

Licensing Hearing

To: Councillors Nimmo, Sue Galloway and Horton
Date: Monday, 12 February 2007
Time: 10.00 am
Venue: The Guildhall

AGENDA

1. Chair

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

2. Introductions

3. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

4. Exclusion of Press and Public

To consider excluding the public and press from the meeting prior to consideration of the personal data contained in Annexe 5 to Agenda Item 5 as provided by the Data Protection Act 1998.

5. The Determination of an Application by Mr & Mrs C Stanton for a Review of Premises Licence (Section 52 (2)) in respect of The Bay Horse, Main Street, Fulford, York, YO10 4PW. (CYC-008949)

- 6. If you require any further information, please contact Tracy Wallis on Tel 01904 551027 or Fax 01904 551035 or email tracy.wallis@york.gov.uk**

Distribution:

Members of Licensing Act 2003 Sub-Committee
Licensing Officer
Legal Services
Applicant
Representors
Press, Libraries, Council Receptions



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 unless the Sub-Committee considers there are exceptional circumstances for doing so and the Representor is able to justify why the ground or objection should be raised. The Applicant may make representations to the Sub-Committee as to why any such request to introduce a new ground should or should not be granted. In considering whether to grant a request by a Representor to introduce a new ground, the Sub-Committee will consider why the new evidence has not been produced earlier and whether the admission of such a ground would necessitate the grant of an adjournment and will consider any unfairness to the Applicant or other Representors by reason of the extra cost or delay thereby caused.

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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We will make every effort to make the meeting accessible to you. The meeting will usually be held in a wheelchair accessible venue with an induction hearing loop. We can provide the agenda or reports in large print, electronically (computer disk or by email), in Braille or on audio tape. Some formats will take longer than others so please give as much notice as possible (at least 48 hours for Braille or audio tape).

If you have any further access requirements such as parking close by or a sign language interpreter then please let us know. Contact the Democracy Officer whose name and contact details are given on the order of business for the meeting.

Every effort will also be made to make information available in another language, either by providing translated information or an interpreter providing sufficient advance notice is given. Telephone York (01904) 613161 for this service.

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Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin tercümesini hazırlamak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel. (01904) 613161.

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- Relevant Council Officers get copies of relevant agenda and reports for the committees which they report to; and
- Public libraries, Council Receptions and the Press get copies of **all** public agenda/reports.
- Applicant
- Representors & the relevant Responsible Authorities

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Licensing Act 2003 Sub Committee**12 February 2007**

Report of the Director of Neighbourhood Services

Section 52(2) review of premise licence for The Bay Horse, Main Street, Fulford, York, YO10 4PN**Summary**

1. This report seeks Members determination of an application for a review of a premise licence, which has been made under the Licensing Act 2003 in respect of The Bay Horse, Main Street, Fulford, York.
2. Name of applicant: Mr & Mrs C Stanton.
3. Summary of review: This application to review relates to the following licensing objective: The prevention of public nuisance.
4. A copy of the review application is attached at Annex 1 and is summarised as follows: This application for review is based on complaints of noise emanating from the premises. It is accompanied by a diary of noise nuisance incidents recorded by the applicants over a five month period between August and December 2006.
5. A copy of the premises licence is attached at Annex 2.

Background

6. The applicant, in the capacity of 'interested party', has requested a review of the premises licence. An "interested party" is defined at s13(3) of the Act as being a person living in the vicinity of the premises, a body representing persons who live in that vicinity, a person involved in a business in that vicinity, or a body representing persons involved in such businesses.
7. A map showing the address of the applicant in relation to the premises is attached at Annex 3.
8. A response from the premises licence holder to the application has been compiled by Guest Walker Solicitors. A copy of this response is attached at Annex 4. This response is supported by seven residents living within the vicinity of the premises their addresses are indicated on the maps attached at

Annex 5 (confidential) and Annex 6. Five of these residents are from Glen Close who have endorsed their names on a petition. The other two residents are from Pasture Farm Close and Main Street, Fulford.

9. Members are reminded that a representation is only “relevant” if it relates to the likely effect on the promotion of at least one of the licensing objectives. This is in accordance with S52(7) and (8) of the Act.

Other Relevant Information

10. The existing premises licence was the result of a simultaneous conversion and variation of an existing licence. The variation of the licence was determined and granted at a hearing of the licensing sub-committee held on 23 September 2005
11. There are no planning implications in relation to this application.
12. A report has been submitted by CYC Environmental Protection Unit detailing their involvement with the premises and the applicant between July and November 2006. This is not a representation but an outline of the premises history in relation to noise complaints. This report is attached at Annex 7.
13. Copies of two letters sent to the licence holder dated 28 July and 14 November 2006 from the Licensing Section are attached at Annex 8. These letters are in relation to noise complaints.

Consultation

14. Consultation was carried out by the Applicant and Licensing Authority in accordance with S51(3) of the Act and Regulation 42, Part 4, paragraphs 29 and 38 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the notification of a review and the advertisement of review by licensing authority. Copies of the application were served on all responsible authorities and the premise licence holder. Notice of the application was displayed on the premises and on the exterior noticeboard at the Guildhall. In addition relevant Ward Councillors and Parish Councillors were informed by way of register.
15. As a result of the consultation no further representation was received other than the response received from the premise licence holder.
16. All procedural aspects of this review application have been complied with.

Options

17. By virtue of S52(4) of the Act, the Committee have the following options available to them in making their decision should they decide not to dismiss this application for review:-

18. Option 1: To modify the conditions of the licence (ie to alter, omit or add any new condition).
19. Option 2: To exclude a licensable activity from the scope of the licence.
20. Option 3: To remove the designated premises supervisor.
21. Option 4: To suspend the licence for a period not exceeding three months.
22. Option 5: To revoke the licence.

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 the premises licence holder or the review applicant.
25. Option 2: This decision could be appealed at Magistrates Court by the premises licence holder or the review applicant.
26. Option 3: This decision could be appealed at Magistrates Court by the premises licence holder or the review applicant.
27. Option 4: This decision could be appealed by the premises licence holder.
28. Option 5: This decision could be appealed by the premises licence holder.
29. Additionally the committee may decide to dismiss the application, in which case the applicant would have a right of appeal to the magistrates Court.
30. In accordance with the Guidance 5.108, the committee may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. However, the committee may decide to issue a written warning to the licence holder and / or to recommend improvement within a particular period of time.

Corporate Priorities

31. 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.
32. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

33.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the review applicant, the premises licence holder or any other 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

34. 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.
- 35 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

36. Members determine the application.

Contact Details

Author:

Richard Haswell
Head of Licensing & Regulation

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Report Approved ✓ **Date** 26 January 2007

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal & Democratic Services
Civic Democratic & Legal Services

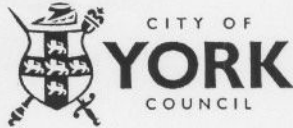
Wards Affected: Fulford

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of review application
- Annex 2** - Copy of existing premises licence
- Annex 3** - Map of area indicating address of applicant in relation to reviewed premises
- Annex 4** - Premise licence holder response to application
- Annex 5 (Confidential)** - Map indicating addresses of residents supporting licence holder response.
- Annex 6** - Map of area showing general area of addresses of residents supporting licence holder response
- Annex 7** - Copy of report from CYC Environmental Protection Unit
- Annex 8** - Letters dated 28 July and 14 November 2006 to the licence holder from CYC Licensing Section, relating to noise complaints
- Annex 9** - Legislation and Policy Considerations

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CITY OF YORK COUNCIL
Licensing & Regulatory Services, 9 St Leonards Place, York, YO1 7ET

Application for a review of a premises licence or club premises certificate 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 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.

We Mr & Mrs C. STANTON (insert name(s) of applicant) apply for the review of a premises licence under section 51/apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

| | |
|--|-----------|
| Postal address of premises or club premises, or if none, ordinance survey map reference or description <u>BAY HORSE INN</u> <u>MAIN ST</u> <u>FULFORD</u> | |
| Post town <u>YORK</u> | Post code |

Name of premises licence holder or club holding club premises certificate (if known)

Number of premises licence or club premises certificate (if known)

Part 2 – Applicant details

- | | |
|--|---|
| I am | Please tick <input checked="" type="checkbox"/> yes |
| 1 An interested party (please complete (A) or (B) below) | <input type="checkbox"/> |
| a) A person living in the vicinity of the premises | <input checked="" type="checkbox"/> |
| b) A body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) A person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) A body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |
| 2 A responsible authority (please complete (C) below) | <input type="checkbox"/> |
| 3 A member of the club to which this application relates (please complete (A) below) | <input type="checkbox"/> |

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title (for example, Rev)

Surname: STANTON First names: CLIVE

I am 18 years old or over Please tick ✓ Yes

Current postal address if different from premises address: 2 GLEN CLOSE MAWST - FULLORD

Post Town: YORK Postcode: YO104PW

Daytime contact telephone number: 07719701230

Email address (optional):

(B) DETAILS OF OTHER APPLICANT

Name: MRS G STANTON

Address: AS ABOVE

Telephone number (if any): 01904 733930

E-mail (optional):

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|---------------------------|
| Name |
| Address |
| Telephone number (if any) |
| E-mail (optional) |

This application to review relates to the following licensing objectives(s)

Please tick one or more boxes ✓

- | | | |
|----|--------------------------------------|-------------------------------------|
| 1. | the prevention of crime and disorder | <input type="checkbox"/> |
| 2. | public safety | <input type="checkbox"/> |
| 3. | the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4. | the protection of children from harm | <input type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

Noise, ie P.A. systems, Parties, - seem to be abt of
 Breaching licence spur of moment
 Noisy guests kicking door to get let in, early hrs activities!
 Fighting in car park, car stereos on loudly
 Can't go to bed due to noise, being woken when
 have, won't be dictated to like that
 Woken by friends leaving early hrs ie 4.30am
 one day
 Was going on before diary was kept but hoped
 it would calm down
 Music turned up for 1 song?

Please provide as much information as possible to support the application (please read guidance note 2)

See diary sheets please note loud music after 12am, informed breaching licence, noise patrol witnessed, sound monitoring equipment in

Have you made an application for review relating to this premises before? Please tick ✓ yes

If yes please state the date of that application

| Day | Month | Year |
|-----|-------|------|
| | | |

If you have made representations before relating to this premises please state what they were and when you made them

Please tick ✓ Yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent. (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature *C. Stanton*

Date *20/12/06*

Capacity

| | |
|--|------------------|
| Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 5) | |
| | |
| Post town | Post code |
| Telephone number (if any) | |
| If you would prefer us to correspond with you by e-mail your e-mail address (optional) | |

Notes for guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

NUISANCE DIARY SHEETS

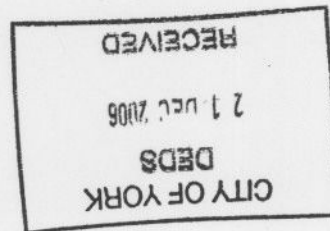
THIS FORM MUST BE COMPLETED AND RETURNED WITH THE RECORD SHEETS

Officer's name: SAMUEL CLAY (551570)

COMPLAINANT

Name: Mrs Stanton

Address: 2 Glen Close.



Telephone number:

Type of nuisance (e.g. loud music):

DETAILS OF SOURCE

Name: Bay Horse

Address: 105 Main Street, Fulford.

Telephone number (if known):

If there is a regular day or time when the nuisance occurs please state below :

Fri, Sat occasional sun + thurs

Have you spoken to your neighbour about the nuisance? :

No obviously not aware of flats next door
no consideration for residents, no regard for his living

ENVIRONMENTAL PROTECTION ACT 1990

RECORDS OF NUISANCE

| DATE EXAMPLES | DESCRIPTION OF NUISANCE | TIME STARTED | TIME FINISHED | COMMENTS |
|------------------|---------------------------------------|-------------------------------|---------------|--|
| 15 Jan 2003 | Loud rock music | 1.25 am | 2.15 am | Loud music woke me up. Could clearly hear the words of Bat Out of Hell by Meatloaf. Unable to get back to sleep until music stopped at 2.15 am. |
| 17 Jan 2003 | Strong cooking smell | 9.10 pm | 10.00 pm | Entered living room and was hit by the strong smell of garlic and onions. The smell was so strong that I eventually had to leave the room at 10 pm. The smell was still present in my living room the following morning. |
| 4-8-06 | Loud music and people in pub shouting | 10 pm | 1 am | Couldnt get to sleep, cant go to bed early for work some nights due to noise / music, people leaving slamming car doors, taxis honking horns for customers rather than go in or people wait outside for them |
| 5/8/06 | Loud music - windows open shouting | 9.40 pm 9.40 pm | 12 am | Wife had work on 5th ⁵ th no chance to sleep again hear shouting word for word |

| DATE | DESCRIPTION OF NUISANCE | TIME STARTED | TIME FINISHED | COMMENTS |
|---------|----------------------------|--------------|----------------------------|--|
| 5/8/06 | 10:45pm music went up. | 10:45pm | 1:00 am | Karaoke, hardly anyone in but still noisy |
| 6/8/06 | loud music, deep base | 10:30pm | 11pm | kept husband awake (both work in morning) |
| 18/8/06 | loud music | 10pm | 12am | Karaoke, big brother - friend |
| 20/8/06 | loud music | 5pm | 10pm | Party on |
| 21/8/06 | loud music | 9pm | 11pm | People talking loudly outside both work in morning windows in pub shut |
| 25th 8 | loud loud music | 9:40 | 11:30pm | 2 of the windows were open ours are shut and we can hear it in the front room above the T.V. |
| 26/8/06 | loud music | 10:40pm | Increase in volume 11:30pm | all windows to Pub ✓ Shut can still hear music |
| | | 20:00pm | | Pub windows open |
| | | 21:30pm | | windows Shut still hear music. |

21:35 Fone call to noise hear very excessive noise

F.A.O. James Clay RE Bay Horse Fulford
 From Mr + Mrs C Stanton

| DATE | DESCRIPTION OF NUISANCE | TIME STARTED | TIME FINISHED | COMMENTS |
|----------|------------------------------|--------------|---------------|---|
| 30-8-06 | Load music from bay nurse | 10:20 pm. | 10:30 pm. | me and my husband went to bed at 10 pm and it was quite |
| 8-9-06 | load music | 10:00 pm. | 12:30 am | wasn't playing load before 10 pm. Horse + pub windows shut |
| 15-9-06 | Load music. | 10 pm | 1 am | Pub windows shut our windows shut completely still hear it |
| 21-9-06 | People shouting, load music. | 10:30 pm. | 12 am | Pub was nearly empty but they was that much noise it sounded like it was full |
| 22/9/06 | Load music, Karaoke | 10:50 pm | 11:30 pm | Pub nearly empty, windows open |
| 24-9-06 | load music | 10:45 pm | 10:55 pm | music playing load people are |
| 8-10-06 | load music. | 9:20 pm | 9:30 pm | Load pub nearly empty |
| 13-10-06 | " " | 10 pm | 11 pm | hardly anyone in the pub / 1 song - again |
| 21/10/06 | " " | 10 pm | 10:50 pm | couldn't use mic as husband sleeping - snoring Day after recording equipment taken away! |

R:É Bay Horse - Fulford

F.A.O. James Clay

Mr + Mrs Stanton

| DATE | DESCRIPTION OF NUISANCE | TIME STARTED | TIME FINISHED | COMMENTS |
|------------|-------------------------|--------------|-------------------------------------|---|
| 10/4/01/06 | LOUD MUSIC | 11.30pm | 0.33 | Very bad woke me up 12.05 windows shut haven't got noise team out |
| 11/11/06 | P.A. / MUSIC | 20.40pm | Went back to bed | |
| 11/12/06 | LOUD MUSIC | 00.15pm | 23.30 noise patrol out - no help | Phoned noise patrol - coming out again! regular sat night nuisance now, giving noise team til end of nov + landlord before taking action myself Got call from council in morn we were both woken up again |

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LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

| |
|---|
| Premises licence number CYC - 008949 |
|---|

Part 1 Premises details

Postal address of premises:

**The Bay Horse
Fulford**

Post town: **York**

Post code: **YO10 4PN**

Telephone number: 01904 633384

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Indoor sporting events
Live Music
Recorded Music
Facility for making music
Facilities for dancing
Supply of Alcohol

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

INDOOR SPORTING EVENTS

Monday
11:00 - 00:30

Tuesday
11:00 - 00:30

Wednesday
11:00 - 00:30

Thursday
11:00 - 00:30

Friday
11:00 - 00:30

Saturday
11:00 - 00:30

Sunday
11:00 - 23:30

LIVE MUSIC

Indoors and Outdoors

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

RECORDED MUSIC

Indoors

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

FACILITY FOR MAKING MUSIC

Indoors

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

FACILITIES FOR DANCING

Indoors

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

SUPPLY OF ALCOHOL

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

Non Standard Timings for Indoor Sporting Events, Live Music, Recorded Music, Facility for Making Music, Facilities for Dancing and Supply of Alcohol:

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

The Opening Hours of the Premises

| | | | |
|-------------------------|---------------------------|----------------------------|---------------------------|
| Monday 11:00 - 01:00 | Tuesday 11:00 - 01:00 | Wednesday 11:00 - 01:00 | Thursday 11:00 - 01:00 |
| Friday 11:00 - 01:00 | Saturday 11:00 - 01:00 | Sunday 11:00 - 01:00 | |

Non Standard Timings:

From the end of permitted hours New Year's Eve to the start of permitted hours 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 premises licence

Name: Mr Nicholas Andrew Milner

Address: 5 Netherwindings
Haxby
York
YO32 3FB

Telephone number: None

Email address: None

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Name: Mr Nicholas Andrew Milner

Address: 5 Netherwindings
Haxby
York
YO32 3FB

Telephone number: None

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

City of York Council
CYC-011183

Annex 1 – Mandatory conditions

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.

MANDATORY CONDITION: DOOR SUPERVISION

(1) In accordance with section 21 of the Licensing Act 2003, 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 be licensed by the Security Industry Authority.

(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

(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.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

Prevention of Crime & Disorder

1. CCTV is installed and maintained within the premise.
2. No one who is drunk or aggressive will be served alcohol.

Public Safety

3. Fire prevention equipment is tested regularly.

Protection of Children from Harm

4. Children will only be allowed onto the premise with an appropriate adult until 19:00 hours or 21:00 hours if dining.

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

5. The sale of alcohol shall cease 30 minutes before the end of opening hours on each and every day.
6. Indoor sporting events shall cease 30 minutes before the end of opening hours on each and every day.
7. All licensable activities listed in parts E, I, F and J of the application shall cease 60 minutes before the end of opening hours on each and every day.
8. Live music may be played outdoors a maximum of 5 times per year and must cease at 23:00 hours, as offered by the applicant, by way of amendment to the application.

9. The maximum occupancy figure shall be 160 persons, as suggested by North Yorkshire Fire and Rescue Service.

10. All off sales shall be made in sealed containers.

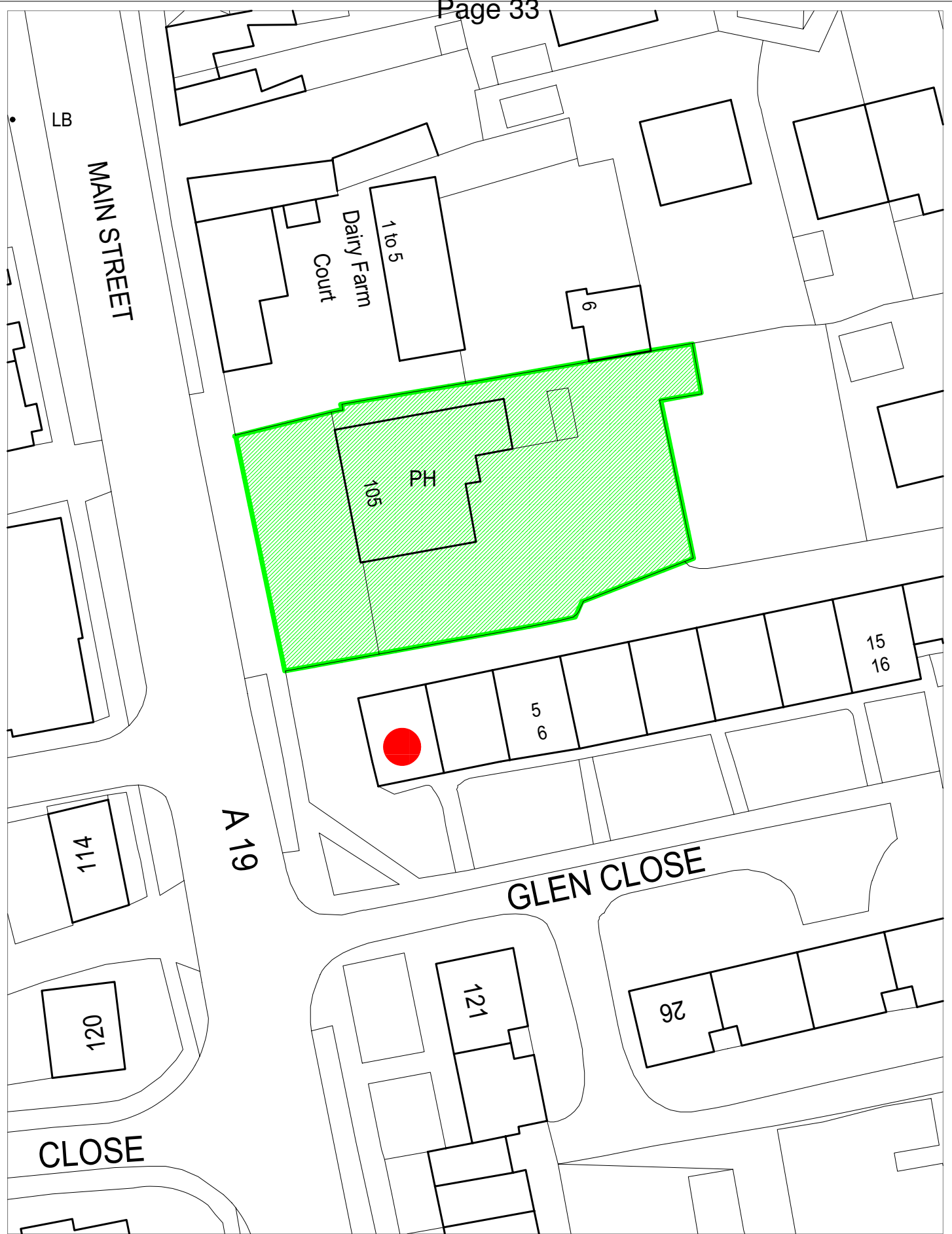
11. All external drinking areas shall be vacated, cleared and cleaned by 23:20 hours on each and every day.

For and on behalf of
The Deputy Chief Executive

Date: 23/09/2005

Licensing & Regulatory Services
9 St Leonard's Place
York
Y01 7ET

Phone: 01904 551521
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing



9, St. Leonards Place, York, YO1 2ET
 Telephone: 01904 613161

THE BAY HORSE, 105 MAIN STREET, FULFORD

SCALE 1:500
 Originating Group

DRAWN BY PSL
 Project

DATE 26/1/2007
 Drawing No.

BHMSF1



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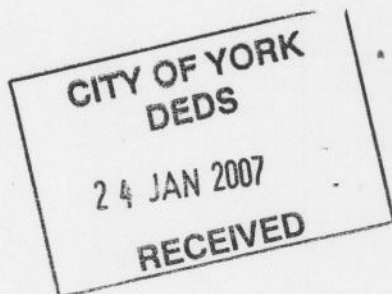
Guest Walker & Co.

City of York Council
(Neighbourhood Services)
9 St. Leonards Place
York
YO1 7ET

Our ref RB/GL/Milner

Your ref LC/CYC008949

Date 23rd January 2007



Dear Sirs

Licensing Act 2003
Review of Premises Licence
The Bay Horse, 105 Main Street, Fulford, York, YO10 4PN

We write in relation to the above matter and enclose herewith Mr Milner's replies to the representations made by Mr and Mrs Stanton.

We look forward to hearing from you in due course.

Yours faithfully
GUEST WALKER & CO

Guest Walker & Co. Solicitors | 12a The Shambles York YO1 7LZ
tel. 01904 624903 | fax. 01904 611181 | dx. 61519 York | email. solicitors@guestwalker.co.uk | info. www.guestwalker.co.uk

Partners | John Walker M.A. (Cantab) Nicola Goodman LL.B.* Karen Riley LL.B.

Solicitor | Jenny Bell LL.B. Legal Executive | Lucy Stubley F.Inst. L.Ex

Conveyancing Assistants | Helen Howard Pauline Lees Vicky Middleton

Consultant | (non-practising) John Guest LL.B

Regulated by The Law Society



THE CITY OF YORK COUNCIL

APPLICATION TO REVIEW PREMISES LICENCE

MR NICK MILNER

RESPONDENT

LICENSING ACT 2003

IN RESPECT OF THE BAY HORSE, MAIN STREET, FULFORD, YORK

REPLIES ON BEHALF OF THE RESPONDENT TO REPRESENTATIONS MADE

We Guest Walker & Co Solicitors of 12a The Shambles, York, YO1 7LZ are the Instructed Solicitors acting on behalf of Mr Nick Milner who is the Premises Licence Holder for The Bay Horse Public House, Main Street, Fulford, York, in connection with an application to review his Premises Licence issued by Mr and Mrs Clive Stanton of 2 Glen Close, Main Street, Fulford, York, YO10 4PW.

In relation to the grounds for review as detailed by Mrs Stanton at paragraph C of the City of York Council's application for a review of a premises licence or club premises certificate under the Licensing Act 2003 form, we would respond as follows :-

1. Noise, i.e. PA Systems, Parties

Our client informs us that he does the utmost to ensure that noise from within the pub does not filter into the vicinity. All windows in the pub are double glazed and kept shut at all times. Curtains are drawn in the early evening and have been since September 2006. Our client advises us that even the old extractor fan, that at one

time faced towards the Stanton's property, has now been bricked up and a new system installed. This does not face their property.

Our client would also respond by saying that all music ends at midnight and that it is kept at a moderate level at all times, especially the base. He ensures that this is the case as his two children, aged 6 years and 10 years, sleep directly above the bar with their bedroom window facing the Stanton's property.

Our client has a juke box which is switched on at lunchtime. This is kept low when people are eating so as not to spoil their dining experience. When dining finishes at 9pm the juke box is turned up slightly but our client never exceeds the markers and always keeps within the levels. If he went beyond these then customers would not be able to hear one another and it would ruin their drinking time.

In order that the music is constantly kept at a moderate level our client's partner/wife goes outside approximately every 20 to 30 minutes to check that it cannot be heard. If the music can be heard then she will go back inside and turn it down. This applies constantly and our client is even more vigilant when karaoke nights are being held. Songs and loudness are both monitored so they constantly at a moderate level.

On 26th August 2006 Mr and Mrs Stanton called out the Noise Abatement Team to the Bay Horse Public House. On the day in question our client had booked a D.J. who was positioned at the back of the pub. As it was a warm summer evening and extremely hot in the pub, the D.J. had opened two small windows to let some air in. The Noise Abatement Team asked our client to close the windows which he did straight away. They also said that although it was noisy inside the pub it was not outside and that there was no problem.

2. Noisy Guests Kicking Door to Get Let In In the Early Hours

Our client informs us that all guests staying at the Bay Horse Public House are told on arrival to use the back entrance to the pub which is constantly open. They are told not to use the front door unless it is before 11.30 -11.45 when it is shut and locked. Any friends that come to visit would also know not to use the front entrance and use the back entrance instead. If they could not enter via the front they would ring our client to be let in, they certainly would not bang on the door.

3. Fighting in the Car Park, Car Stereos On Loudly

Our client advises us that there have only been two fights in 2006, one in March and one in November. The fight in March was in the pub itself and the fight in November sorted itself out quickly.

In relation to the "Car Stereos on Loudly", our client would not stand for this as he has children living in the pub and residents staying who would be disturbed by it. Also our client's partner/wife makes regular checks outside and if anyone was playing car stereos loudly she would tell them to turn them down.

4. Woken by Friends Leaving In the Early Hours, i.e. 4.30am One Day

Our client informs us that his friends know that he runs a pub and they are quiet on leaving.

In relation to the Records of Nuisance (Environmental Protection Act 1990).

On the 4th August 2006 we would respond as follows :-

There is mention of "taxis hooting horns". Our client made it clear to us that there has only been one occasion when a taxi hooted its horn and he went outside and complained heavily explaining that he had children living at the pub and residents staying there.

Our client also informed us that on 18th August 2006 there was no Big Brother Final Party as his customers do not enjoy watching this sort of television.

Our client advises us that the entries on 24th August 2006 and 21st September 2006 fall on a Thursday night which is Quiz Night at the Bay Horse so no music is played. Even the juke box is switched off on a Thursday night.

He also advises that the entry on 30th August 2006 falls on a Wednesday. Wednesday night at the Bay Horse is "Pool Night" so again no loud music is played. The juke box is switched on but kept to a minimal level so as not to disturb the pool players.

In summing up, our client would like to bring certain points to the Council's attention

:-

1. Our client has regular customers of all ages and backgrounds who come in night after night who would not do so if there were such problems with noise and fighting.
2. Our client has regular staying guests who would hardly be likely to re-visit if there were these problems with too much noise.
3. James Clay at the City of York Council's Environmental Protection took away the sound equipment from Mr and Mrs Stanton's property telling our client that there was no cause for concern.
4. The Stanton's have never tried to mediate with our client and have never once been into the Bay Horse to ask for the music to be kept down.
5. There are fourteen flats alongside the Bay Horse and eight facing it, Mr and Mrs Stanton are the only couple who have complained about the noise. The other locals are extremely happy with the running of the pub and have never raised issue with the noise. They have even written letters to this effect (please see attached) to show their support for our client.

Dated this Twenty Third day of January Two Thousand and Seven

Signed*Guest Walker + Co*.....

Guest Walker and Co Solicitors

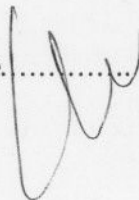
12a The Shambles

York

YO1 7LZ

Ref. RB/GL/Milner

Solicitors for the Respondent



To whom it may concern -

I live in Pasture Farm Close
almost opposite the Bay Horse Hotel.
To my knowledge I have never heard
anyone complain about the noise from
there - & I certainly have never
heard any excess noise.

We hereby certify this to be a true
copy of the original.

Guest Walker & Co.
Guest Walker & Co. Solicitors
12a The Shambles, York YO1 2LZ

23rd January 2007 Date

██████████ MAIN ST,
FULFORD.

YORK YO10 4PS

30/12/06.

TO WHOME IT MAY CONCERN

I have lived in FULFORD for 10 years,
for 5 years I lived at 103 Main St.
next door to the Bay House. In that
time I never had to complain about noise.
For the past 5 years I have lived
opposite the Bay and again never
had to complain once. As there is
no double glazing in my property
we can hear all noise in Main St
so if car doors had been slamming,
music blaring, and people shouting
I would certainly complain as it ~~has~~ is
this has never happened.

Yours
████████████████████

We hereby certify this to be a true
copy of the original.
Guest Walker & Co
Guest Walker & Co. Solicitors
12a The Shambles, York YO1 2LZ

23rd January 2007 Date

THE CITY OF YORK COUNCIL

APPLICATION TO REVIEW PREMISES LICENCE

MR NICK MILNER

RESPONDENT

LICENSING ACT 2003

IN RESPECT OF THE BAY HORSE,
MAIN STREET, FULFORD, YORK

REPLIES ON BEHALF OF THE RESPONDENT
TO REPRESENTATIONS MADE

Guest Walker and Co Solicitors
12a The Shambles
York
YO1 7LZ

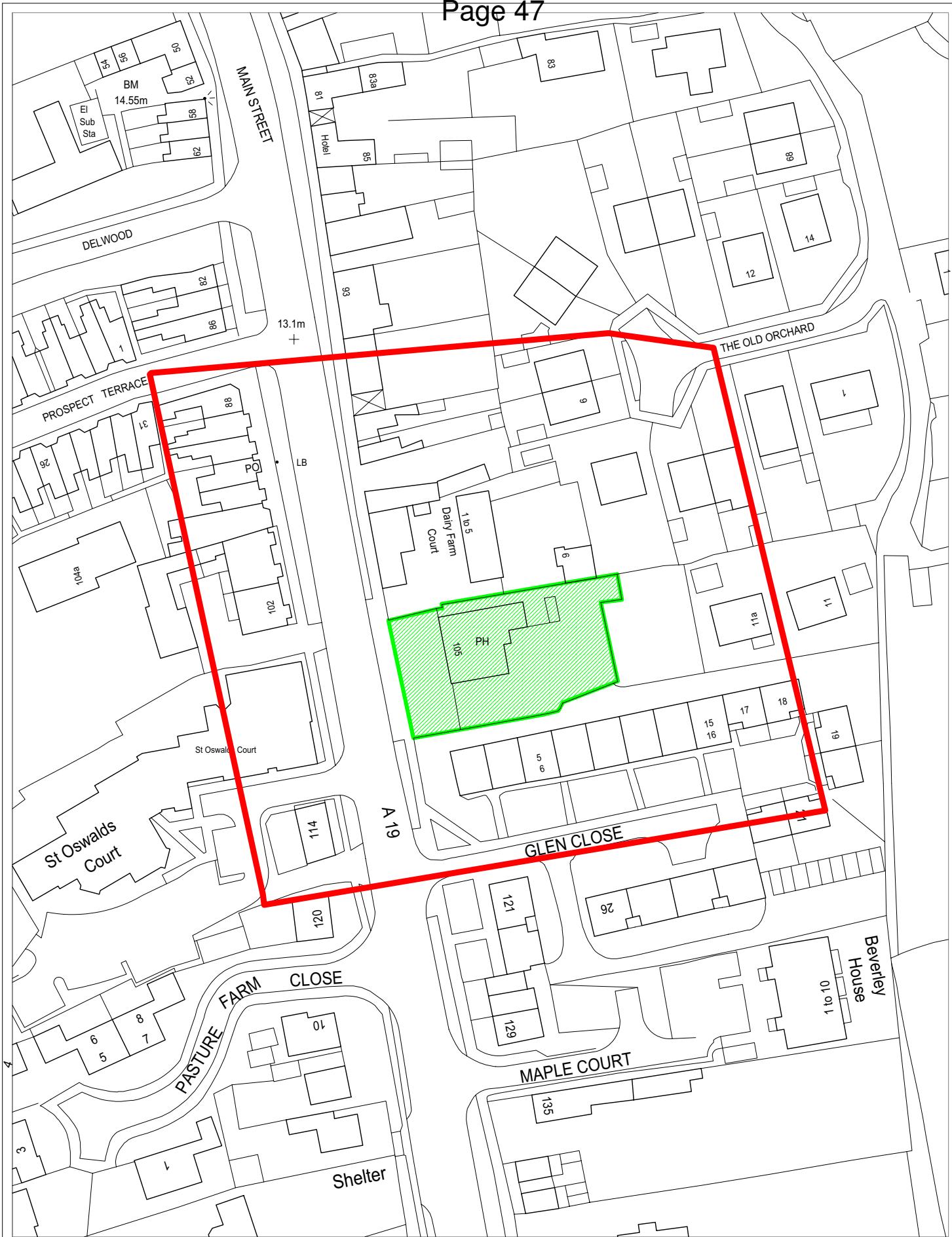
Ref. RB/GL/Milner

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

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THE BAY HORSE, 105 MAIN STREET, FULFORD



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DATE 26/1/2007
Drawing No.

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9, St. Leonards Place, York, YO1 2ET
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City of York Council LA 1000 20818

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The licensing department of City of York Council has asked the environmental protection unit (EPU), as a responsible authority on licensing applications, to comment on the recent representation made by Mr Stanton regarding the Bay Horse Public House, 105 Main Street, Fulford. EPU has recently investigated the Bay Horse in relation to allegations of statutory noise nuisance; our actions in this investigation and outcomes are documented below.

Saturday 16 July 2006

A complaint was received by the noise patrol (this service operates from 9pm Friday to 3am Saturday and 9pm Saturday to 3am Sunday and responds mainly to noise complaints). Elizabeth MacDonald and James Clay, Environmental Protection Officers made a visit at 1.05am No noise nuisance from the Bay Horse was witnessed by either officer.

Tuesday 26 July 2006

A complaint was received by EPU. The complaint was allocated to James Clay for investigation. A warning letter was sent to The Bay Horse and copied to the Licensing Unit of the City of York Council. The letter stated that an allegation of noise nuisance had been made against the public house and that the matter was to be investigated. This investigation would involve monitoring the noise emitted. The letter also invited the Bay Horse to actively work with the EPU team to resolve any noise problems before any further action was taken.

Saturday 26 August 2006

A complaint of loud music was received by the noise patrol at 9.33 pm. A visit was made by Fiona Davies, Environmental Protection Officer and Andy Wilcock at about 10pm. Fiona stated that loud amplified music was audible from the Bay Horse; if this occurred on a frequent basis it would be a statutory noise nuisance. They visited the Bay Horse and asked that the music was turned down and to close windows; this was done. The complainant contacted the Noise Patrol again at 11.40pm and said that the music had been turned up again, but did not want a visit by the Noise Patrol. Fiona contacted the Bay Horse to discuss the matter further the same evening.

Saturday 2 September 2006

James Clay made a visit at 00.33am as part of the investigation into the allegations of noise nuisance and Mr Clay listened from outside the property. No noise nuisance from the Bay Horse was witnessed.

Friday 8 September 2006

The Noise Patrol received a complaint at 11.45, Liz Bates, Principal Environmental Protection Officer, and James Bailey visited at 12.33am on Saturday 9 September; neither officer witnessed a noise nuisance from the Bay Horse.

Friday 13 October 2006

A Norsonic (sound recording equipment) was installed for 1 week at Mr Stanton's address, 2 Glen Close. The purpose of the installation was to allow complainants to make recordings of what they were experiencing from the Bay Horse. No recordings were made.

Thursday 26 October 2006

A letter was sent by James Clay to Mr Stanton confirming that after three Noise Patrol visits, one other visit and a Norsonic installation, no further action could be taken, based upon the evidence collected. What noise had been witnessed on one visit had been resolved on the evening of the complaint with no further evidence to support the allegation.

Saturday 5 November 2006

A complaint made to the Noise Patrol at 12.05am. Helen Howlett, Senior Environmental Protection Officer and Fiona Davies visited the complainant's property between 012.15 and 12.21 am. Both officers confirmed that the music was just audible and it was mainly drowned out by traffic noise from Fulford Road. This level of noise would not constitute a statutory nuisance.

Saturday 11 November 2006

A call received on the Noise Patrol by Elizabeth Macdonald and Craig Delorenzo, environmental protection officer. A visit was made to the complainant's property. Both officers have confirmed that music could just be heard in the property; they both agreed that the level of noise was not sufficient to be a statutory nuisance.

Monday 20 November 2006

James Clay replied to a letter from Mr Stanton explaining that the Noise Patrol had made 4 visits and recording equipment had been installed with no statutory nuisance witnessed. The figure is actually 5 visits by the noise patrol team, 1 other night time visit and installation of noise recording equipment for 7 days.

Conclusion

Six visits have been made and equipment also installed into a complainants property for 7 days. Aside from the visit on the 26 August 2006, where music was audible in Mr Stanton's property but was resolved by the actions of the Noise Patrol, there is no evidence to support the allegation that the Bay Horse is regularly causing a statutory nuisance to neighbouring properties.

We can however confirm that on the 4 November 2006, the Bay Horse, between 12.15 and 12.21am breached its licensing condition restricting its use of music, live or recorded until midnight. This was witnessed by Fiona Davies and Helen Howlett on the Noise Patrol and reported to the licensing unit at the time.

Regards

James Clay
Environmental Protection Officer

Extn: 2512
Ask for: Lesley Cooke
Our ref: LJC/CYC008949
e-mail: licensing.unit@york.gov.uk

28 July 2006

Mr N A Milner
The Bay Horse
105 Main Street
Fulford
York
YO10 4PN

Dear Mr Milner

Licensing Act 2003
Premise Licence
The Bay Horse, 105 Main Street, Fulford, York

It has been brought to my attention by the Environmental Protection Unit that noise complaints have been received in respect of noise emanating from the above premise, and that the premise is operating outside its licensed hours.

You are aware of the operating hours and conditions attached to your premise licence, you are also aware that the Council has received reports in the past of breaches in operating hours and loud music emanating from your premise. We discuss these issues when I visited your premise on 31 May 2006.

It is an offence under the above legislation to breach any operating hours or conditions attached to your premise licence.

You should be aware that the Environmental Protection Unit as a responsible authority, and complainants as local residents can at any time request that the Licensing Authority review your premise licence.

Your premise will be monitored by both the Licensing and Environmental Protection Units.

If you wish to discuss this matter further please contact the Licensing Unit on York 552512.

Yours sincerely

Lesley Cooke
Senior Licensing Officer

Copy to: Environmental Protection Unit, City of York Council

Extn: 2512
Ask for: Lesley Cooke
Our ref: LJC/CYC008949
e-mail: licensing.unit@york.gov.uk

14 November 2006

Mr N A Milner
The Bay Horse
105 Main Street
Fulford
York
YO10 4PN

Dear Mr Milner

Licensing Act 2003
Premise Licence
The Bay Horse, 105 Main Street, Fulford, York

I write with regards to noise complaints which have been received by the City of York Council Licensing and Environmental Protection Units.

I visited your premise 31 May and wrote to you on 28 July 2006 regarding noise complaints, Sean Brannan, Licensing Enforcement Officer, visited your premises on 19 August 2006 again regarding noise complaints.

Measures must be put in place to prevent further noise nuisance.

As you are already aware the City Councils Environmental Protection Unit, as a responsible authority, and complainants as local residents can at any time request that the Licensing Authority review your premise licence.

If you wish to discuss this matter further please contact the Licensing Unit on York 552512.

Yours sincerely

Lesley Cooke
Senior Licensing Officer

Copy to: Environmental Protection Unit, City of York Council
Licensing Unit, North Yorkshire Police

Legislation and Policy Considerations

Review of Premises Licence

1. The following provisions of the Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s51 Application for review of premises licence; s52 Determination of application for review; s53 Supplementary provision about review.
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 advertising of reviews.
3. The following provisions of the Secretary of State's guidance apply to this application: Paragraphs 5.47 Steps to promote the licensing objectives; 5.99–5.106 Reviews; 5.107–5.111 Powers of a licensing authority on the determination of a review.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 7.0 Licensing Hours; 9.0 Review of licences; Appendix D Pool Conditions.
5. The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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