

Licensing Hearing

To: Councillors Funnell, Merrett and Moore

Date: Monday, 4 August 2008

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 6, as provided by the Data Protection Act 1998.

5. Minutes

To approve and sign the minutes of Licensing Hearings held on Thursday 26 June 2008.

6. The Determination of an Application by Mr. Memet Koyupinar for a Premises Licence [Section 18(3)(a)] in respect of Castle Takeaway, Unit 4, Acomb Wood Drive Shopping Centre, Acomb Wood Drive, York, YO23 3XN. (CYC-014096)

If you require any further information, please contact Laura Bootland on Tel 01904 552062 or Fax 01904 551035 or email laura.bootland@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. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

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

Procedure prior to the Hearing

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

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

Procedure at the Hearing

1. Members of the Sub-Committee will appoint a chair.
2. The Chair introduces the Committee Members and officers [*Democracy Officer, Legal Advisor to the committee (if present) and the Licensing Officer*],

welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.

3. The Chair will explain to the parties the procedure that will be followed at the hearing.
4. The Chair will proceed with the order of business on the agenda.
5. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
6. The Licensing Officer outlines the application, confirms the application details, introduces the report and gives an update on any recent changes.
7. The Chair will invite Committee Members, the Applicant and Representors (or representatives) to ask the Licensing Officer questions to clarify any points raised in the report.
8. The Chair will ask the Applicant (or their representative) to present their case.
9. The Applicant (or their representative) will present their case and may call any witnesses to support their case *[maximum 15 minutes]*.
10. The Chair will invite the Representors (or their representative) in the following order to ask questions of the Applicant (or their representative) and/or witnesses *[maximum 5 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
11. The Chair will invite the Committee Members to ask questions of the Applicant (or their representative) and/or witnesses.
12. The Chair will invite the Representors (or their representative) in the following order to state the nature of their interest in the matter, present their case and call any witnesses to support their case *[maximum 15 minutes each party]*
 - (i) Police
 - (ii) Other Responsible Authorities
 - (iii) Ward Councillors
 - (iv) Interested Parties
13. The Chair will invite the Applicant to ask questions of each Representor (or their representative) and/or their witnesses after each presentation *[maximum 5 minutes per Representor]*.
14. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.

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

Procedure after the Hearing

19. If the Sub-Committee wish to seek further clarification on the evidence given, the Democracy Officer will invite all parties back into the committee room.
20. If possible, and for all hearings under:-
 - section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37)
 - section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85)
 - section 105(2)(a) (counter notice following police objection to temporary event notice)
 - section 167(5)(a) (review of premises licence following closure order)
 - paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)
 - paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
 - paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)

the Sub-Committee will make a decision on conclusion of the hearing and only the Democracy Officer and the Legal Advisor to the Sub-Committee (*if present*) will remain in the room with the Committee Members. These officers

will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

21. If the decision has been made, all the parties will be invited back into the committee room by the Democracy Officer. The Chair will announce the decision including reasons together with, if appropriate, details of any conditions to be attached to the grant of the licence. This decision will then be communicated in writing to the Applicant and Representatives 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 Representatives within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

This page is intentionally left blank

About City of York Council Meetings

Further information about what's being discussed at this meeting

All the reports which Members will be considering are available for viewing online on the Council's website. Alternatively, copies of individual reports or the full agenda are available from Democratic Services. Contact the Democracy Officer whose name and contact details are given on the agenda for the meeting. **Please note a small charge may be made for full copies of the agenda requested to cover administration costs.**

Access Arrangements

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) 551550 for this service.

যদি যথেষ্ট আগে থেকে জানানো হয় তাহলে অন্য কোন অস্বাভাবিক তথ্য জানানোর জন্য সব ধরনের চেষ্টা করা হবে, এর জন্য দরকার হলে তথ্য অনুবাদ করে দেয়া হবে অথবা একজন দোভাষী সরবরাহ করা হবে। টেলিফোন নম্বর (01904) 551 550।

Yeteri kadar önceden haber verilmesi koşuluyla, bilgilerin terümesini hazırlatmak ya da bir tercüman bulmak için mümkün olan herşey yapılacaktır. Tel: (01904) 551 550

我們竭力使提供的資訊備有不同語言版本，在有充足時間提前通知的情況下會安排筆譯或口譯服務。電話 (01904) 551 550。

اگر مناسب وقت سے اطلاع دی جاتی ہے تو ہم معلومات کا ترجمہ مہیا کرنے کی پوری کوشش کریں گے۔ ٹیلی فون (01904) 551 550

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

Who Gets Agenda and Reports for our Meetings?

- Councillors get copies of all agenda and reports for the committees to which they are appointed by the Council;
- 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

This page is intentionally left blank

City of York Council

Committee Minutes

MEETING	LICENSING HEARING
DATE	26 JUNE 2008
PRESENT	COUNCILLORS AYRE, MOORE AND WISEMAN

1. CHAIR

RESOLVED: That Councillor Moore be elected as Chair of the meeting.

2. DECLARATIONS OF INTEREST

Members were invited to declare any personal or prejudicial interests in any of the business on the agenda. None were declared.

3. MINUTES

RESOLVED: That the minutes of the Licensing Hearings held on 6 March 2008, 10 March 2008 and 3 April 2008 be signed by the Chair as a correct record.

4. THE DETERMINATION OF AN APPLICATION BY MR. GOKAY TIMUR AND MR. MEHMET TIMUR FOR A VARIATION TO A PREMISES LICENCE [SECTION 35(3)(A)] IN RESPECT OF YORK'S YUMMY CHICKEN, 28 PAVEMENT, YORK, YO1 9UP . (CYC-010802)

Members considered an application by Mr. Gokay Timur and Mr. Mehmet Timur for the variation of a premises licence in respect of York's Yummy Chicken, 28 Pavement, York, YO1 9UP.

In coming to their decision the Sub - Committee took into consideration all of the evidence and submissions that were presented and determined their relevance to the issues raised and the licensing objective; the prevention of public nuisance.

1. The application form, in particular the existing licence conditions and the additional steps agreed to be taken by the Applicant to promote the four licensing objectives.
2. The Licensing Officer's report and his comments made at the Hearing. A photograph of the front of the premises was circulated to illustrate its proximity to other food outlets. The Licensing Officer clarified that the Applicant had agreed to the conditions requested by North Yorkshire Police and they had withdrawn their representation. The Officer also confirmed that the premises were not within the Cumulative Impact Zone.
3. The Applicant's representations at the Hearing, including the fact there had been no reported incidents of anti-social behaviour. The premises would not be serving alcohol or hot drinks and

approximately 55% of the business was delivery based. The premises had been trading for nearly 8 years.

4. The Planning Officer's representation both in writing and at the hearing.
5. Written representations made during the consultation period.

Members were presented with the following options:

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

RESOLVED: That in line with **Option 2** the variation to the licence be granted with the following additional conditions and informative.

1. CCTV will be installed to cover the premises. It will be maintained and working at all times and recordings will be kept for 5 days and made available to any relevant authority if required.
2. Upon closing the premises at the conclusion of business, staff will undertake a general litter pick up and tidy of the general area of the premises.

INFORMATIVE

The Committee noted the breaches in respect of the planning consent and recommended that the applicant address this at the earliest opportunity.

REASON: To address the representations made in respect of the prevention of public nuisance.

Councillor Richard Moore, Chair
[The meeting started at 10.15 am and finished at 11.00 am].

MEETING	LICENSING HEARING
DATE	26 JUNE 2008
PRESENT	COUNCILLORS WISEMAN , MOORE AND AYRE

5. CHAIR

RESOLVED: That Councillor Moore be elected as Chair of the meeting.

6. DECLARATIONS OF INTEREST

Members were invited to declare any personal or prejudicial interests in any of the business on the agenda. None were declared.

7. THE DETERMINATION OF AN APPLICATION BY THE WHITBREAD GROUP PLC FOR A PREMISES LICENCE [SECTION 18 (3)(A)] IN RESPECT OF 28-40 BLOSSOM STREET, YORK, YO24 1AJ. (CYC-014050)

Members considered an application by Whitbread Group Plc for the Determination of Premises Licence in respect of 28-40 Blossom Street, York, and YO24 1AJ

In coming to their decision the Sub-Committee took into consideration all of the evidence and submissions that were presented and determined their relevance to the issues raised and the licensing objectives; the prevention of crime and disorder, public safety and the prevention of public nuisance.

1. The application form, in particular the additional steps agreed to be taken by the applicant to promote the four licensing objectives.
2. The Licensing Officer's report and his comments made at the Hearing. The officer clarified that there was an error in paragraph 6 of his report. The proposed hours were 10:00 hours to 00:30 hours and not 03:00 hours as set out in the report. He confirmed that the applicant had undertaken mediation with North Yorkshire Police and North Yorkshire Fire and Rescue Service. In light of this, both of the authorities had withdrawn their representations with the understanding that the applicant agreed to 9 additional conditions. The additional conditions were circulated to Members. He reminded Members that the premises were within York's Cumulative Impact Zone (CIZ)

Members clarified Sections P (b) 2 and P (d) 2 of the application form with the Applicant. Amendments were made and set out with the additional conditions.

3. The Applicants representation including the fact that the premises would be food led. The Applicant already operated a neighbouring premise without and reported incidents. The Applicant stated that the company had a vested interest to maintain order to minimise disruption to the hotel guests. It was reiterated that the Police and Fire Authorities representations had been successfully mediated.
4. The representations made by the New York Club and Institute both at the hearing and in writing. The Sub-Committee considered the representation relevant to the issues raised and the licensing objectives as the Secretary of the club had genuine concerns regarding noise, location of the premises and policing.
5. Written representations made during the consultation period.

Members were presented with the following options:

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

RESOLVED: That in line with option 2 the licence be granted.

The Sub-Committee then confirmed that the following amendments had been made to the application:

Section P (b) 2 should now read - Alcoholic and other drinks will only be consumed:

- a) On the licensed premises
- b) In any designated external smoking area
- c) In the adjacent Hotel.

Section P (d) 2 should have the words 'where appropriate' deleted.

In coming to their decision of approving the above Option 2 the Sub-Committee decided to impose the mandatory conditions set out in Sub-Sections 19,20 and 21 of the Licensing Act 2003.

They then imposed the following additional conditions:

1. Adequate SIA registered frontline operative(s) shall be on duty at the premises at the following times: -
 - i) Friday and Saturday evening from 1900hrs
 - ii) Sunday evening (being before the recognised Bank Holiday Monday but shall not be less than one)

- iii) Race Days (the number of SIA operatives shall be determined by the Premises Licence Holder but shall not be less than one)
2. The maximum capacity of the licensed premises shall be 300 persons and a minimum of 240-seated covers will be provided at all times.
3. Of the minimum seated covers maintained, at least 200 shall be at tables indicative of dining. (Menus and cutlery pots will be placed on the tables)
4. A full food menu shall be available (in accordance with the brand standard) with food orders being accepted up to 10pm on any day.
5. Prominent clear and legible notices shall be displayed at all exits requesting the public to request the needs of local residents and to leave the premises and area quietly.
6. The premises shall operate a challenge 21 policy and by way of photographic I.D will only accept a photo driving licence, passport or proof of age card with a 'pass' logo.
7. The premises shall maintain a refusal book on site.
8. CCTV shall be installed within the premises in accordance with North Yorkshire Police "basic CCTV specification for licensed premises" document.
9. There shall be no material change in the proposed style of operation of the premises being overall a food led public house with hotel accommodation above.
10. With the exception of the sale of both alcohol and late night refreshment, all other regulated entertainment applied for shall be restricted to 15 days per year.
11. Signage shall be erected in the designated smoking area, reminding patrons to respect the interests of neighbouring persons. A member of staff shall monitor said area.

All conditions offered by the Applicant in the application, including the operating schedule, for granting the Premises License under the Licensing Act 2003, shall be included in the licence, unless contradictory to the above conditions.

REASON: To address the representations made in respect of the prevention of crime and disorder, public safety and the prevention of public nuisance

Councillor Richard Moore, Chair

[The meeting started at 11.15 am and finished at 1.10 pm].

This page is intentionally left blank



Licensing Act 2003 Sub Committee**4 August 2008**

Report of the Director of Neighbourhood Services

Section 18(3)(a) Application for a premise licence for Castle Takeaway, Unit 4, Acomb Wood Shopping Centre, Acomb Wood Drive, York, YO24 3XN**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-014096.
3. Name of applicant: Memet Koyupinar.
4. Type of authorisation applied for: Grant of a premises licence.
5. Summary of application: The nature of the application is the grant of a premises licence to allow the provision of late night refreshment Monday to Saturday 23:00 hours to 03:00 hours and Sunday 23:00 hours to 00:00 hours.

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: CCTV recording.
9. Public safety: No steps proposed.
10. The prevention of public nuisance: No steps proposed.
11. The protection of children from harm: No steps proposed.

Special Policy Consideration

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

Consultation

13. 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.
14. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

15. A representation to the application was received from North Yorkshire Police on the grounds of Prevention of Crime and Disorder and Public Nuisance. This representation was subsequently withdrawn when the applicant agreed to the following conditions being attached to the licence.
 - 1) CCTV will be installed to cover the premises. It will be maintained and working at all times that the premises are open. Copies of the recordings will be kept available for any relevant authority for 7 days.
 - 2) Upon closing the premises at the conclusion of business staff will undertake a general litter pick-up and tidy of the general area of the premises.

Summary of Representations made by Interested Parties

16. Representations have been received from the interested parties listed at Annex 2 (confidential). Their representations are attached at Annex 3.
17. The addresses of the interested parties are indicated on the map attached as Annex 4 (confidential). A further map indicating the general area from which representations were received is attached at Annex 5. The representors were from the Acomb Wood Drive and Osprey Close areas.
18. 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.
19. 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

20. There are no planning restrictions or conditions applicable to this premise.

Options

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

Analysis

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

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 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

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.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

John Lacy
Acting Licence Manager
Licensing & Regulation

Ext: 1593

Chief Officer Responsible for the report:

Andy Hudson
Assistant Director
Neighbourhood Services

Ext: 1814

Report Approved



Date 21 July 2008

Specialist Implications Officer(s):

Quentin Baker
Head of Legal & Democratic Legal Services

Ext: 1004

Wards Affected: Dringhouses and Woodthorpe

For further information please contact the author of the report

Background Papers:

Annex 1 - Copy of application form

Annex 2 (Confidential) - List of Interested Parties

Annex 3 - Copy of representations from Interested Parties

Annex 4 (Confidential) - Map of area indicating addresses of Interested Parties

Annex 5 - Map showing general area from which representations received

Annex 6 - Legislation and Policy Considerations

This page is intentionally left blank



CITY OF YORK COUNCIL
Licensing Services, 9 St Leonard's Place, York, YO1 7ET

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 your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

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

Part 1 – Premises Details

Postal address of premises or, if none, ordinance survey map reference or description <u>Unit 4 Acomb Wood Shopping Centre Acomb Wood Drive</u> <u>CASTLE TAKEAWAY</u>	
Post town <u>YORK</u>	Post code <u>YO24 3XN</u>

Telephone number of premises (if any) 01904 796 444.

Non domestic rateable value of premises £ 7,100.00

Part 2 – Applicant Details

Please state whether you are applying for the licence as:

- | | |
|---|---|
| | Please tick ✓ |
| a) an individual or individuals* | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual* | |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> please complete section (B) |
| iv. other | <input type="checkbox"/> please complete section (B) |
| c) a recognised club | <input type="checkbox"/> please complete section (B) |
| d) a charity | <input type="checkbox"/> please complete section (B) |
| e) The proprietor of an educational establishment | <input type="checkbox"/> 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 ✓

- 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 First names

KOYUPINAR MEMET

Please tick ✓ yes

I am 18 years old or over

Current postal address if different from premises address
Seyhan
Akant Wood St

Post Town Postcode

Daytime contact telephone number

Email address (optional)

SECOND INDIVIDUAL APPLICANT (IF APPLICABLE)

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

Surname First names

I am 18 years old or over Please tick ✓ yes

Current postal address if different from premises address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In case of a partnership or other joint nature (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
01	07	2008

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

Day	Month	Year

If 5000 or more people attend the premises at any one time, please state the number expected to attend

NA

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

Premises is tak away kebab Shop operates more than 10 years, current owner is been operating shop 9 years. Shop is located next to Tesco in Acomb wood shopping centre. There isn't any residential property near to shop, shopping centre is next to field in Woodthorpe.

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

Please tick ✓ yes

Provision of regulated entertainment

- 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) performance 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)

Sale by retail 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 (✓) (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed	N/A			State any seasonal variations for performing play (please read guidance note 4)		
Thur						
Fri						
Sat				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)		
Sun						

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of a films take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors			
Day	Start	Finish		Outdoors			
Mon			Please give further details here (please read guidance note 3)				
Tue							
Wed	N/A			State any seasonal variations for the exhibition of films (please read guidance note 4)			
Thur							
Fri							
Sat				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)			
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			
Fri			
Sat			
Sun			
			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)

D

Boxing or wrestling entertainment Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon				Please give further details here (please read guidance note 3)	
Tue			State any seasonal variations for the boxing or wrestling entertainment (please read guidance note 4)		
Wed					
Thur					
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 (✓) (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed				State any seasonal variations for the performance of live music (please read guidance note 4)		
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						

N/A

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 (✓) (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed				State any seasonal variations for the playing of recorded music (please read guidance note 4)		
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						

N/A

G

Performance 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 (✓) (please read guidance note 2)	Indoors	
Day	Start	Finish		Outdoors	
Mon				Both	
Tue					
Wed	N/A			Please give further details here (please read guidance note 3)	
Thur					
Fri				State any seasonal variations for the performance of dance (please read guidance note 4)	
Sat					
Sun					
			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)		

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Will the entertainment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	
Day	Start	Finish		Outdoors	
Mon				Both	
Tue					
Wed	N/A			Please give further details here (please read guidance note 3)	
Thur					
Fri				State any seasonal variations for the entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)	
Sat					
Sun					
			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)		

I

Provision of facilities for making music Standard day 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 (✓) (please read guidance note 2)		Indoors	
					Outdoors	
					Both	
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed			State any seasonal variations for the provision of facilities for making music (please read guidance note 4)			
Thur						
Fri			Non standard timings. Where you intend to use the premises for the 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 timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (✓) (please read guidance note 2)		Indoors	
					Outdoors	
					Both	
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 3)			
Tue						
Wed			State any seasonal variations for providing dancing facilities (please read guidance note 4)			
Thur						
Fri			Non standard timings. Where you intend to use the premises for the provision of facilities for dancing 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	
Day	Start	Finish	Will the entertainment facility be place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	
			Indoors	
			Outdoors	
			Both	
Mon			Please give further details here (please read guidance note 3)	
Tue				
Wed			State any seasonal variations for the provisions of facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4)	
Thur				
Fri			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)	
Sat				
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 (✓) (please read guidance note 2)	
Day	Start	Finish	Indoors	
			Outdoors	
			Both	
Mon	16:00	03:00		<input checked="" type="checkbox"/>
Tue	16:00	03:00	Please give further details here (please read guidance note 3)	
Wed	16:00	03:00	State any seasonal variations for the provision of late night refreshment (please read guidance note 4)	
Thur	16:00	03:00		
Fri	16:00	03:00	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)	
Sat	16:00	03:00		
Sun	16:00	24:00		

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption on or off the premises or both – please tick (✓) (please read guidance note 7)	On the premises	
Day	Start	Finish		Off the premises	
Mon			State any seasonal variations for the supply of alcohol (please read guidance note 4)	Both	
Tue					
Wed			Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 5)		
Thur					
Fri					
Sat					
Sun					

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name

Address

Postcode

Personal licence number (if known)

Issuing licensing authority (if known)

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)

~~Print~~ Printing on leaflets and menu.
Showing on windows.

b) The prevention of crime and disorder

CCTV Recording,

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

- 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. (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature [Handwritten Signature]

Date 21/5/08

Capacity

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 [Handwritten Signature]

Date

Capacity

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

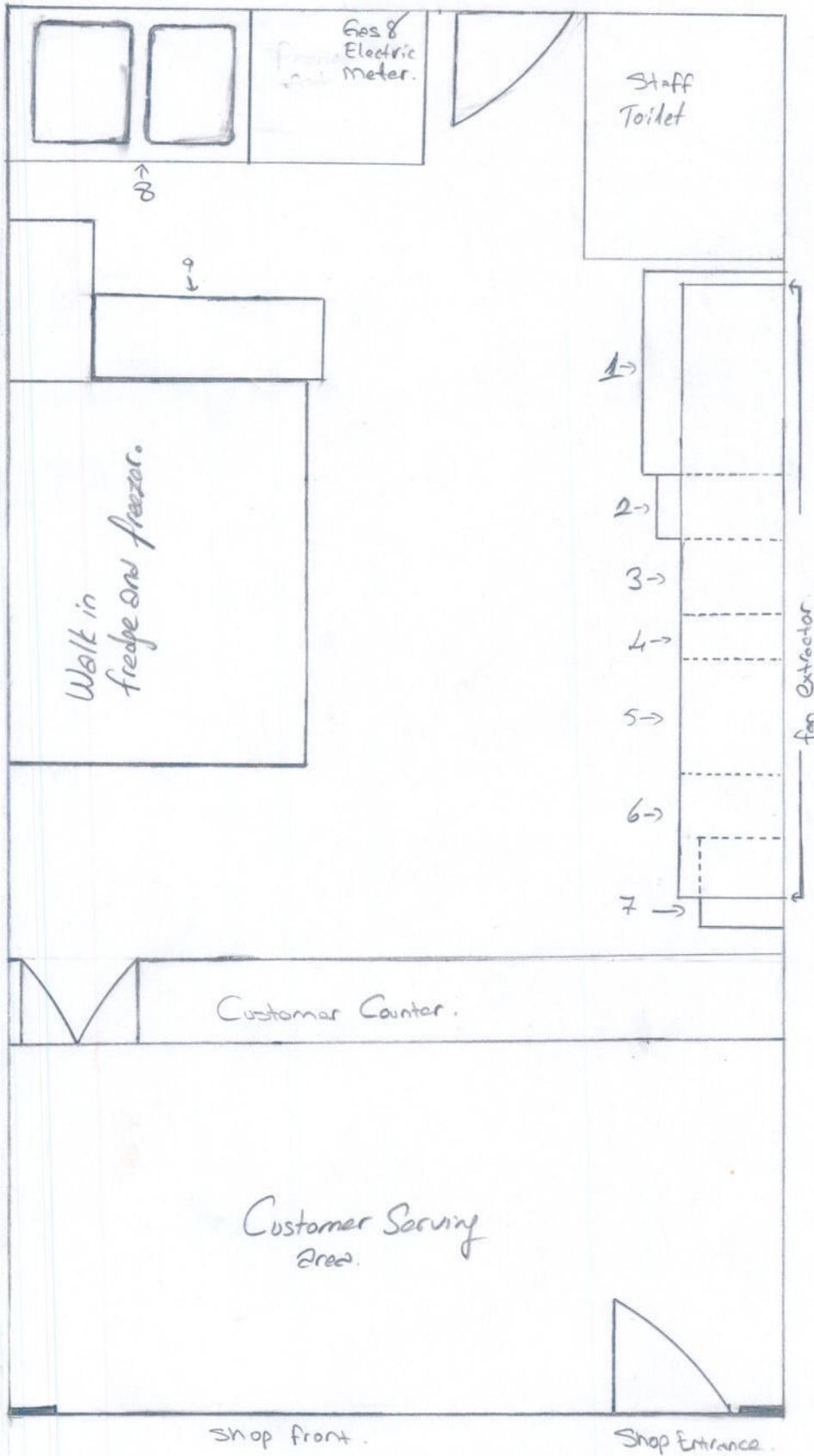
Bottle Take Away
Unit 4,
Acomb Wood Shopping Centre
Acomb Wood Drive

Post town <u>YORK</u>	Post code <u>YO24 3XN</u>
-----------------------	---------------------------

Telephone number (if any) 07970734210

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

Back fire exit.



- 1) Pizza Oven (Gas)
- 2) Pressure Chicken frier (Gas)
- 3) Chips frier (Electric)
- 4) Chips holder
- 5) Electric grill.
- 6) Donar machine (Gas)
- 7) Hot pot (Electric)
- 8) Sml
- 9) Preperation Area.

Plan of Castle Take away.

2cm = 1m



This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank

Osprey Close YORK

①

CASTLE TAKEAWAY ---ACOMB WOOD SHOPPING CENTRE

I object to the application for late night licence on the following grounds:

CRIME & DISORDER

This area will once again become a meeting place for gangs and drug dealers. The work the police put in to clear up the gangs and drug dealing a few years ago was successful and this will destroy all their efforts.

PUBLIC SAFETY

Local residents will again be subject to burglary and will expose them to muggings and theft as they walk home from the pub or Tesco.

PUBLIC NUISANCE

There will be disorder from gang fights and damage to private property and also to Acomb Wood. It will once again become a meeting place in the early hours for dealers and gangs. The homes nearby will suffer from noise and possibly vandalism in the middle of the night.

I cannot see the need for a late night drinking establishment in the middle of a residential area.

[Redacted signature area]

12 JUN 2008

16 June 2008

OSPREY CLOSE

YORK

CASTLE TAKEAWAY LICENCE APPLICATION

Further to call from Mrs J Lockenill
I understand there is no application
for an alcohol licence however
I would like my objections on
other points to be presented to
the Committee.

RECEIVED
19 JUN 2008



CITY OF YORK COUNCIL	
APPLICATION ACKNOWLEDGED	
DATE 19/6/08	LC

Acomb Wood Drive,
York

RECEIVED
12 JUN 2008

11 June, 2008

LICENSING OFFICE
York City Council
9 St Leonard's Place
York
YO1 7ET

Dear Sir or Madam:

Re Castle Take Away – Acomb Wood Shopping Centre

Learning that the above takeaway is applying to extend opening hours to 03:00 Monday to Saturday and to Midnight on Sunday nights I feel I must write to express my grave concerns.

We already have litter problems in this area caused predominantly by products obviously purchased at the shopping centre, (both fast food and packaged supermarket items) some mornings my garden can have enough rubbish blown into it to fill a carrier bag and there is often plenty more strewn along the road or in/under hedges. Partly eaten kebabs, pizzas and similar are regularly collected by this household, which require disposal, it is a wonder we are not overrun with vermin. Drink cans and bottles, sometimes smashed in the road or on pavements are also frequent examples of the increasingly loutish and hazardous behaviour displayed by patrons of the shops and public house just over the road from me, additionally the only local public phone booth is regularly vandalised and filthy almost undoubtedly due to patrons of the shopping area.

I strongly believe that the extending of the opening hours to the takeaway will make the problem much worse since it will attract the clientele ejected from city centre pubs and bars as a stop off point on their way home. The Quaker Wood public house is already attracting large groups of youths and drinkers who make a terrible amount of noise even when not brawling in the street or vomiting over my hedge on their merry way back through the estate.

There seems to have been a large increase in the amount of traffic on this road in the last 12 months, maybe due to the much-welcomed roundabout improvements, this tends to reach a climax between 10 and 11 pm with motorbikes, noisy scooters, illegal unlicensed scooters and boy racers in high-powered cars screaming around the estate at speed. **It does nothing to enhance public safety and an added attraction of the facility for fast food until 3am will undoubtedly exacerbate this already unacceptable situation.** Groups of youths will often congregate in the vicinity of the shops causing noise nuisance and sometimes playing dare with the traffic on the road. Drunks play football on the car park with inebriated women shouting and screaming at them until after midnight. I have jumped out of bed to look from the window many times due to hearing screeching of brakes and shouts and screams as cars dodge patrons of the shops staggering in the street. Things are bad enough without the prospect of it extended up to and beyond 3am.

Bearing in mind the current high profile topics of obesity and public health regarding binge drinking and the consuming of highly fatty low quality food it is surprising that the council would in any way support a proposal that has to be aimed solely at supporting and encouraging the groups of people **most** at risk from these problems so I hope our concerns will be taken seriously when this application is being discussed.

Sincerely,

[Redacted signature block]

CITY OF YORK COUNCIL
APPLICATION ACKNOWLEDGED
DATE 13/6/08 LC

Acomb Wood Drive,
York,

11th June, 2008.

Licensing Office,
Council Offices,
9, St. Leonard's Place,
York,
YO1 7ET

RECEIVED
12 JUN 2008

Dear Sir/Madam,

Re: Castle Takeway - Acomb Wood Shopping Centre.

I am very concerned at the proposal from the owners of the Castle Takeaway to operate until 03.00 hrs on Monday to Saturday and to 0.00 hrs. on Sundays.

This area already has a considerable problem with litter which frequently blows from the shopping centre and in particular when there is a southerly wind. This, therefore, makes an unsightly mess on the road and in the gardens of the houses along Acomb Wood Drive. As it is, we frequently have to clear up cartons, beer bottles, cans and other rubbish either blown from the takeaways or, even worse, deliberately deposited by customers of the takeways and other businesses at the site. These containers often have unconsumed food and drink within them and I then have to collect and deposit them in my wheelie-bin. This unconsumed food and drink constitutes an additional health hazard as it undoubtedly attracts vermin into the area. The proposed extended takeaway opening times would exacerbate an extremely unsatisfactory situation.

There is already at times a considerable amount of noise at night from somewhat inebriated persons walking along the road waking residents who have retired for the night. There have also been occasions when groups of youths have congregated at the junction of Acomb Wood Drive and Bellwood Drive leading to the Police being called. The presence of a late-night takeaway would inevitably attract more people into the area and could result in more disorder locally.

Acomb Wood Drive is in essence a rat-run for cars and is used by "boy racers" driving high-powered cars and motor-cycles in the evening and during the night. I am sure that the lengthened opening-hours would increase the amount of traffic and significantly increase the danger of road accidents. I would also point out that there is no pedestrian crossing in place to serve this group of shops. In addition, I am aware of the fact that motor-cyclists do "wheelies" on the tarmac area between the 'Quaker Wood' public house and the site of the Castle Takeway which nuisance situation could be aggravated if the extended Licence is permitted.

I should, therefore, be glad if you would consider these points when the application is being discussed.

Yours faithfully,

CITY OF YORK COUNCIL		
APPLICATION ACKNOWLEDGED		
DATE	13/6/08	LC



Acomb Wood Drive
York [redacted]
12th June 2008

Licensing Office
Council Offices
St. Leonards Place

CITY OF YORK COUNCIL APPLICATION ACKNOWLEDGED	
DATE: 13/6/08	LC

Dear Sir

Castle Takeaway; Acomb Wood Drive.

I wish to object to the application for the grant of a licence permitting the Castle Takeaway to extend its hours until 3am from Mondays to Saturdays and until midnight on Sundays.

This residential area already suffers to a certain extent from noisy customers on the Acomb Wood Shopping Centre especially after 11pm. There are arguments, occasional fights and the bushes in our garden are urinated on by passers-by.

The litter left behind, much of which is demonstrably from the shop, publichouse or two takeaways, often contains left-over food & drink, sometimes alcoholic, and is scattered around the surrounding area. A good deal finishes on our gardens from where we have to pick it up and dispose of it, as both an unsightly nuisance and a potential health hazard.

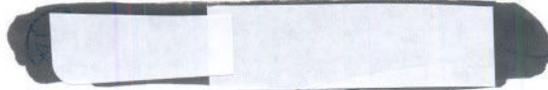
Occasionally, when driving home from the theatre or concerts, we see quite young children on the street and in the shopping area. At after 10pm. this cannot be safe and would be worse if they had the temptation to remain until much later in the night.

Unfortunately Acomb Wood Drive has become a fairly major thoroughfare; crossing the road between Pleasant Drive and the Shopping Centre

needs great care now, especially near the bend in the road. I have seen several near-accidents between cars, motor cycles and pedestrians, including children. Encouraging traffic so late in the night could only add to the danger.

Much more could obviously be said, but I hope you will take these points into account when considering the application. I know other residents agree with my views.

Yours faithfully

A horizontal rectangular area that has been redacted with black ink, obscuring the signature of the sender.

5

City of York
16 JUN 2008
RECEIVED

OSPREY CLOSE,
YORK,
120952
10th June 2008

Dear councillors Galloway and Holroyd.
Re Castle Takeaway - Licence Application.

In response to your letter concerning the above, it has been my understanding that the Police and Council authorities are out to prevent crime and not to encourage it. I feel that such extended opening hours in this instance will only encourage the undesirable members of society to the area and so create disturbance and further crime problems.

I must strongly object to the granting of this licence application as I feel the four reasons laid down in your letter would all certainly apply in this instance.

CITY OF YORK COUNCIL
APPLICATION ACKNOWLEDGED
DATE 16/06
Yours faithfully,

[Redacted signature]

[Redacted]
Acomb Wood Drive
York
[Redacted]

RECEIVED
16 JUN 2008

16th June 2008

Dear Licensing Officer

Re: Castle Takeaway, Acomb Wood Shopping Centre.

I am writing to oppose the increased opening hours of the above establishment to 03:00 hours Monday to Saturday and 00:00 on Sunday. I live nearly opposite the shopping centre.

I consider these hours to be un-necessary and excessive.

My reasons are as follows:

Causing a public nuisance due to noise from traffic and pedestrians visiting the shop into the early hours of the morning when nearby residents are trying to sleep as they are at work the next day.

Many have young families who could be disturbed. The public house does not stay open this late on any night - I believe the latest they are open until is midnight. There is some noise from this and the youths who 'hang around' the car park using it as a football pitch or just as somewhere to meet. This could be exacerbated if the takeaway was to be open into the early morning.

Also prevention of crime and disorder: in the past year a security van was robbed as it was at the supermarket. More recently, the landlord of the public house was followed as he walked his dog in the early hours of the morning, attacked, forced back to the pub where the takings were stolen and he was left tied up in the cellar. If the takeaway is open until 3 am, then it too could be a target for theft such as this.

Yours sincerely

[Redacted Signature]

CITY OF YORK COUNCIL APPLICATION ACKNOWLEDGED	
DATE 16/06	[Signature]

[Redacted]
Acomb Wood Drive
York
[Redacted]



15 June 2008

Dear Cllr Holvey

CASTLE TAKEAWAY – ACOMB WOOD SHOPPING CENTRE

Thank you for your circular letter advising residents of the application for the grant of a Premises Licence for the above business. As a near by resident to this business, I wish to register my concerns regarding this application.

- Currently, my wife and I frequently have to clear litter from our drive and front garden that is left by passers-by late at night. This is usually in the form of pizza boxes and other takeaway containers. We feel that any extension of hours will serve to exacerbate this problem. Such litter is not limited to containers; my neighbours and I also have to contend with dog excrement taken from the dog-waste bin across the road and thrown at our property. We have no wish to be faced with a worsened public nuisance issue.
- My wife is frequently at home alone as I often work at distant parts of the country. I have natural concerns for her safety during my absence, and feel that extending the Takeaway's operating hours significantly increases risks to her and other residents.
- Additionally, I am concerned for the safety of the general public in the area at such proposed late hours. You will be only too aware of the recent number of crimes committed at and close to the Acomb Wood Shopping Centre; granting this extension can, I believe, only serve to increase the risk of further crimes.

I must add that my fellow residents and I can see no possible purpose to be served by the granting of this extension. I question the target market in an area that has no other late-night operating hours, and can see no significant gain to the amenities of the area. I would ask that you take my vehement opposition to this application into consideration.

Yours faithfully

[Redacted signature]

18/6/08 LC
[Redacted]

Acomb Wood Drive
Acomb Park
York



Licensing Office
City of York Council
9 St Leonards Place
York
YO1 7ET

CITY OF YORK COUNCIL APPLICATION ACKNOWLEDGED	
DATE: 19/6/08	LC

17 June 2008

Dear Sir or Madam

Premises Licence Application – Castle Takeaway, Acomb Wood Drive

I understand from my local Councillor that the *Castle Takeaway* at Acomb Wood Shopping Centre, Acomb Wood Drive, has applied for a Premises Licence to continue their business operation to 03.00 hours Monday to Friday and 00.00 on Sunday.

As a resident of that same street, and living within a few hundred yards of the premises, I believe I have more than a passing interest. I have therefore viewed the application, submitted by Mr Memet Koyupinar, and wish to object on the following grounds:

The 4 licensing objectives laid down by the Licensing Act 2003 have not been addressed, namely:

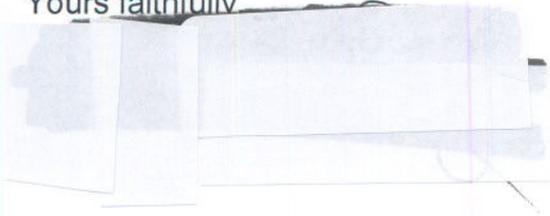
- Prevention of Crime and Disorder – *the applicant only intends to reproduce a new menu (..??) and has cctv.*
- Public Safety – *the applicant has entered nothing here*
- Prevention of Public Nuisance – *the applicant has entered nothing here*
- Protection of Children from Harm – *the applicant has entered nothing here.*

The lack of information here doesn't instil me as a nearby resident with any great confidence. In particular the applicant's reference to (or rather lack of) the objective with regards to *Prevention of Public Nuisance....* already my neighbours and I have to put up with a lot of noise, litter in gardens, urinating, smashed bottles and discarded food as a direct result of having a number of food outlets at the Acomb Wood Drive shopping precinct. This is then being exacerbated by no regular council street-sweeper rounds in the locality (such as happens, say, in Micklegate and the city centre to address the various food and drink outlets there).

Whilst I have nothing against takeaways, including this one (I have used it on occasions before) , it is simply the hours of opening that are concerning for an establishment in a rural, suburban area; such hours are more in keeping with a town or city centre premise.

The nearby shop (Tesco) and pub (Quaker Wood) close at or around 11.00pm and the exodus of people in this area that late at night, be it on foot or in cars, is already somewhat disrupting when trying to sleep.

Yours faithfully

A large rectangular area of the document is redacted with a greyed-out effect, obscuring the signature and any text that might have been present below the closing.

9

ACOMB WOOD DRIVE,

Tel: [redacted]

York.



18/6/08

LICENSING OFFICE,
 CITY OF YORK COUNCIL,
 9, ST. LEONARD'S PLACE,
 YORK. YO1 7ET.

120370

Dear Sir,

CASTLE TAKEAWAY: ACOMB
 WOOD SHOPPING CENTRE

I have viewed the licensing application by the above for the grant of a Premises licence to provide late night refreshment until 03.00 Mon - Sat and 00.00 on Sundays.

2

I wish to object to this application, on the following grounds:

1) PREVENTION OF CRIME & DISORDER:

the applicant seems to believe that merely installing CCTV will prevent crime and disorder. Experience all over the country disproves this. CCTV does not prevent crime and disorder - it only makes it easier to convict later, after the crime and disorder has been committed.

2) PUBLIC SAFETY: the applicant appears to believe that there are no residential properties in the area. This is clearly nonsense - his premises are in the heart of a residential area. He fails to address this issue at all,

3
 which leads us to conclude that he has no interest in maintaining public safety, despite creating a situation in which he is encouraging people to gather in a totally unsuitable location in the early hours of the morning.

3) PREVENTION OF PUBLIC NUISANCE:
 Acomb Wood Drive at this location already suffers from an accident problem, with speeding motorists on several occasions ending up in residents' gardens (including our own). To open this facility on a daily basis until the early hours will encourage more traffic onto a residential road which is not suited to it, and will also encourage more pedestrians as well. This could include groups of young people, with a high

probability of noisy (and possibly drunken) behaviour, and I fail to see why local residents should have to endure this until 03.00 six days a week. We can also speak from current experience and predict with certainty that there will be a significant increase in litter in the area, which will of course end up in our gardens. I am astonished to see that again, the applicant does not even address this issue.

7) PROTECTION OF CHILDREN FROM WARM: once again, the applicant fails to address this issue, despite creating a situation which is likely to lead to children out on the streets until the early hours.

5

In short, this is an appalling application for an undesirable facility, which will significantly harm this residential location.

Yours faithfully,

[Redacted signature]

[Redacted text]

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

Document is Restricted

This page is intentionally left blank

ANNEX 5



CITY OF
YORK
COUNCIL

CASTLE TAKEAWAY, UNIT 4, ACOMB WOOD SHOPPING CENTRE, ACOMB WOOD DRIVE

SCALE 1:2000
Originating Group

DRAWN BY PSL
Project

DATE 8/7/2008
Drawing No.

CTAWD1A

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

Produced from the 1993 Ordnance Survey 1:2500 mapping with the permission of the Controller of Her Majesty's Stationery Office
© Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

City of York Council LA 1000 20818

This page is intentionally left blank

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.