

Licensing/Gambling Hearing

To: Councillors Wiseman, Sue Galloway and Funnell

Date: Monday, 17 September 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 annexes 2 & 4 to Agenda Item 5 as provided by the Data Protection Act 1998.

5. The Determination of an Application by Mr Jason Charles Lowery and Mrs Lisa Marie Lowery for the grant of a premises licence [Section 18(3)(a)] in respect of Lowery Newsagents, 77A Bootham, York. (CYC-013306)

If you require any further information, please contact Tracy Wallis on Tel 01904 552062 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.

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Informacja może być dostępna w tłumaczeniu, jeśli dostaniemy zapotrzebowanie z wystarczającym wyprzedzeniem. Tel: (01904) 551 550

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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**17 September 2007**

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Lowery Newsagents, 77A Bootham, York, YO30 7DQ**Summary**

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-013306.
3. Name of applicant: Jason Charles Lowery & Lisa Marie Lowery.
4. Type of authorisation applied for: Grant of Premises Licence.
5. Summary of application: The nature of the application is to permit the sale by retail of alcohol, Monday to Sunday 08:00 hours to 20:00 hours daily.

Background

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

Promotion Of Licensing Objectives

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. The prevention of crime and disorder: 1) The premises are currently fitted with CCTV which will be replaced with a more modern system.
9. The protection of children from harm: 1) Proof of age identification will be required from any customer who appears to be under the age of 18. 2) Currently display posters containing warnings to persons who are considering purchasing lottery tickets and/or tobacco and who may be under age. Similar posters and warnings will be provided in respect of the purchase of alcohol. 3) Full staff training will be given. 4) A record will be kept of all persons who attempt to purchase alcohol who are under age.

Special Policy Consideration

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

Consultation

11. Consultation was carried out by the applicant in accordance with s13, and s17(5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
12. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

13. There were no representations received from any of the responsible authorities.

Summary of Representations made by Interested Parties

14. A representation was received from the interested party listed at Annex 2 (confidential). The representation is attached at Annex 3. The representor, a retailer whose business is located within the vicinity of the premises submitted copies of his 'Challenges and Refusals Sheets' covering a five month period, to support his representation. These sheets have not be presented as part of this report because they identify a number of customers.
15. The address of the interested party is indicated on the map attached as Annex 4 (confidential). A further map indicating the general area from which the representation was received is attached at Annex 5.
16. 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.
17. 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

18. There are no planning issues or restrictions in relation to this premise.

Options

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

Analysis

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

Corporate Priorities

29. 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.
30. 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

31.
 - **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

32. 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.
33. 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

34. Members determine the application.

Contact Details

Author:

John Lacy
Acting Licence Manager
Licensing & Regulation

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1593

Ext: 1814

Report Approved

Date 06 - 09 - 07

Specialist Implications Officer(s)

Suzan Hemingway
Head of Legal & Democratic Legal Services

Ext: 1004

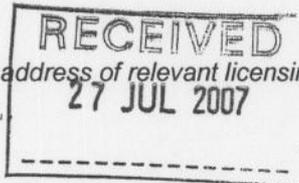
Wards Affected: Clifton

For further information please contact the author of the report

Background Papers:

- Annex 1** - Copy of application form
- Annex 2 (Confidential)** - Details of Interested Party
- Annex 3** - Copy of representation from Interested Party
- Annex 4 (Confidential)** - Map of area indicating address of Interested Party
- Annex 5** - Map showing general area from which representation received
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations and Note to Members

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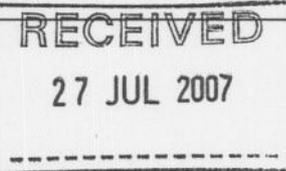
[Insert name and address of relevant licensing authority and its reference number (optional)]

CITY OF YORK COUNCIL
THE GUILDHALL,
YORK
YO1 9QN

**Application for a Premises Licence to be Granted
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in BLOCK capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.



(1) [I][We] (2) JASON CHARLES LOWERY AND LISA MARLE LOWERY

(1) Delete as applicable.
(2) Insert name(s) of applicant(s).

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

Part 1 - Premises details

Postal address of premises or, if none, ordnance survey map reference or description 77A BOOTHAM	
Post town YORK	Post code YO30 7DQ

Telephone number at premises (if any) 01904 651451

Non-domestic rateable value of premises £ 19,250 ✓ 19500

Part 2 - Applicant details

Please state whether you are applying for a premises licence as

Please tick yes

- (a) an individual or individuals* please complete section (A)
- (b) a person other than an individual*
 - (i) as a limited company please complete section (B)
 - (ii) as a partnership please complete section (B)
 - (iii) as an unincorporated association or please complete section (B)
 - (iv) other (for example a statutory corporation) please complete section (B)
- (c) a recognised club please complete section (B)
- (d) a charity please complete section (B)
- (e) the proprietor of an educational establishment please complete section (B)
- (f) a health service body please complete section (B)
- (g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- (h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

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

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname
LOWERY

First names
JASON CHARLES

Please tick

Yes

I am 18 years old or over

Current postal address if different from premises address

77 BOOTHAM

Post Town

YORK

Postcode

YO30 7DQ

Daytime contact telephone number

01904 651451

E-mail address (optional)

SECOND INDIVIDUAL APPLICANT (if applicable)

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

Surname
LOWERY

First names
LISA MARLE

Please tick

Yes

I am 18 years old or over

Current postal address if different from premises address

77 BOOTHAM

Post Town

YORK

Postcode

YO30 7DQ

Daytime contact telephone number

01904 651451

E-mail address (optional)

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 - Operating Schedule

When do you want the premises licence to start?

Day	Month		Year				
0	1	1	0	2	0	0	7

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

Day	Month		Year				

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

The Premises comprise a shop which is situate on the ground floor only and which comprises approximately 500 square feet

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

What licensable activities do you intend to carry on from the premises?
(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick Yes

(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 entertainment facilities for:

(i) making music (if ticking yes, fill in box I)

(j) dancing (if ticking yes, fill in box J)

(k) entertainment of a similar description to that falling within (i) or (j)
(if ticking yes, fill in box K)

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

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

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both - please tick <input type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for performing plays (please read guidance note 4)		
Wed					
Thur					
Fri			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 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both - please tick <input type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Wed					
Thur					
Fri			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 (please read guidance note 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)
Day	Start	Finish	
Mon			State any seasonal variations for indoor sporting events (please read guidance note 4)
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 5)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both - please tick <input type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)		
Tue					
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 5)		
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for the performance of live music (please read guidance note 4)		
Wed					
Thur					
Fri			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 (please read guidance note 5)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for the playing of recorded music (please read guidance note 4)		
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 5)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur					
Fri			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 (please read guidance note 5)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
			Will this entertainment take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Thur					
Fri					
Sat			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 (please read guidance note 5)		
Sun					

I

Provision of facilities for making music Standard days and timings (please read guidance note 6)			Please give a description of the facilities for making music you will be providing		
			Will the facilities for making music be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)		
			Outdoors		
			Both		
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for the provision of facilities for making music (please read guidance note 4)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)		
			Indoors		
			Outdoors		
			Both		
			Please give a description of the facilities for dancing you will be providing		
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue			State any seasonal variations for providing dancing facilities (please read guidance note 4)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

K

Provision of facilities for entertainment of a similar description to that falling within I or J Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment facility you will be providing		
			Will the entertainment facility be indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
					Both <input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4)		
Thur					
Fri					
Sat			Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within I or J at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both - please tick <input checked="" type="checkbox"/> (please read guidance note 2)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
					Both <input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur					
Fri					
Sat			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 5)		
Sun					

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	05.00	20.00	
Tue	05.00	20.00	
Wed	05.00	20.00	
Thur	05.00	20.00	
Fri	05.00	20.00	
Sat	05.00	20.00	
Sun	05.00	20.00	
			Non standard timings. Where you intend the premises to be open to the public at different times to those listed in the column on the left, please list (please read guidance note 5)

P

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

(a) General - all four licensing objectives (b, c, d, e) (please read guidance note 9)

SEE ATTACHED

(b) The prevention of crime and disorder

SEE ATTACHED

(c) Public safety

SEE ATTACHED

(d) The prevention of public nuisance

SEE ATTACHED

(e) The protection of children from harm

SEE ATTACHED

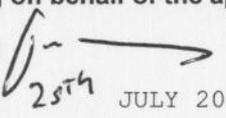
Please tick yes

- I have made or enclosed payment of the fee
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

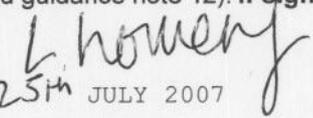
IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 - Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 11).
If signing on behalf of the applicant please state in what capacity.

Signature 
 Date 25th JULY 2007
 Capacity APPLICANT

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent
 (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature 
 Date 25th JULY 2007
 Capacity APPLICANT

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

WARE & KAY LLP
 SENTINEL HOUSE
 PEASHOLME GREEN
 YORK
 DX 61510 YORK

Post town YORK

Post code YO1 7PP

Telephone number (if any) 01904 716000

If you would prefer us to correspond with you by e-mail your e-mail address (optional)

jonathan.leach@warekay.co.uk

Notes for Guidance

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on. If you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

THE STEPS THAT WE INTEND TO TAKE TO PROMOTE THE FULL LICENSING OBJECTIVES NAMELY:

- (a) The prevention of crime and disorder.
 - (b) Public safety,
 - (c) The prevention of public nuisance
 - (d) The protection of children from harm
-
1. The Premises are currently fitted with CCTV which will be replaced with a more modern system.
 2. Proof of age identification will be required from any customer who appears to be under the age of 18.
 3. We currently display posters containing warnings to persons who are considering purchasing lottery tickets and/or tobacco and who may be under age. Similar posters and warnings will be provided in respect of the purchase of alcohol.
 4. Full staff training will be given.
 5. A record will be kept of all persons who attempt to purchase alcohol who are under age.

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**AGENTS,
OAKTREE ARCHITECTURAL**
60 Oaktree Lane, Haxby, York.
YO32 2YL
Tel 01904 763250

Client:
Mr J Lowerey, Lowereys Newsagents,
77a Bootham, York.

Drawing:
Existing Floor Plan for above property.

Scale:
1:100

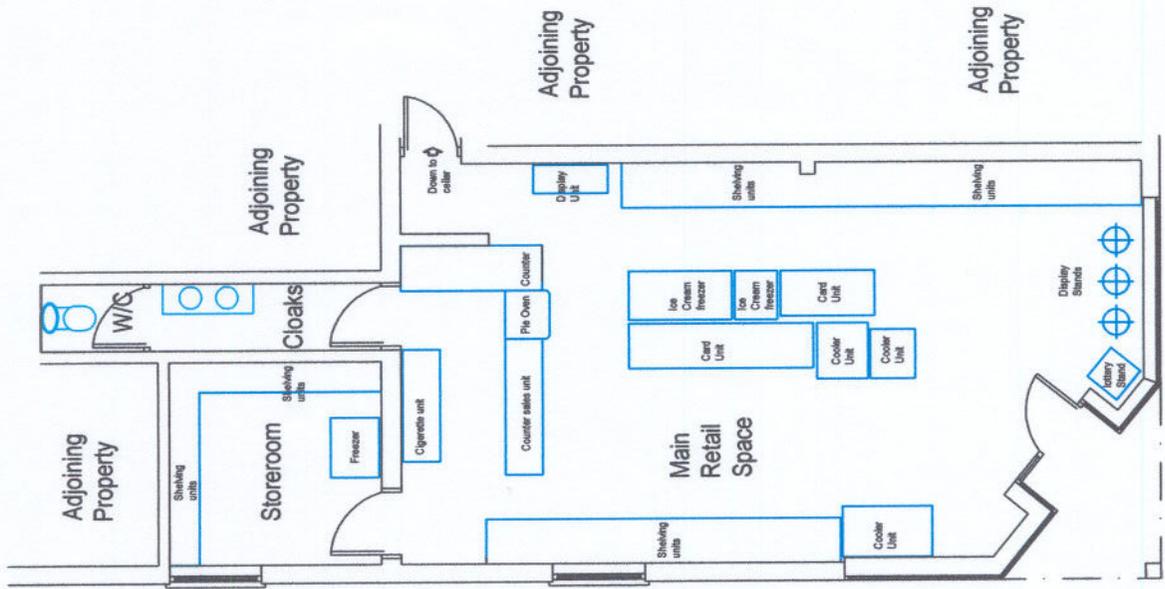
Date: July 2007
Drawn:

Drawing No.
86/1

For illustration purposes
only, do not scale.

Revision: .

RECEIVED
27 JUL 2007



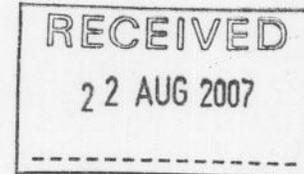
**EXISTING FLOOR
PLAN**

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

Document is Restricted

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[REDACTED]
[REDACTED] BOOTHAM
YORK
[REDACTED]

Tele [REDACTED]

20th August 2007

Dear sir/madam,

APPLICATION FOR A PREMISES LICENCE TO BE GRANTED
UNDER THE LICENCING ACT 2003
77A BOOTHAM JC & LM LOWERY

I have recently seen notification of the above application and would object to this application on the following grounds:-

1. Our family and these premises have had a licence and an unblemished record for well over 30 years, however that is not to imply that regulatory problems have not, and do not exist, rather that we are experienced, well organised and pro-active in preventing problems arising.

It is our policy not only to train our staff but to ensure the licence holder is on the premises for most of the opening hours and that there is a minimum staff presence of two responsible persons at all times (over 18 yrs of age).

I am concerned that if another licence were granted within the same small parade of shops there will inevitably be conflict between the two retailers but more importantly it will draw larger numbers of less welcome customers to to this predominantly residential area. It is our policy to serve only customers who are over 21 unless they provide the recognised form of identification or are known by us as over 18 whereas the applicant does not specify this requirement.

2. The proposed licenced premises(from the plan I have seen) do not indicate from which area of the shop alcohol will be served or where it will be stored, as these premises are mainly operated by a single member of staff, are open well before the licenced starting time of 8.00am and are frequented by large numbers of local schoolchildren. I have serious reservations regarding the suitability of the premises to serve alcohol even if it were served from behind the counter.

3. The main arterial road which links Clifton Green with Bootham to it's intersection with Gillygate is well served already with three licenced stores ie Spar Clifton Green ourselves in the middle and Jacksons, these stores are well spaced about

equidistant from each other on this busy main road and I cannot see a valid reason for the granting of another licence so close to ourselves.✎.

4. National and local government together with the populace at large are anxious and very concerned at the explosion of anti-social behaviour and drunkenness which seems to blight many cities and is certainly not absent in this area.

I know serious problems have arisen regarding drink related incidents at Jacksons and Spar Clifton Green. and I am anxious to ensure that similar incidents do not migrate to this area (I am sure that the Police will provide details).

To emphasise and support my case I have attached copies of our Challenges and refusals sheets covering the last five months which will give you an indication of the volume and type of incidents we deal with. (these do not include the people refused entry to the shop because they are either drunk or under the influence of drugs -or both).

You will note particularly that on 2nd August [redacted] tried to purchase alcohol at 7.20pm but was refused not because she was drunk but that she was known to me as an habitual drunkard. You will also note that on the 17th August we refused to sell alcohol to two girls who had been asked to make a test purchase by the licencing authority. This indicates that we are trying hard to stamp out underage drinking and anti-social behavior, which follows (we are a member of the Responsible Retailer Scheme).

Our concern is that another licenced premise in such close proximity would inevitably undermine our efforts ie persons refused here because they looked under 21 would inevitably attempt a purchase in another nearby shop where they might be judged to be over 18 yrs of age.

Restrictions placed upon those who drink in the street which have been enforced in that part of Bootham nearer the City are very welcome but this again has meant that the problem has moved a little nearer to us with benches and parkland frequented by alcoholics. I personally would welcome a ban on street drinking for the whole of Bootham and Clifton (or even the whole City)

5 The applicant premises are located on the corner of Bootham Crescent and Bootham where there is already a traffic hazard in that cars park on double yellow lines at the top of Bootham

Crescent whilst their drivers obtain a paper or upon the Zig-Zag for the pedestrian crossing, this danger is further exacerbated because as part of the Traffic Calming measures in Bootham Crescent the entrance has been greatly reduced thereby creating a funnel effect and any further vehicular movements including customers or delivery vans will lead to an increased risk to vehicles but more importantly to cyclists and pedestrians because of vehicle movements and restricted vision.

CITY OF YORK COUNCIL APPLICATION ACKNOWLEDGED
DATE: 24/8/07 LC

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

Document is Restricted

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9, St. Leonards Place, York, YO1 2ET
Telephone: 01904 551550

LOWERY'S NEWSAGENT, 77A BOOTHAM

SCALE: 1:750	DRAWN BY: PSL	DATE 3/9/2007
Originating Group:	Project	Drawing No. LNB1A



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**MANDATORY 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.

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).

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.

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; and ss19, 20 and 21 mandatory conditions.
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 and Paragraph 8.28 Steps to promote the licensing objectives.
4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 3.2 Crime and Disorder; 4.1 Consultation on New Premises Applications, Club Premises Certificates, Variations and Provisional Statements; 4.2 General Principles for Determination of Applications; 5.0 Guidelines for Applicants; 7.0 Licensing Hours and 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.

NOTE FOR MEMBERS

Extracts from Revised Guidance issued under section 182 of the Licensing Act 2003 (in force 28 June 2007). The following amendments to paragraphs in the Guidance may have relevance at a hearing to determine an application for the grant, variation or review of a premises licence or club premises certificate.

Related Legislation and Strategies

1.26 Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and a public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or (once the smoking ban comes into force) in a smoking shelter, where and to the extent that these matters are within their control.

1.27 In addition, when considering a new premises licence or following reviews that have identified problems with a particular premises, licensing authorities may consider imposing conditions as appropriate, such as preventing customers from taking open containers outside the premises or installing CCTV. However, any conditions imposed must not be aspirational and must be within the control of the licensee. For example, a condition may require a premises to adopt a particular dispersal policy, but a licensee cannot force customers to abide by it.

Hours of Trading

10.19 In some town and city centre areas where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises.

10.20 However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.

10.21 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.