

## Licensing Hearing

**To:** Councillors Ayre, Horton and Hyman  
**Date:** Thursday, 18 September 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 5 & 7 to Agenda Item 5 as provided by the Data Protection Act 1998.

**5. The Determination of an Application by Mr. Marc Allinson for the Variation of a Premises Licence Section 35(3)(a) in respect of The Artful Dodger, 47-49 Micklegate, York, YO1 6LJ. (CYC-009017)**

**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](mailto: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 Representors within 3 working days of the hearing. There can be no further questions or statements.
22. For all other hearings not listed above, if the Sub-Committee is unable to make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democracy Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 3 working days of the decision being made.
23. The notification will include information about the rights of appeal against the determination made.

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- Applicant
- Representors & the relevant Responsible Authorities

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**Licensing Act 2003 Sub Committee****18 September 2008**

Report of the Director of Neighbourhood Services

**Section 35(3)(a) Application for the Variation of a premise licence for Artful Dodger, 47-49 Micklegate, York, YO1 6LJ****Summary**

1. This report seeks Members determination of an application for the variation of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-009017.
3. Name of applicant: Marc Allinson.
4. Type of authorisation applied for: Variation of premises licence.
5. Summary of application: The nature of the application is to extend the existing licensable activity hours and the current licensed area.

**Background**

6. A copy of the existing premise licence is attached at Annex 1.
7. A copy of the application to vary the licence is attached at Annex 2.
8. A table of the existing hours and licensable activities and the proposed hours and licensable activities is attached at Annex 3.

**Promotion Of Licensing Objectives**

9. The operating schedule submitted by the applicant shows that, in addition to existing conditions attached to the current licence, the licensing objectives would be met as follows:
10. General: During functions or private parties, strippers and adult comedians may be employed, but this will be at night with no children allowed. These parties will be by ticket or private invitation only.
11. The prevention of crime and disorder: No additional steps proposed.
12. Public safety: A radio linked to the police is always on site.

13. The prevention of public nuisance: Music is not to be played at a level to cause public nuisance.
14. The protection of children from harm: No unsupervised children. Children are not allowed to use cigarette machine / fruit machines.

### **Special Policy Consideration**

15. The premises fall within an area that has been identified as one where the concentration of a significant number of licensed premises has a considerable impact on the licensing objectives. As part of a series of measures to address the problems of a city centre increasingly blighted by alcohol misuse, this area has been made the subject of a special policy that addresses the impact of the concentration of licensed premises in this particular part of the city centre. The special policy was approved by the licensing committee on 1 April 2005 and considered by full council on 12 April 2005, a copy of the special policy statement is attached at Annex 10.

### **Consultation**

16. 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.
17. All procedural aspects of this application have been complied with.

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

18. City of York Council Environmental Protection Unit: Make representation on the grounds of public nuisance, a copy of the representation is attached at Annex 4.
19. A representation was received from North Yorkshire Police on the grounds of crime prevention, this was subsequently withdrawn when the applicant agreed to the following conditions:
  - 1) CCTV will be installed to cover all licensed areas. It will be maintained, working and recording at all times that the premises are open. Copies of the recordings will be kept available for any Responsible Authority for 7 days.
  - 2) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.

- 3) One pint capacity, half pint capacity and “highball” tumbler drinking glasses will be strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left.
- 4) Drinking glasses of any type shall not be allowed to enter or leave the venue’s licensed area whilst under the customers care.
- 5) All OFF SALES shall be made in sealed containers.
- 6) Documented staff training will be given regarding the retail of alcohol and such records kept accordingly.
- 7) The management of the venue will comply with any written, reasonable and justified request made by the North Yorkshire Police regarding the provision of Door Supervisors should the need arise.
- 8) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority.
- 9) Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.
- 10) The premises shall partake in the York Pubwatch Pager scheme.
- 11) There shall be no admission to members of the public between 02:00 hours and 08:00 hours. Admission during this time will be to members only.
- 12) Members will be in possession of a valid membership card which they must have held for at least 48 hours. Full details (name, address, contact number and date of birth) of current members will be kept and be available for examination by any Responsible Authority upon request.
- 13) Members may sign in up to two guests. The maximum number of guests allowed at the venue at any one time will be 20. Details of all guests at the venue will be recorded and available for examination by any Responsible Authority.
- 14) The exception to Condition 11 will be for live televised sporting events or pre-booked private parties details of which the police will be notified in writing giving at least 7 clear days.
- 15) The date of notification and date of event shall not be included in calculating the 7 clear days notification period.
- 16) With reference to 02:00 hours in these conditions, on the days that the clocks go forward at the start of British Summertime, the relevant time will be 03:00 hours.
- 17) An adequate number of Door Supervisors will be deployed at the venue from 21:00 hours until the venue closes for business on Friday, Saturday, Race Days and the Sunday before a Bank Holiday Monday.
- 18) The footprint of outside licensed areas shall be clearly marked and defined.

- 19) There shall be no more than 20 people allowed in the outside licensed area at any one time.
  - 20) There shall be no sales of alcohol made in the outside licensed area.
  - 21) There shall be no sales of Late Night Refreshment in the outside licensed area.
  - 22) There shall be no use of outdoor furniture (ie tables and chairs) in the outside licensed area.
  - 23) There shall be no consumption of alcohol allowed in the outside area between 02:00 hours and 08:00 hours.
20. A representation was also received from North Yorkshire Fire and Rescue on the grounds of public safety. This representation was subsequently withdrawn when the applicant agreed to the following condition being attached to the licence; The occupancy figures for the first floor should not exceed 60 persons. The existing condition, 'the maximum occupancy for the premises shall not exceed 100 persons', shall also remain on the licence.

### **Summary of Representations made by Interested Parties**

21. Representations have been received from the interested parties listed at Annex 5 (confidential). Their representations are attached at Annex 6.
22. The addresses of the interested parties are indicated on the map attached as Annex 7 (confidential). A further map indicating the general area from which representations were received is attached at Annex 8.
23. 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.
24. 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**

25. There are no planning restrictions / conditions relevant to this premise.

### **Options**

26. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision:-
27. Option 1: Grant the variation of the licence in the terms applied for.
28. Option 2: Grant the variation of the licence with modified/additional conditions imposed by the licensing committee.

29. 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.
30. Option 4: Reject the application.

### **Analysis**

31. The following could be the result of any decision made this Sub Committee:-
32. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
33. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 4: This decision could be appealed at Magistrates Court by the applicant.

### **Corporate Priorities**

36. 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.
37. 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**

38.
  - **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**

39. 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.
40. 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**

41. Members determine the application.  
Reason: To address the representations received as required by the Licensing Act 2003.

**Contact Details**

**Author:**

John Lacy  
Licensing Manager  
Licensing & Regulation

Ext: 1593

**Chief Officer Responsible for the report:**

Andy Hudson  
Assistant Director  
Neighbourhood Services

Ext: 1814

**Report Approved**



**Date** 8 September 2008

**Specialist Implications Officer(s):**

Quentin Baker  
Head of Legal & Democratic Legal Services

Ext: 1004

**Wards Affected:** Micklegate

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

**Background Papers:**

- Annex 1** - Copy of existing premises licence
- Annex 2** - Copy of application form
- Annex 3** - Table of existing and proposed hours and licensable activities
- Annex 4** - Copies of representations from Responsible Authorities
- Annex 5 (Confidential)** - List of Interested Parties
- Annex 6** - Copies of representations from Interested Parties
- Annex 7 (Confidential)** - Map of area indicating addresses of Interested Parties
- Annex 8** - Map showing general area from which representations received
- Annex 9** - Mandatory Conditions
- Annex 10** - Copy of City Centre Special Policy Statement
- Annex 11** - Legislation and Policy Considerations

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## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

#### Part 1 Premises details

Premises licence number CYC - 009017
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Postal address of premises:

**The Artful Dodger**  
**47-49 Micklegate**

Post town: **York**

Post code: **YO1 6LJ**

Telephone number: None

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

#### Licensable activities authorised by the licence:

Films  
Live Music  
Recorded Music  
Facility for making music  
Facilities for dancing  
Late Night Refreshment  
Supply of Alcohol

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

FILMS  
Indoors

Monday  
08:00-02:00

Tuesday  
08:00-02:00

Wednesday  
08:00-02:00

Thursday  
08:00-02:00

Friday 08:00-02:00	Saturday 08:00-02:00	Sunday 08:00-02:00
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LIVE MUSIC  
Indoors

Monday 08:00-02:00	Tuesday 08:00-02:00	Wednesday 08:00-02:00	Thursday 08:00-02:00
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Friday 08:00-02:00	Saturday 08:00-02:00	Sunday 08:00-02:00
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RECORDED MUSIC  
Indoors

Monday 08:00-02:00	Tuesday 08:00-02:00	Wednesday 08:00-02:00	Thursday 08:00-02:00
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Friday 08:00-02:00	Saturday 08:00-02:00	Sunday 08:00-02:00
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FACILITY FOR MAKING MUSIC  
Indoors

Monday 12:00-00:00	Tuesday 12:00-00:00	Wednesday 12:00-00:00	Thursday 12:00-00:00
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Friday 12:00-00:00	Saturday 12:00-00:00	Sunday 12:00-00:00
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FACILITIES FOR DANCING  
Indoors

Monday 08:00-02:00	Tuesday 08:00-02:00	Wednesday 08:00-02:00	Thursday 08:00-02:00
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Friday 08:00-02:00	Saturday 08:00-02:00	Sunday 08:00-02:00
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LATE NIGHT REFRESHMENT  
Indoors

Monday 23:00-03:00	Tuesday 23:00-03:00	Wednesday 23:00-03:00	Thursday 23:00-03:00
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Friday 23:00-03:00	Saturday 23:00-03:00	Sunday 23:00-03:00
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SUPPLY OF ALCOHOL

Monday 08:00-02:00	Tuesday 08:00-02:00	Wednesday 08:00-02:00	Thursday 08:00-02:00
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Friday 08:00-02:00	Saturday 08:00-02:00	Sunday 08:00-02:00
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**The Opening Hours of the Premises**

Monday 08:00-03:00	Tuesday 08:00-03:00	Wednesday 08:00-03:00	Thursday 08:00-03:00
Friday 08:00-03:00	Saturday 08:00-03:00	Sunday 08:00-03:00	

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

On and off the premises

**Part 2**

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

Name: Mr Marc Allinson

Address: 47 Micklegate  
York  
YO1 6LJ

Telephone number: 01904 628501

Email address: None

**Annex 1 – Mandatory conditions**

**MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

(1) In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence -

(a) at a time where there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**MANDATORY CONDITION: 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.

## **Embedded Restrictions**

### STANDARD PRE-EXISTING CONDITIONS APPLICABLE TO ON LICENCE WITH NO CHILDREN'S CERTIFICATE

#### Children

1. No person under fourteen shall be allowed in the bar of the licensed premises during the permitted hours unless one of the following applies:

- a) He is the child of the holder of the premises licence.
- b) He resides in the premises, but is not employed there.
- c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is merely ancillary.

In this condition bar includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor, but does not include a bar at any time when it is usual in the premises in question for it to be, and it is -

- i) set apart for the service of table meals, and
- ii) not used for the sale or supply of intoxicating liquor otherwise than to persons having table meals there and for consumption by such persons as an ancillary to his meal.

#### Credit Sales

2. Intoxicating liquor shall not be sold or supplied for consumption on the premises unless it is paid for before or at the time when it is sold or supplied. This condition, however, shall not apply:

- a) If the liquor is sold or supplied for consumption at a meal supplied at the same time, is consumed with the meal and is paid for together with the meal, or
- b) If the liquor is sold or supplied for consumption by a person residing in the premises or his guests and is paid for together with his accommodation, or
- c) If the sale or supply of intoxicating liquor is to any canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or to an authorised mess of members of Her Majesty's naval, military or air forces.

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

### **Licensing Objectives**

#### General

1. There will be no adult entertainment held on the premises.

#### Prevention of Crime & Disorder

2. Prominent signage will be displayed on the premises informing customers that no alcohol will be served after 02:00 hours.

3. Last entry to the premises for late night refreshment to be before 02:45 hours in order to have the premises cleared by 03:00 hours.
4. A customer dispersal policy shall be submitted to the Licensing Authority for their written approval. Once approved the policy will be adhered to at all times.
5. A radio link to the police shall be maintained.

Public Safety

6. The maximum occupancy for the premises shall not exceed 100 persons.

Public Nuisance

7. Noise originating from within the premises shall be inaudible at noise sensitive premises.
8. All windows except those used for ventilation in the toilet shall be kept shut during the operation of amplification equipment and regulated entertainment.
9. All doors shall be kept shut when not in use during the operation of amplification equipment and regulated entertainment with the exception to the front door. That may remain open during opening hours providing that the inside porch door is kept shut when not in use.

Protection of Children from Harm

10. No unsupervised children are allowed on the premises.

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

None

For and on behalf of  
The Deputy Chief Executive

Date: 23/09/2005

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

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

RECEIVED  
29 JUL 2008



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

PLANNING  
23 JUL 2008  
DESIGN

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure 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 MARC ALLINSON (insert name(s) of applicant) being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number CYC-009017

Part 1 - Premises Details

Postal address of premises or, if none, ordinance survey map reference or description  
Art & D1 Dodger  
47-49 Micklegate  
York

Post town <u>York</u>	Post code <u>YO1 6LJ</u>
-----------------------	--------------------------

Telephone number of premises (if any) 01904 644102

Non domestic rateable value of premises £ 9,750

Part 2 - Applicant Details

Daytime contact telephone number 07876700961

Email address (optional) MARQUIS2000@hotmail.com

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

Surname First names

ALLINSON MARC LEE

Current postal address if different from premises address

Post Town

Postcode

**Part 3 - Variation**

Please tick  yes

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

If not do when do you want the variation to take effect from?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please describe briefly the nature of the proposed variation (please read guidance note 1)

Extended area for alcohol sale/consumption  
Extended hours.  
Also plays, films, live music, performance of dance, making music, dancing and late night refreshments hours/areas to be extended.

**Part 4 - Operating Schedule**

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

Please tick  yes

**Provision of regulated entertainment**

- a) play (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	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	00:01	00:00	Please give further details here (please read guidance note 3) In self contained room, small scale performance may take place.	Both	<input type="checkbox"/>
Tue	00:01	00:00			
Wed	00:01	00:00	State any seasonal variations for performing play (please read guidance note 4)		
Thur	00:01	00:00			
Fri	00:01	00:00	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	00:01	00:00			
Sun	00:01	00:00			

**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	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	00:01	00:00	Please give further details here (please read guidance note 3) This will mainly be background music videos + TV although sometimes TV + Film may be shown	Both	<input type="checkbox"/>
Tue	00:01	00:00			
Wed	00:01	00:00	State any seasonal variations for the exhibition of films (please read guidance note 4)		
Thur	00:01	00:00			
Fri	00:01	00:00	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	00:01	00:00			
Sun	00:01	00:00			

**C**

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

**D**

<b>Boxing or wrestling entertainment</b> 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	
<b>Day</b>				Outdoors	
	<b>Start</b>	<b>Finish</b>	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			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)		
Sat					
Sun					

**E**

<b>Live music</b> 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	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	00:01	00:00	Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	00:01	00:00			
Wed	00:01	00:00	State any seasonal variations for the performance of live music (please read guidance note 4)		
Thur	00:01	00:00			
Fri	00:01	00:00	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	00:01	00:00			
Sun	00:01	00:00			

**F**

<b>Recorded music</b> 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	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	00:01	00:00	Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	00:01	00:00			
Wed	00:01	00:00	State any seasonal variations for the playing of recorded music (please read guidance note 4)		
Thur	00:01	00:00			
Fri	00:01	00:00	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	00:01	00:00			
Sun	00:01	00:00			

**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	00:01	00:00	Please give further details here (please read guidance note 3)		
Tue	00:01	00:00			
Wed	00:01	00:00	State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur	00:01	00:00			
Fri	00:01	00:00	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	00:01	00:00			
Sun	00:01	00:00			

**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	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)		
Tue					
Wed			State any seasonal variations for the entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Thur					
Fri			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)		
Sat					
Sun					

I

<b>Provision of facilities for making music</b> Standard day and timings (please read guidance note 6)			Please give a description of the facilities for making music you will be providing Live Music, acoustic + small bands + open mic nights.			
			Will the facilities for making music be indoors or outdoors or both – please tick (✓) (please read guidance note 2)		Indoors <input checked="" type="checkbox"/>	
					Outdoors <input type="checkbox"/>	
					Both <input type="checkbox"/>	
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon	00.01	00.00				
Tue	00.01	00.00	State any seasonal variations for the provision of facilities for making music (please read guidance note 4)			
Wed	00.01	00.00				
Thur	00.01	00.00	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)			
Fri	00.01	00.00				
Sat	00.01	00.00				
Sun	00.01	00.00				

J

<b>Provision of facilities for dancing</b> 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 <input checked="" type="checkbox"/>	
					Outdoors <input type="checkbox"/>	
					Both <input type="checkbox"/>	
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon	00.01	00.00				
Tue	00.01	00.00	State any seasonal variations for providing dancing facilities (please read guidance note 4)			
Wed	00.01	00.00				
Thur	00.01	00.00	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)			
Fri	00.01	00.00				
Sat	00.01	00.00				
Sun	00.01	00.00				

**K**

<b>Provision of facilities for entertainment of a similar description to that falling within I or J</b> 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 place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors				
				Outdoors				
				Both				
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 3)					
Mon								
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**

<b>Late night refreshment</b> 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)		Indoors					
					Outdoors					
					Both	✓				
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 3)							
Mon	00.01	00.00								
Tue	00.01	00.00								
Wed	00.01	00.00					State any seasonal variations for the provision of late night refreshment (please read guidance note 4)			
Thur	00.01	00.00								
Fri	00.01	00.00					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	00.01	00.00								
Sun	00.01	00.00								

## 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	00.01	00.00	State any seasonal variations for providing dancing facilities (please read guidance note 4)	Both	✓
Tue	00.01	00.00			
Wed	00.01	00.00			
Thur	00.01	00.00	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)		
Fri	00.01	00.00			
Sat	00.01	00.00			
Sun	00.01	00.00			

## N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

During functions or private parties, strippers and adult comedians may be employed, but this will be at night with no children allowed. These parties will be by ticket or private invitation only.

Cigarette machines and gambling machines are present.

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	00:00	00:00	Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 5)
Tue	00:01	00:00	
Wed	00:01	00:00	
Thur	00:01	00:00	
Fri	00:01	00:00	
Sat	00:01	00:00	
Sun	00:01	00:00	

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

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

Please tick ✓ yes

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

Reasons why I have failed to enclose the premises licence or relevant part of the premises licence

**P**

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

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

I intend to continue as I have gone on for the previous 3 years. I believe that I have an excellent record of upholding the licensing objectives.

b) The prevention of crime and disorder

c) Public safety

A radio linked to the police is always on site.

d) The prevention of public nuisance

Music is not to be played at a level to cause public nuisance

e) The protection of children from harm

No unsupervised children  
Children are not allowed to use  
cigarette machine / fruit machines

Please tick ✓ Yes

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

**IT IS AN OFFENCE, 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 5 – Signatures** (please read guidance note 10)

**Signature of applicant (the current premises licence holder) 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 .....  .....

Date ..... 22/7/08 .....

Capacity .... Owner .....

**Where the premises licence is jointly held signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> 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 .....

Capacity .....

<b>Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)</b>	
<b>Post town</b>	<b>Post code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>	

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**ARTFUL DODGER**

Existing trading period and licensable activities

<b>LICENSABLE ACTIVITY</b>	<b>DAYS</b>	<b>TIMES</b>
<b>Supply of alcohol:</b>	Monday to Sunday	08:00-02:00
<b>Regulated Entertainment:</b>		
<b>a) Plays</b>		
<b>b) Films</b>	Monday to Sunday	08:00-02:00
<b>c) Indoor Sporting Events</b>		
<b>d) Boxing or Wrestling</b>		
<b>e) Live music</b>	Monday to Sunday	08:00-02:00
<b>f) Recorded music</b>	Monday to Sunday	08:00-02:00
<b>g) Performance of dance</b>		
<b>h) Anything of similar description to (e), (f) or (g)</b>		
<b>Provision of entertainment facilities:</b>		
<b>i) Making music</b>	Monday to Sunday	12:00-00:00
<b>j) Dancing</b>	Monday to Sunday	08:00-02:00
<b>k) Entertainment of similar description to (i) or (j)</b>		
<b>Provision of late night refreshment:</b>	Monday to Sunday	23:00-03:00
<b>Hours premises open to public:</b>	Monday to Sunday	08:00-03:00

## Proposed trading period and licensable activities

<b>LICENSABLE ACTIVITY</b>	<b>DAYS</b>	<b>TIMES</b>
<b>Supply of alcohol:</b>	Monday to Sunday	24 hours
<b>Regulated Entertainment:</b>		
<b>a) Plays</b>	As alcohol hours	
<b>b) Films</b>	As alcohol hours	
<b>c) Indoor Sporting Events</b>		
<b>d) Boxing or Wrestling</b>		
<b>e) Live music</b>	As alcohol hours	
<b>f) Recorded music</b>	As alcohol hours	
<b>g) Performance of dance</b>	As alcohol hours	
<b>h) Anything of similar description to (e), (f) or (g)</b>		
<b>Provision of entertainment facilities:</b>		
<b>i) Making music</b>	As alcohol hours	
<b>j) Dancing</b>	As alcohol hours	
<b>k) Entertainment of similar description to (i) or (j)</b>		
<b>Provision of late night refreshment:</b>	Monday to Sunday	23:00-05:00
<b>Hours premises open to public:</b>	As alcohol hours	

**Howlett, Helen**

---

**From:** Howlett, Helen  
**Sent:** 14 August 2008 15:50  
**To:** Cooke, Lesley  
**Cc:** Gray, Ian  
**Subject:** Artful Dodger representations

Further to receiving the application for variation, EPU would like to make the following representation:

I would confirm my understanding that the variation of the licence relates to an extension of hours of licensed activities to be 24 hours from 00.01hours to 00.00hours, and that the area to be covered by the licence is to include the outside courtyard area and the first floor with live music, recorded music and similar activities indoors for the 24 hour period.

I object to the variation(s) for the following reasons:

It is my opinion that the proposed activities over a 24 hour period, to extend it beyond the existing hours will cause public nuisance to the neighbouring properties. During September last year, this unit has received a number of complaint regarding live music emanating from the premises on Sundays when there are live bands. To date these activities have not been witnessed by officers of this unit however, there are a number of local residents who could be affected by the live bands. In addition, the use of the courtyard is also likely to give rise to public nuisance as there are residential properties in the vicinity. Complaints have also been received regarding the use of this area by smokers, to include the outside area in the licence could increase the likelihood for public nuisance. As such, this unit would request that the variation is not granted for the additional hours,

If the inside area is to be increased, this would be acceptable so long as the existing conditions on the licence are appended to this area and that the originals hours of 2am Monday to Saturday and 3am Sunday.

Should you wish to discuss this representation further, please contact me.

Regards,



Helen Howlett  
Senior Environmental Protection Officer  
ext 1844

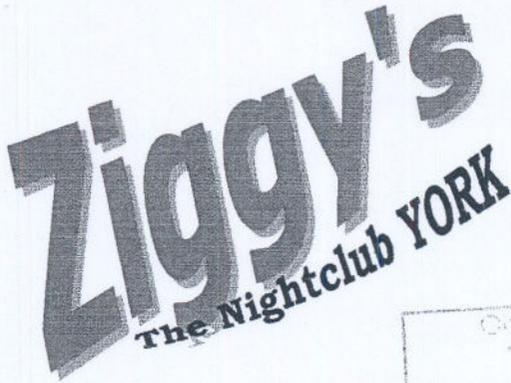
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JEX 6

1



53/ 55, Micklegate,  
York,  
YO1 6LJ.

Tel/ Fax (01904) 620602  
E-mail :- ziggys.club@virgin.net

City of York  
Council  
- 6 AUG 2008  
RECEIVED

4/08/08

CITY OF YORK COUNCIL APPLICATION ACKNOWLEDGED	
DATE:	06/08/08

**License application –artful dodger**

Dear Sir/Madam,

We wish to make representation to the application to vary the premise licence at the above premise (Artful Dodger) on the grounds of public safety and public nuisance.

The applicant has applied to licence the outside area that runs between our two premises. The land under the covered archway is owned by the applicant, and the car park at the rear are owned by ourselves, and we have legal access across the land under the covered archway and the full width of the access road. Vehicles cross this land regularly, for example delivery vehicles, and staff and customers using the parking area. If this area were to be used as an outdoor drinking area customers and any furniture (if provided) would have to move every time a vehicle wanted access. We already have experience issues with smokers from this premise refusing to move or acting dangerously when vehicles need access. During race meetings this area can get very full of smokers and drinkers, which totally impedes our access to our car park and had caused several incidents with personnel not getting out of the way. This is found to both intimidating towards the female members of staff and has caused damage to cars due to some persons throwing glasses or bottles at the cars.

We also have three fire escape routes that converge onto this area so should we have an emergency and have to evacuate the premises then drinkers in this area could impede the safe flow of evacuees from our premises. Ziggys had a smoking area next to the proposed drinking area but due to complaints about noise from nearby residents we have had to close this area and move the smokers to the front of the building away from the resident area, We feel that both drinkers and smokers in this area will surely cause a great deal of nuisance to the local residents with the noise and undo the good we have done by moving our smoking area away so they can sleep more peacefully. At the moment several drinkers are in this area and it seems to take some time to move them back inside as there does not seem to be any sort of control put in

place to keep the area drink free. The side door of the premise has to be open too to allow smokers and drinkers to access the area, which also means more noise from music inside the premises. As the side door is also a fire escape route surely drinkers and smokers standing in that area would impede any means of escape.

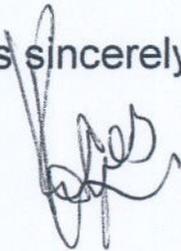
The applicant has applied to licence the first floor. We have legal emergency escape route access from the first floor of our premise through the first floor of this premise down to the ground floor and out onto Micklegate. Within the application and operating schedule the applicant makes no mention of this or how they will safely operate the first floor due to our legal access.

We have operated in York and in our premises since 1982 so a total of 26 years and have done our best to be congenial and helpful to local residents regarding noise and nuisances

The applicant has applied for a 24-hour licence seven days a week. Residential premises are within the vicinity of this premises, flats on Micklegate, houses on St Martins Lane and houses in the Bishophill area. The increased licenced hours and the potential for regulated entertainment inside the premises and customers to be outside the premises drinking and smoking 24 hours could cause noise nuisance these residents.

The application and operating schedule make no mention of how noise issues will be managed.

Yours sincerely,



Steve Rogers ( General Manager )

P.P.  
Andrew Elliott ( Owner/Director)

2

RECEIVED  
07 AUG 2008

Hampden St.,  
Bishophill,  
York  
7 August 2008

To: Licensing Services,  
City of York Council,  
9 St Leonards Place,  
York YO1 7ET

To whom it may concern

**The Artful Dodger, 47 Micklegate - Variation of opening hours**

I wish to object to the proposed extension of opening hours of these premises for the following reasons

1. It is well known locally that late night drinkers returning home in the early hours cause noise and disturbance when passing through nearby residential areas. This is certainly the case in Bishophill and experience over the last two years shows that the introduction of the new Licensing Act has done nothing to reduce this problem. Indeed it has made it worse as noise has now shifted further into the early hours when most people are sleeping, or trying to.
2. These premises are situated immediately adjacent to Ziggy's nightclub where the pavement outside is frequently the scene of trouble, as the Police will no doubt confirm. To have a pub serving alcohol in such close vicinity is sure to exacerbate an existing problem.
3. The premises are situated in an area which is already oversupplied with pubs, bars and nightclubs. To extend the hours of this one will only lead to an increase in the already unacceptable level of noise and disturbance which constitutes a public nuisance.

Yours sincerely,

[Redacted signature]

CITY OF YORK COUNCIL  
APPLICATION ACKNOWLEDGED  
DATE 8/8/08 Le

3

City of York  
Council  
21 AUG 2008  
RECEIVED

Licensing Services  
City of York Council  
9 St Leonard's Place  
York YO1 7ET

20.08.2008

**Subject:CYC 09017 Variation in premises licence: Arful Dodger 47- 49 Micklegate York**

As a local resident I would like to object to this application on the grounds of prevention of public nuisance.

The proposal to greatly increase the licensing hours and to extend the area for sale and consumption of alcohol would have the effect of producing considerable noise and nuisance for many local residents.

I particularly object to the use of the area at the side and rear of the premises for drinking at any hour of the day or night, as patrons would tend to move further into the car park at the rear and create unacceptable noise for residents – most of who sleep at the rear of their properties. I am also concerned that the only vehicle access to the car park would cross the extended area for alcohol consumption.

I am pleased that live and recorded music will only be played inside the main building, but would wish for reassurance that additional soundproofing measures will be taken to avoid noise nuisance –especially late at night on warm evenings when doors and windows will be open.

Yours sincerely,

[Redacted signature]

Micklegate  
York

Copy to Cllr D Merrett (by email)

CITY OF YORK COUNCIL  
APPLICATION ACKNOWLEDGED  
DATE: 28/8/08 LC

4

Licensing Services  
City of York Council  
9 St Leonard's Place  
York YO1 7ET

City of York  
Council  
21 AUG 2008  
RECEIVED

20.08.2008

Dear Licensing Services,

**Re: CYC 09017 Variation in premises licence: 'The Artful Dodger', 47- 49, Micklegate, York.**

As a local resident I would like to object to this application on the grounds of prevention of public noise and nuisance.

The proposal to greatly increase the licensing hours and to extend the area for sale and consumption of alcohol is likely to affect the lives of those living nearby. Micklegate now has a significant number of residential properties very close to 'The Artful Dodger'.

I particularly object to the use of the area at the side and rear of the premises for drinking, as patrons would tend to move further into the car park at the rear and may create unacceptable noise for residents, especially at night and during the early hours of the morning. I am also concerned for the safety of patrons when vehicular and pedestrian access is mixed. The vehicular access would be across the extended area for alcohol consumption. A fire escape also leads on to this area.

While I accept the intention is to play music indoors, I would like to be assured that sufficient soundproofing is carried out to protect residents on summer evenings and when patrons leave the premises.

Yours sincerely,

[Redacted signature]

[Redacted]  
Micklegate,  
York [Redacted]

Copy to Cllr D Merrett (by email)

CITY OF YORK COUNCIL  
APPLICATION ACKNOWLEDGED  
DATE: 21/8/08 LC

licensing

5

[redacted] Micklegate  
York YO1 6LJ

20/08/08

CITY OF YORK  
26 AUG 2008  
RECEIVED

Your Ref CYC09017 Artful Dodger Variation X 423  
Our Ref [redacted] Micklegate

Dear sirs

I wish to object to the proposed planning application for licensed premises the Artful Dodger on Micklegate. We have had several complaints made through the EP unit City of York council and they have installed noise equipment at our address and others on this street to monitor the noise made from the outside smoking area at Ziggy's night club. This extension to the Artful Dodger which is next to Ziggy's on Micklegate will increase the already existing noise problems in the area. Residents on Micklegate whose accommodation backs onto the car park area will continue to be disturbed by outside drinkers and smokers. See EPU notes on their advice to contain noise at Ziggy's. The Ryedale Housing Association has been informed of these findings as well as our MP Hugh Bayley.

Yours sincerely

[redacted signature]

Licensing Services  
9 St Leonard's Place

[redacted]

CITY OF YORK COUNCIL  
APPLICATION ACKNOWLEDGED  
DATE 26/08. [initials]  
\_\_\_\_\_  
\_\_\_\_\_

CITY OF YORK COUNCIL  
LICENSING & REGULATORY SERVICES

[REDACTED]  
[REDACTED] MICKLEGATE

York [REDACTED]  
23/8/08

PLANNING  
26 AUG 2008  
DESIGN

6

DEAR SIR

REF: ARTFULL DODGER LICENCE EXTENSION

I WISH TO OBJECT STRONGLY TO THE ABOVE.

HAVING LIVED OPPOSITE FOR PAST 10 YEARS, I HAVE EXPERIENCED NOISE, LOUD MUSIC, FIGHTING, RUBBISH URINE & SICK IN MY DOORWAY ON A REGULAR BASIS AND I AM SURE THIS EXTENSION WILL ONLY MAKE MATTERS WORSE.

PLEASE CONSIDER THAT MICKLEGATE IS ALSO A RESIDENTIAL AREA AND WE DO NOT WISH ANY FURTHER DETERIORATION IN OUR QUALITY OF LIFE

Yours faithfully

CITY OF YORK COUNCIL APPLICATION ACKNOWLEDGED	
DATE	26/08/08

[REDACTED]  
[REDACTED]

7

MICKLEGATE YORK

21/08/08

120792

Your Ref CYC09017 Licensing variation X423  
The Artful Dodger

City of York  
Council  
27 AUG 2008  
RECEIVED

Dear Sirs

I wish to object to the proposed licensing variation for the Artful Dodger's premises on Micklegate. These plans will increase an already existing problem to the residents on our development and others whose accommodation backs onto the car park area behind these drinking premises. The planned extension and extended licensing will increase noise levels due to both anti smoking laws (outside the premises only) and because of the area being a trouble spot for late night binge drinking. The Environmental Protection Unit has already encountered noise issues and complaints from these premises. The Ryedale Housing Association and Yorkshire Housing who are landlords in this area as well as city of York council have been informed of their findings.

Yours sincerely

[Redacted signature]

MICKLEGATE  
MICKLEGATE

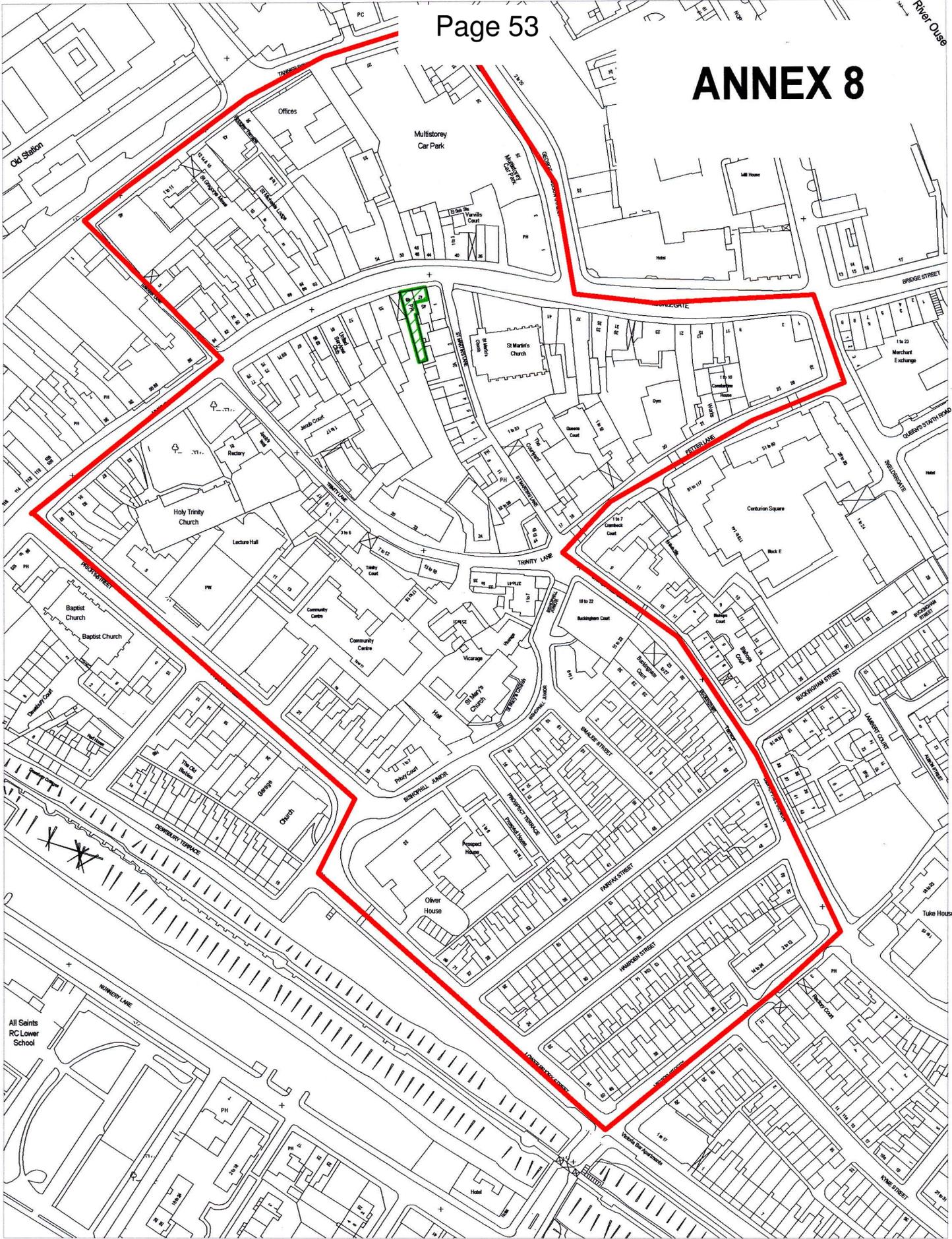
Licensing Services  
9 St Leonard's Place YORK YO1 7ET

CITY OF YORK COUNCIL  
APPLICATION ACKNOWLEDGED  
DATE: 27/8/08  
[Signature]

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# ANNEX 8



## THE ARTFUL DODGER, 47 - 49 MICKLEGATE

SCALE 1:2000  
 Originating Group

DRAWN BY PSL  
 Project

DATE 3/9/2008  
 Drawing No.

ADM1A



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

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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE  
LICENSING ACT 2003****MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

- (1) In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
- (2) The first condition is that no supply of alcohol may be made under the premises licence –
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**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 (interpreted as to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**PROHIBITION CONDITIONS: PLAYS**

- (1) In relation to a premises licence which authorises the performance of plays, no conditions may be attached to the licence as to the nature of the plays which may be performed, or the manner of performing plays, under the licence.
- (2) But subsection (1) does not prevent a licensing authority imposing, in accordance with section 18(2)(a) or (3)(b), 35(3)(b) or 52(3), any condition which it considers necessary on the grounds of public safety.

**CITY CENTRE SPECIAL POLICY STATEMENT**

This Special Policy was approved by the City of York on 12 April 2005 and shall have effect until 6 January 2011 unless otherwise reviewed by the Council.

This Special Policy is a supplement to the Council's Statement of Licensing Policy and must be read in conjunction with that document.

This Special Policy relates to the following streets:

Micklegate, Toft Green, Tanner Row, Rougier Street, George Hudson Street, Bridge Street, Low Ousegate, Clifford Street, Tower Street, Tanner Moat, Wellington Row, North Street, Cumberland Street, King Street, Lower Friargate, Kings Staith, Peckitt Street, Blossom Street (to Holgate Road) and The Crescent (see Appendix K, Map of Special Policy Area).

This area has been identified as requiring additional licensing controls to promote the licensing objectives due to the cumulative effect of the concentration of late night drink led, refreshment and entertainment premises on crime, disorder and/or public nuisance affecting residents, visitors and other businesses.

A statistical, evidence based report was submitted by North Yorkshire Police to substantiate this statement and was considered by the City of York Council in approving this policy.

Consultation on the Special Policy was carried out in accordance with Section 5(3) of the Licensing Act 2003.

**Effects of the Special Policy**

1. This policy relates to applications for the grant and/or variation of premises licences or club premises certificates or the issue of provisional statements.
2. Each application will be considered on its own merits.
3. Where no representations are received any application will be granted in terms consistent with the operating schedule.
4. Applications for the grant of a new premises licence or club premises certificate or provisional statement :

Where relevant representations are received there will be a presumption against the grant of such a licence or certificate unless the applicant can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives.

5. Application for the variation of a premises licence or club premises certificate due to a change of style of operation :

Any application for the variation of style of operation which is subject to relevant representations will be considered on its own merits having regard to the promotion of the licensing objectives.

6. Application for the variation of a premises licence or club premises certificate resulting in an extension of the premises and increased capacity:

There will be a presumption to refuse such applications, where relevant representations are received and where the increase in capacity would undermine the licensing objectives unless the applicant can rebut the presumption that the granting of such a variation would undermine the licensing objectives.

7. Application to vary the hours of operation attached to a premises licence or club premises certificate:

All applications that seek to extend the licensed hours will be considered on an individual basis. No different policy will apply in this area as opposed to the rest of the city.

**Legislation and Policy Considerations**

1. The following provisions of the Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s34 application to vary premises licence; s35 determination of application under section 34; s36 supplementary provision about determinations under section 35; 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: Chapter 2 the Licensing Objectives and Paragraphs 5.47 Steps to promote the licensing objectives; and 8.33 Variations.
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.