, tracks leading to the premises, and licensed area. Mr Rhodes was asked and explained that there was car parking for at least 30 cars and he explained that he could create an additional 10 parking spaces. When asked about the condition of the track leading to the premises he advised that it had good access off the main road, was a single track lane with five vehicle passing points and had been well maintained by the present owners. Mr Rhodes was asked and stated that he envisaged one marquee being erected during events and noted that he had started looking into how to control noise from the marquees or tepees, including the use of sound proof curtains.

Mr Rhodes confirmed that he had no prior experience of organising events in marquees and had not observed the effect music might have from a marquee. In response to a question concerning emergency vehicle access to the site during events he explained that this would be managed by staff on site during events. He was asked and explained that he would need to explore options for a turning circle for coaches.

Mr Rhodes concluded by stating that he didn't envisage more than 120 people on site and he would work within the licensing objectives. He advised that there was a current licence for 35 people every day and he did not intend to cause problems or impact on local businesses.

4. The representations made by Cllr Mark Warters (Ward Councillor) in writing and at the hearing. In addition to the points raised in his written representation Cllr Warters stated that he hoped the Sub-Committee would understand the licence application in the context of the limitations of the licensing and planning processes. He explained that the premises were in a noise sensitive location in a rural setting with rural businesses. He stated that when external doors were open, noise would travel and he expressed concern about the disruption caused by this. He added that even if granted planning permission for the change of use for the barn, the use of marquees was licensable and they would bring problems. He concluded by stating the application site was in an open location adjacent to working farms.
5. The representations made by Dr David Marles in writing and at the hearing. Dr Marles was speaking on behalf of a number of local residents (a number of whom had made written representations). He stated that the application did not promote the licensing policy aims and would affect residents' amenity and should be refused for those reasons. He explained there was a single farm track leading up to the premises and there were no public footpaths or public transport to the site. He noted the impact of the traffic accessing the site on residents. He advised that the site was 7 acres and was surrounded on all sides by residential properties and working farms, with half a dozen residences less than half a mile from the site. He explained the impact that additional traffic would have on the road through Holtby.

Dr Marles expressed concern regarding the impact of noise on residents given the lack of hills or other barriers to present noise from travelling, noting how noise travelled from the Dunnington firework display, which could be heard from over a mile away. He stated that noise nuisance would place stress on horses at the nearby equine stud and on farm livestock, and in particular on

local residents. He outlined the affect of vehicles on the quality of life of residents on a night, including that of neighbouring villages. Dr Marles raised concern about the lack of communication from the applicant regarding the licence application and he stated that the granting of the licence would cause disturbance to residents.

6. The representations made by Mrs Mandy Dobson in writing and at the hearing. She explained that she lived on a farm next to the site and was concerned about the impact on livestock. She stated that the site was not on the right location for events and added that there was nothing to suggest that there would be a reduction in noise from the tents and marquees.
7. The written representations made during the consultation period.

Following consideration of representations, the Sub-Committee asked and were advised by the Senior Solicitor that they could ask EPU for technical advice only on the wording of conditions. The Environmental Health Officer (in attendance in a technical advisory capacity) was asked what condition could be imposed to control noise and he explained that the noise escape from a marquee was not the same as the noise from a building, and noise reducing curtains installed in a marquee would not be effective. Therefore, a noise condition should be made to require the venue to put in place a noise management plan. He explained that the use of fireworks was not a licensable activity. The Licensing Manager then explained that North Yorkshire Police had requested a condition that the use of explosives, pyrotechnics and fireworks of a similar nature shall not be used at the premises without written notification to the Licensing Authority.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine 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.
- Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
- 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.
- Option 4: Reject the application.

Members of the Panel carefully considered all the evidence placed before them including the application and all the representations, and had regard to the licensing objectives, the Section 182 Guidance issued by the Secretary of State and the Council's own statement of licensing policy. They considered the likely effects of the grant of the premises licence on the promotion of the licensing objectives and concluded that granting the application would be likely to impact on the licensing objective of public nuisance. They noted that the premises were in a quiet, rural location close to residential properties with low ambient noise. They accepted the representations made by local residents that if the licence was granted there would be a public nuisance from the noise created by weddings and other events (such as from music, guests and traffic) and that it would be difficult to mitigate that noise due to the topography surrounding the venue.

The Panel felt that the application did not sufficiently address the issue of sound attenuation and did not demonstrate any knowledge that noise levels from the premises could be reduced to an acceptable level for nearby residents. The Panel considered that the application had not been thought out for a premises that required very careful thought indeed in the light of its location. They took the view that the application failed to set out adequate and appropriate measures to deal with the issues and those inadequacies could not be remedied. After due consideration they therefore refused the application on the ground that to grant the application in its current form, it was likely to breach the licensing objective of the prevention of public nuisance.

In coming to their decision to choose Option 4 above to reject the application, the Sub-Committee considered very carefully the application and all the representations and had had regard to the Section 182 Guidance issued by the Secretary of State and the Council's own Statement of Licensing Policy.

Cllr A Reid, Chair

[The meeting started at 10.09 am and finished at 11.47 am].

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## Licensing Act 2003 Sub Committee

17 September 2018

Report of the Director of Economy and Place

### Section 35(3) (a) Application for the variation of a premise licence for The Bay Horse, Marygate, York, YO30 7BH

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009027
3. Name of applicant: Roots York Restaurant Limited
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is as follows:
  - a) **Extension of existing licensed hours** as follows:

Licensable Activities	Existing Hours	Proposed Hours
Films (Indoors)	Monday to Saturday 11:00 – 23:00 Sunday 12:00 – 22:30	As existing
Indoor Sporting Events	Monday to Saturday 11:00 – 23:00 Sunday 12:00 – 22:30	As existing
Live Music (Indoors)	Monday to Saturday 11:00 – 23:00 Sunday 12:00 – 22:30	As existing
Recorded Music (Indoors)	Monday to Saturday 11:00 – 23:00 Sunday 12:00 – 22:30	As existing

Performances of Dance (Indoors)	Monday to Saturday 11:00 – 23:00 Sunday 12:00 – 22:30	As existing
Late Night Refreshment (indoors)	Not required	Monday – Sunday 23:00 – 23:30
Supply of Alcohol (on & off the premises)	Monday to Saturday 11:00 – 23:00 Sunday 12:00 – 22:30	Monday to Sunday 11:00 – 23:30
Opening Hours	Monday to Saturday 11:00 – 23:30 Sunday 12:00 – 23:00	Monday – Sunday 11:00 – 00:00
Non-Standard Timings for all activities including opening times	New Year's Eve from 10:00 From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day	As existing

**b) Removal of following Conditions from Annex 2 of the current premises licence:**

1. Risk assessments are undertaken.

8. The maximum occupancy should not exceed 60 persons in the first floor function room. The maximum occupancy of the ground floor should not exceed 100 persons.

12. Children under the age of 16 shall not be permitted to enter the premises after 21:00 hours.

**Background**

6. A copy of the existing premises licence is attached at Annex 1.

7. A copy of the application to vary the licence is attached at Annex 2.

### **Promotion of Licensing Objectives**

8. In addition to the remaining existing conditions, the applicant proposes the following:

CCTV will be installed in all areas of the premises.

### **Special Policy Consideration**

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

### **Consultation**

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

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

12. There were no representations from responsible authorities.

### **Summary of Representations made by other persons**

13. There was one representation received from other persons. Details of the representor is attached at Annex 3. Copy of the representation is attached at Annex 4.
14. A map showing the general area around the venue is attached at Annex 5.
15. Members are reminded that representations are only “relevant” if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

### **Planning Issues**

16. There are no planning issues.

### **Options**

17. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision:-
18. Option 1: Grant the variation of the licence in the terms applied for.
19. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.
20. 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.
21. Option 4: Reject the application.
22. Members are reminded that they may only use their discretion to add, remove or amend conditions or activities in relation to matters that are raised by representors and are relevant to the promotion of the licensing objectives.

### **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 priorities to protect vulnerable people, build strong communities, and protect the environment.

### **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:

Michael Slater  
Assistant Director Planning & Public Protection.

**Report  
Approved**



**Date** 04/09/ 2018

## Specialist Implications Officer(s):

Assistant Director – Legal & Governance  
Ext: 1004

**Wards Affected:** Micklegate

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

## Background Papers:

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application form
- Annex 3** - Details of representor (Exempt)
- Annex 4** - Copy of representation
- Annex 5** - Map of area
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations



**LICENSING ACT 2003  
PREMISES LICENCE**

**Schedule 12  
Part A**

**Part 1 Premises details**

Premises licence number CYC - 009027
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Postal address of premises:

**68 Marygate**

Post town: **York**

Post code: **YO30 7BH**

Telephone number: 01904 541926

**Expiry date:** This licence has no expiry date.

**Licensable activities authorised by the licence:**

Films  
Indoor sporting events  
Live Music  
Recorded Music  
Performances of Dance  
Late Night Refreshment  
Supply of Alcohol

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

FILMS  
Indoors

Monday  
11:00-23:00

Tuesday  
11:00-23:00

Wednesday  
11:00-23:00

Thursday  
11:00-23:00

Friday  
11:00-23:00

Saturday  
11:00-23:00

Sunday  
12:00-22:30

INDOOR SPORTING EVENTS

Monday 11:00-23:00	Tuesday 11:00-23:00	Wednesday 11:00-23:00	Thursday 11:00-23:00
Friday 11:00-23:00	Saturday 11:00-23:00	Sunday 12:00-22:30	

LIVE MUSIC  
Indoors

Monday 11:00-23:00	Tuesday 11:00-23:00	Wednesday 11:00-23:00	Thursday 11:00-23:00
Friday 11:00-23:00	Saturday 11:00-23:00	Sunday 12:00-22:30	

RECORDED MUSIC  
Indoors

Monday 11:00-23:00	Tuesday 11:00-23:00	Wednesday 11:00-23:00	Thursday 11:00-23:00
Friday 11:00-23:00	Saturday 11:00-23:00	Sunday 12:00-22:30	

PERFORMANCES OF DANCE  
Indoors

Monday 11:00-23:00	Tuesday 11:00-23:00	Wednesday 11:00-23:00	Thursday 11:00-23:00
Friday 11:00-23:00	Saturday 11:00-23:00	Sunday 12:00-22:30	

SUPPLY OF ALCOHOL

Monday 11:00-23:00	Tuesday 11:00-23:00	Wednesday 11:00-23:00	Thursday 11:00-23:00
Friday 11:00-23:00	Saturday 11:00-23:00	Sunday 12:00-22:30	

Non Standard Timings for Films, Indoor Sporting Events, Live Music, Recorded Music, Performances of Dance and Late Night Refreshment:

New Year's Eve from 10:00.

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

Non Standard Timings for Supply of Alcohol:

New Year's Eve from 10:00.

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



**The Opening Hours of the Premises**

Monday 11:00-23:30	Tuesday 11:00-23:30	Wednesday 11:00-23:30	Thursday 11:00-23:30
Friday 11:00-23:30	Saturday 11:00-23:30	Sunday 12:00-23:00	

Non Standard Timings:

New Year's Eve from 10:00.

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

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

On and off the premises

**Part 2**

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

Name: Roots York Restaurant Ltd

Address: Oldstead Grange  
Oldstead  
York  
YO61 4BJ

Telephone number: None

Email address: None

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

11248949

**Annex 1 – Mandatory conditions**

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
  - a) games or other activities which require or encourage, or are designed to require or encourage individuals to -
    - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
  - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
  - a) a holographic mark, or
  - b) an ultraviolet feature.
7. The responsible person must ensure that -

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

**MANDATORY CONDITION - ALCOHOL PRICING**

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

**MANDATORY CONDITION: DOOR SUPERVISION**

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must –

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

#### MANDATORY CONDITION: EXHIBITION OF FILMS

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

## **Annex 2 – Conditions consistent with the operating schedule**

### **Licensing Objectives**

#### General

1. Risk assessments are undertaken.

#### Prevention of Crime & Disorder

2. Any person exercising a security activity (as defined by paragraph 2(1)(a) of schedule 2 of the Private Security Industry Act 2001) shall be licensed by the Security Industry Authority.
3. Such a person will be employed at the premises at the discretion of the designated premises supervisor/holder of the premises licence.
4. Any person as defined in condition (1) will clearly display his name badge at all times whilst on duty.
5. No customers apparently carrying open bottles upon entry shall be admitted to the premises at any times the premises are open to the public.
6. Where CCTV is installed with recording facilities such recordings shall be retained for a period of 30 days and made available within a reasonable time upon request by the police.
7. Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.

#### Public Safety

8. The maximum occupancy should not exceed 60 persons in the first floor function room. The maximum occupancy of the ground floor should not exceed 100 persons.

#### Public Nuisance

9. The windows to the first floor function room will be closed at all times regulated entertainment is taking place.
10. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
11. Noise or vibration shall not emanate from the premises so as to cause a nuisance to nearby properties.

#### Protection of Children from Harm

12. Children under the age of 16 shall not be permitted to enter the premises after 21:00 hours.

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

No hearing held

**Annex 4 – Approved Plan**

Plan Number            12541/41010

For and on behalf of  
The Director of Economy  
& Place

Date: 03/11/2005  
17/04/2018 (Transfer)

Licensing Services  
Hazel Court Eco Depot  
James Street, York  
Y010 3DS

Phone: 01904 552512  
Fax: 01904 551590  
Email: [licensing.unit@york.gov.uk](mailto:licensing.unit@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)

20 JUL 2018

BY: \_\_\_\_\_



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

Application to vary a premises licence 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 ~~MATTHEW LOCKWOOD~~  
(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Roots York Restaurant Limited

Premises licence number **CYC-009027**

Part 1 – Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description <b>THE BAY HORSE, MARYGATE, YORK.</b>			
Post town	<b>YORK.</b>	Postcode	<b>YO30 7BH.</b>

Telephone number at premises (if any)	—
Non-domestic rateable value of premises	£ <b>7000</b>

Part 2 – Applicant details

Daytime contact telephone number	<b>07810486556</b>		
E-mail address (optional)	<b>matthew@rootsyork.co.uk</b>		
Current postal address if different from premises address	<b>OLDSTEAD GRANGE OLDSTEAD</b>		
Post town	<b>OLDSTEAD</b>	Postcode	<b>YO61 4BJ</b>

Part 3 - Variation

Reps end 18/08/18

1913

Sent to RA  
not loaded - fee  
needs collecting

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

Yes

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)  Yes  No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

The Bay Horse, Margate is a restaurant and bar with approx 50 covers over the ground floor. With a further junction room on the first floor as per the existing layout.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

—
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**Part 4 Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

**Provision of regulated entertainment (Please see guidance note 3) 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 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon					
Tue			State any seasonal variations for performing plays (please read guidance note 6)		
Wed					
Thur			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 (please read guidance note 7)		
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	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 5)					
Mon								
Tue								
Wed						<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 6)		
Thur								
Fri								
Sat						<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 7)		
Sun								



C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			State any seasonal variations for indoor sporting events (please read guidance note 6)
Tue			
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 7)
Fri			
Sat			
Sun			



D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon					
Tue			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)		
Wed					
Thur			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 7)		
Fri					
Sat			X		
Sun					

E

Live music Standard days and timings (please read guidance note 8)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	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 5)		
Mon					
Tue			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 6)		
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 7)		
Fri					
Sat					
Sun					

X

F

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

X

G

Performances of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 5)	Both	<input type="checkbox"/>
Tue					
Wed			<b>State any seasonal variations for the performance of dance</b> (please read guidance note 6)		
Thur					
Fri			<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 7)		
Sat					
Sun					

X



H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b>Please give further details here</b> (please read guidance note 5)		
Wed					
Thur			<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 6)		
Fri					
Sat			<b>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</b> (please read guidance note 7)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	23.00	23.30	Please give further details here (please read guidance note 5) To be able to provide tea & coffee after 11pm (23.00).	Both	<input type="checkbox"/>
Tue	23.00	23.30		State any seasonal variations for the provision of late night refreshment (please read guidance note 6)	
Wed	23.00	23.30			
Thur	23.00	23.30	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 (please read guidance note 7)		
Fri	23.00	23.30			
Sat	23.00	23.30			
Sun	23.00	23.30			

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 8)			<b>Will the supply of alcohol be for consumption</b> – please tick (please read guidance note 9)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 6)		
Mon	11.00	23.30			
Tue	11.00	23.30			
Wed	11.00	23.30			
Thur	11.00	23.30			
Fri	11.00	23.30			
Sat	11.00	23.30			
Sun	11.00	23.30			

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 10).

NONE

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	11.00	00.00	<p>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 (please read guidance note 7)</p>
Tue	11.00	00.00	
Wed	11.00	00.00	
Thur	11.00	00.00	
Fri	11.00	00.00	
Sat	11.00	00.00	
Sun	11.00	00.00	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

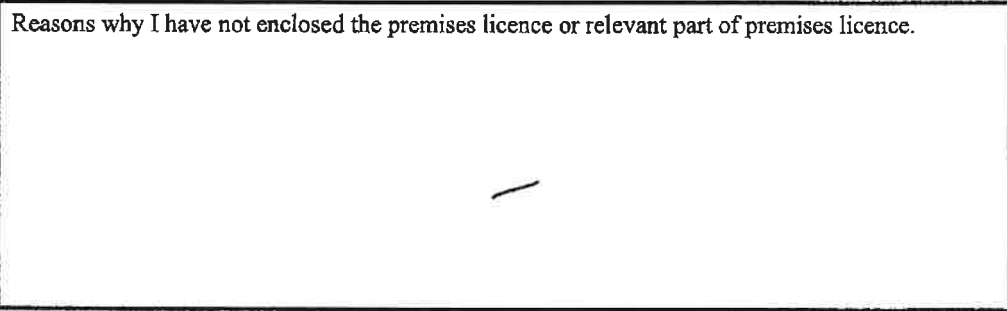
CONDITIONS 1, 8 & 12 COULD BE REMOVED.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.



**M** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)**

WE WILL HAVE CCTV INSTALLED IN ALL AREAS OF THE PREMISES.

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

**c) Public safety**

**d) The prevention of public nuisance**

NOTICES WILL BE DISPLAYED AT EXITS REQUESTING CUSTOMERS TO LEAVE THE PREMISES QUIETLY.

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

NO CHILDREN OVER 10 WILL BE ADMITTED DURING THE EVENING DUE TO THE RESTRICTION OF OUR MENUS.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**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.**

**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	18/7/18
Capacity	Premises Licence Holder

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent** (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

**Contact name (where not previously given) and address for correspondence associated with this application** (please read guidance note 15)

Post town		Post code	
Telephone number (if any)	07810 486556		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			
matthew@rootsyork.co.uk			

Notes for Guidance

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

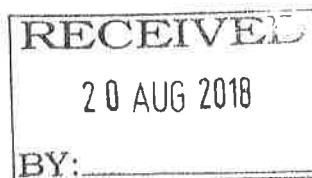
1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example, the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
  - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
  - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
  - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
  - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
  - Live music: no licence permission is required for:
    - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.



By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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Marygate  
York  
YO30 7BH

City of York Council Licensing Services  
Hazel Court  
EcoDepot  
James Street  
York  
YO10 3DS

20<sup>th</sup> August 2018

Dear Sir/Madam

**Your ref: Notice of Application for the variation of a Premises Licence,  
Address of Premises – The Bay Horse, 68 Marygate, York YO30 7BH**

I have been onto the website as directed on the Notice of Application for the variation of a Premises Licence 'posted' on the wall of the business, and had great difficulty in finding any information concerning this application.

I have also recently telephoned on 01904 552 512, only to find the 'mailbox' full.

The only mention of the Bay Horse Inn, 68 Marygate, YO30 7BH on the website refers to

- Licence Number 009027
- LA Ref 12541/41010

And not this application.

At present the licence allows licensable activities:

- Monday – Saturday 11:00 – 23:00 and
- Sunday 12:00 – 22:30

This Notice of Application for the variation of a Premises Licence, has the proposed variations of:

1. Late night refreshments (tea and coffee) until 23:30
2. Supply of Alcohol until 23:30
3. Premises open to the public 11:00 – 00:00
4. And the removal of conditions 1, 8, and 12

Comments I have to make initially are, with reference to above:

1. 2. and 3. - Is this every night of the week, including Sunday? As this is not clear in the application.
4. As I cannot access information concerning the conditions I can only refer to those in the initial licence – **CYC - 009027**
  - Annex 1 – Mandatory conditions

- 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.
- 8. The responsible person shall 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: pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.
- 12. not listed!
- Annex 2 – Conditions consistent with the operation schedule
  - 1. Risk assessments are undertaken.
    - Prevention of Crime & Disorder
  - Public Safety
    - 8. The maximum occupancy should not exceed 60 persons in the first floor function room. The maximum occupancy of the ground floor should not exceed 100 persons.
    - 12. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.

I would have considered all of the above conditions in both annexes 1 and 2 to be valid in some aspect, especially those in annex 2.

I would also make the following comments referring to:

**City of York Council - Statement of Licensing Policy 2014 - Licensing Act 2003**

*This policy took effect on the 27th March 2014 and runs until the 26 March 2019*

Within this document I would refer to:

**1.1 Licensing Vision**

- *'improving the quality of life for local residents through a reduction in alcohol related crime and disorder, **disturbance** and anti-social behaviour;'*

Would a business that is open to the public until 00:00 (midnight) every night not cause some concern, especially with its location next to residential properties.

**3.2 General Approach to Licensing**

- *The Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual*

*business holding the licence or certificate. However, the Act is a key aspect of such control and the exercise of licensing functions is part of a wider approach to the management of anti-social behaviour and the night time economy with particular regard to the city centre.*

However in this case it is on the limited of what the City of York considers to be its boundary of the City Centre and as such the council should careful consider the effect on the local residential community of the proposed late night extension.

City of York Council in making its decisions, will no doubt accept the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it should also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in activities to the detriment of nearby residents .

Premise licence and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example; the business has only outside space at the front, will this be used as a smoking area, and will this continue until 00:00 (midnight) every night?

Furthermore the Licensing Authority should also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder.

- *The Licensing Authority has a duty to do all that it reasonably can to prevent crime and disorder under Section 17 of the Crime and Disorder Act 1998.*

It is also noted that there is no mention of methods to mitigate any impact on the local residential communities of the possibility of anti-social behaviour (noise etc.,) once clients have left the premises.

### **3.2.7 Impact of Alcohol on York**

Anti-social behaviour related to alcohol across the city centre and the suburbs of York continues to be in the news, this would appear not to be necessarily associated with any demographic group but crosses many social boundaries. Residents have identified through surveys that 'low crime levels and acceptable social behaviour' are the most important factors in making somewhere good place to live. (This links to: **4.2 Crime & Disorder**)

### **6.3 Prevention of Public Nuisance**

It is vital that the applicant and their business would wish to ensure their operations do not disturb their neighbours, again no mention of mitigation methods. and this late night extension with this residential area could cause issues, it is noted that within the document there are numerous measures listed, but it must be appreciated that individuals and groups especially do not necessarily follow guidance.

- *Erecting prominent notices at the exits to premises asking customers to leave quietly and not slam car doors;*

- *At appropriate times making announcements to the same effect. Instructing door staff to ask customers leaving the premises to leave the area quietly;*
- *Banning from the premises people who regularly leave in a noisy fashion;*
  - Perhaps given the knowledge one has of the business, this may be an occasional destination, and repeat regular business may not necessarily be the case.
- *Directing customers away from noise sensitive areas where appropriate;*
  - Given that the business is surrounded by a residential community, some of which are mature in age, this may be difficult.
  - And **where will the smokers be located** at during the period 23:00 – 00:00, outside on Marygate?
- *Steps taken to reduce the impact of any parking on local residents where appropriate.*
  - It is noted that the this area has a requirement for resident parking permits, with very limited on street parking, will this be monitored by parking wardens in the evenings

### **Appendix C - map delineating the York City Centre Area**

The business would appear very much on the boundary of The York City Centre area, in what is in the majority a residential area, with housing next door and opposite the business. Careful consideration should be made concerning all the aspects as listed above.

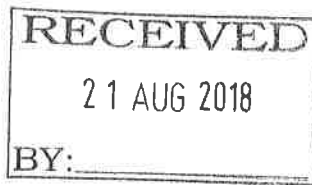
### **The Human Rights Act 1998**

The City of York Council has a duty under the European Convention on Human Rights to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licensee to operate their business without undue interference (Article 1 of the First Protocol). These policies are intended to reflect the balance to be struck between these interests where they conflict.

I would comment that the present conditions certainly allow the business to operate, however the proposed increase in time to 23:30pm (late night refreshment) would unduly effect the rights of the residents in the immediate surrounding area, especially considering the premises would be open until 00:00 (midnight)

Given my above comments I would hope that the licencing authority would reject this application for variation.

Yours faithfully



Marygate  
York  
YO30 7BH

Attention - Lesley Cooke - Licensing Manager  
City of York Council Licensing Services  
Hazel Court  
EcoDepot  
James Street  
York  
YO10 3DS

21<sup>st</sup> August 2018

Dear Lesley Cooke

**Your ref: Notice of Application for the variation of a Premises Licence,  
Address of Premises – The Bay Horse, 68 Marygate, York YO30 7BH**

Further to your email (20<sup>th</sup> August 2018 at 17:08), there is still some clarification required concerning condition 12, hopefully I have covered these in this representation.

- Present Licence Number CYC - 009027
- LA Ref 12541/41010

At present the licence allows licensable activities:

- Monday – Saturday 11:00 – 23:00 and Sunday 12:00 – 22:30

This Notice of Application for the variation of a Premises Licence, has the proposed variations of:

1. Late night refreshments (tea and coffee) until 23:30
2. Supply of Alcohol until 23:30
3. Premises open to the public 11:00 – 00:00
4. And the removal of conditions 1, 8, and 12

Comments I have to make initially are, with reference to above:

1. 2. and 3. – You have confirmed that this is proposed to be seven days a week. I would refer you to my comments as stated on the following pages, I would expect the business to operate without undue interference under the present licence in the 12 hours available to them, and to allow the residents the remaining 12 hours.
4. You appear to be referring to the conditions as listed in Annex 2 of the initial licence – **CYC – 009027**, and that the business would like removed the following conditions:
  - **Annex 2 – Conditions consistent with the operation schedule Concerning Health and Safety**
    - *'1. Risk assessments are undertaken.'*
      - I would aspect that risk assessments and the management of risk would be expect in any workplace, especially one where there is food preparation and service to the general public. This is a legal requirement for every employer to

make risk assessments within their place of work, this is covered by the Health and Safety Executive (HSE) - **Regulation 3 of the Management of Health and Safety at Work Regulations 1999.**

- Therefore I would not expect this condition to be removed from the licence, and I would also expect the HSE would also not look favourably if it was.

#### Concerning Public Safety

- '8. *The maximum occupancy should not exceed 60 persons in the first floor function room. The maximum occupancy of the ground floor should not exceed 100 persons.*'
  - I would expect that every building has a maximum occupancy level and this should be adhered to, again on health and safety grounds. North Yorkshire Fire and Rescue Service will have occupancy calculations that follow the published guide for **Fire Safety Risk Assessment in Small and Medium Places of Assembly under the Regulatory Reform (Fire Safety) Order 2005.** Floor space factors can be taken from **Building Regulations ADB**, and calculate for main function areas, as the Business is a restaurant I believe is 1.0 m<sup>2</sup> per person.
  - I am sure that as a restaurant the M<sup>2</sup> will increase from the present Licence which was for a public house, (Bay Horse Inn) which included standing areas and bars without seating (0.3m<sup>2</sup> person). I would hope that this condition is referred to North Yorkshire Fire and Rescue Service for further clarification.
  - Also does the premises have suitable toilet facilities for larger numbers of customers?
- You state that condition 12 is '*Children under the age of 16 shall not be permitted to enter the premises after 21:00 hours*'. Within Annex 2 this is condition 16, and condition 12 is: '*Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.*'
  - If I take what you believe to be condition 12 – which is covered within **6.4 Protection of Children from Harm**, (see page 4).
  - And then take condition 12 to be concerned with the displaying of notices, I would refer you to my comments in sections **6.3 Prevention of Public Nuisance**, (see page 3) and **8. Dispersal** (see page 4).

I would also make the following comments referring to:

#### City of York Council - Statement of Licensing Policy 2014 - Licensing Act 2003

*This policy took effect on the 27th March 2014 and runs until the 26 March 2019*

Within this policy document I would refer to:

#### 1.1 - Licensing Vision

- '*improving the quality of life for local residents through a reduction in alcohol related crime and disorder, **disturbance** and anti-social behaviour;*'



Would a business that is open to the public until 00:00 (midnight) every night not cause some concern, especially with its location next to residential properties.

Within the document I could not find a statement referring to the Government's National Alcohol Strategy 2012 which should have a bearing especially as there is a responsibility of the Licensing Authority not to encourage further drinking, which could include extending licensable activities.

### **3.2. - General Approach to Licensing**

- *The Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual business holding the licence or certificate. However, the Act is a key aspect of such control and the exercise of licensing functions is part of a wider approach to the management of anti-social behaviour and the night time economy with particular regard to the city centre.*

However, in this case it is on the limited of what the City of York Council considers to be its boundary of the City Centre and as such the council should careful consider the effect on the local residential community of the proposed late-night extension.

City of York Council in making its decisions, will no doubt accept the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it should also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in activities to the detriment of nearby residents.

Premise licence and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example; the business has only outside space at the front, will this be used as a smoking area, and will this continue until 00:00 (midnight) every night? Or even longer as customers leave the premises.

Furthermore, the Licensing Authority should also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder.

- *The Licensing Authority has a duty to do all that it reasonably can to prevent crime and disorder under **Section 17 of the Crime and Disorder Act 1998**.*

It is also noted that there is no mention of methods to mitigate any impact on the local residential communities of the possibility of anti-social behaviour (noise etc.) once customers have left the premises.

### **3.2.7. - Impact of Alcohol on York**

Anti-social behaviour related to alcohol across the city centre and the suburbs of York continues to be in the news, this would appear not to be necessarily associated with any demographic group but crosses many social boundaries. Residents have identified through surveys that 'low crime levels and acceptable social behaviour' are the most important factors in making somewhere good place to live. (This links to: **4.2 Crime & Disorder** within the policy)

### 6.3. - Prevention of Public Nuisance

It is vital that the applicant and their business would wish to ensure their operations do not disturb their neighbours, again no mention of mitigation methods. and this late-night extension with this residential area could cause issues, it is noted that within the document there are numerous measures listed, but it must be appreciated that individuals and groups especially do not necessarily follow guidance.

- *Erecting prominent notices at the exits to premises asking customers to leave quietly and not slam car doors;*
- *At appropriate times making announcements to the same effect. Instructing door staff to ask customers leaving the premises to leave the area quietly;*
- *Banning from the premises people who regularly leave in a noisy fashion;*
- *Directing customers away from noise sensitive areas where appropriate;*
  - Given that the business is surrounded by a residential community, some of which are mature in age, this may be difficult.
  - And **where will the smokers be located** at during the period 23:00 – 00:00, outside the premises on Marygate?
- *Steps taken to reduce the impact of any parking on local residents where appropriate.*
  - It is noted that this area has a requirement for resident parking permits, with very limited on street parking, will this be monitored by parking wardens in the evenings?

### 6.4. - Protection of Children from Harm

The policy document expects that conditions should be listed in some way to protect children from harm and would be stated and adequately controlled by the operating schedule. I would expect these to be

- *Limitations on the hours when children may be present;*
- *Arrangements to ensure age limits for admission or the sale of alcohol are controlled;*
- *Age limitations below 18;*
- *Limitations or exclusions when certain activities are taking place;*
- *Requirements for accompanying adults or stewarding.*

### 8. - Dispersal

The time at which licensed activities take place has a significant impact on the potential for public nuisance and disturbance to occur and is also a factor in the prevention of crime and disorder. A licensed activity may be acceptable at certain times and not others. Generally the later the activity takes place the greater the potential for problems to occur. What effective method of dispersal of customers will be used to mitigate disturbance, will customers be using taxis, who will be arriving late (00:00+), perhaps with engines running, utilising Marygate Landing to turn round etc.,

**Appendix C - map delineating the York City Centre Area**

The business would appear very much on the boundary of The York City Centre area, in what is in the majority a residential area, with housing next door and opposite the business. Careful consideration should be made concerning all the aspects as listed on this and previous pages.

**The Human Rights Act 1998**

The City of York Council has a duty under the **European Convention on Human Rights** to protect both the rights of a resident to privacy and family life (Article 8) and the rights of a licensee to operate their business without undue interference (Article 1 of the First Protocol). These policies are intended to reflect the balance to be struck between these interests where they conflict.

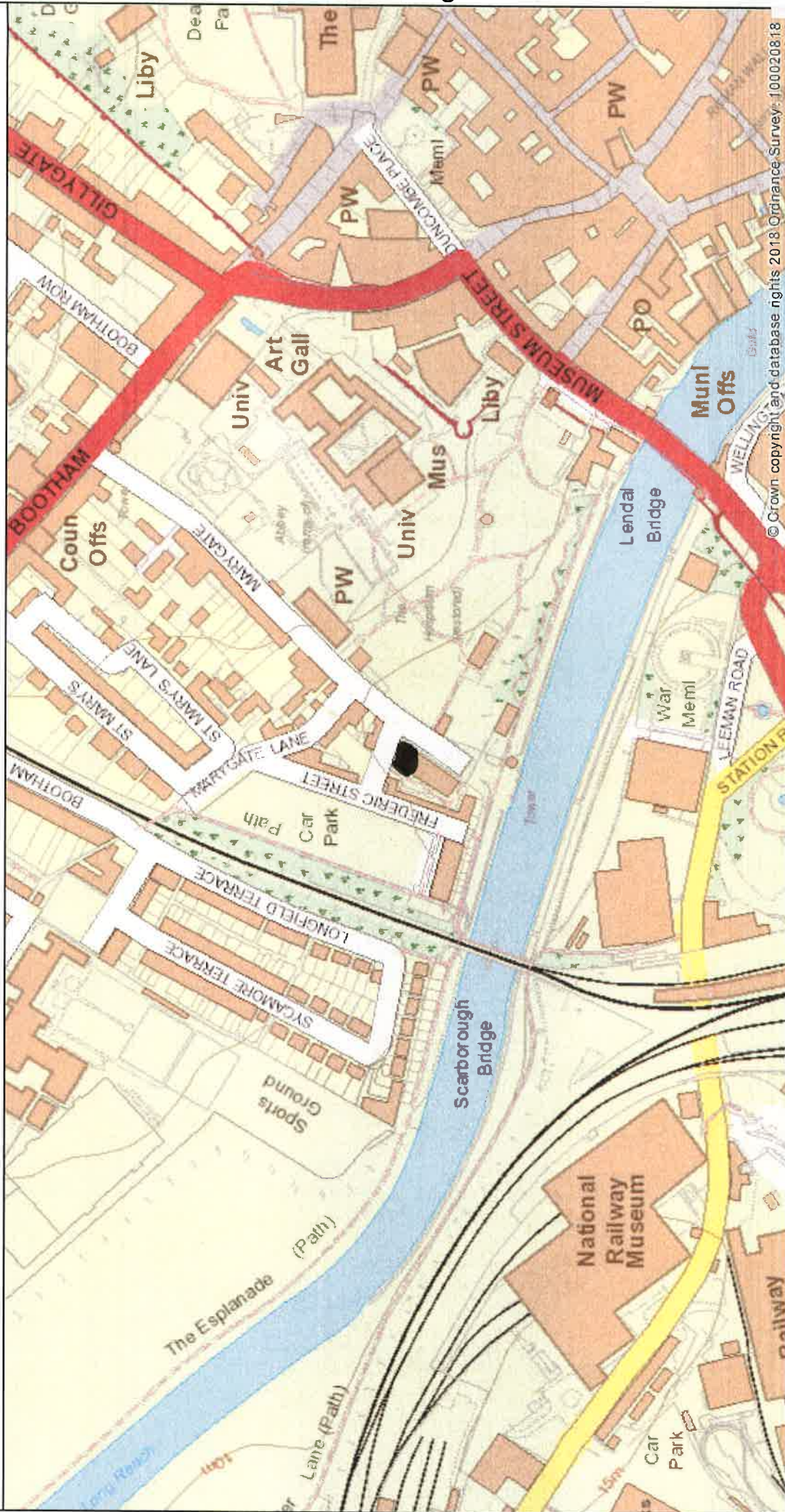
I would comment that the present conditions certainly allow the business to operate, however the proposed increase in time to 23:30pm (late night refreshment) would unduly affect the rights of the residents in the immediate surrounding area, especially considering the premises would be open until 00:00 (midnight)

Given my comments I would hope that the licencing authority would reject this application for variation.

Yours sincerely

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# The Bay Horse, Marygte, York



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**Date:** 30 Aug 2018  
**Author:** City of York Council  
**Scale:** 1:4,000



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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 14 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.

Amended 24/04/17