

## Licensing Hearing

**To:** Councillors Merrett, Moore and Wiseman  
**Date:** Monday, 18 April 2011  
**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. Minutes

To approve and sign the minutes of Licensing Hearing(s) held on 4<sup>th</sup> October 2010, 15<sup>th</sup> October 2010 and 21 October 2010.

#### 5. The Determination of an Application by Ms. Kay Davison for a Premises Licence Section 18(3)(a) in respect of 1 Church Street, Copmanthorpe, York, YO23 3SE. (CYC-018096)

**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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City of York Council

Committee Minutes

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MEETING	LICENSING HEARING
DATE	4 OCTOBER 2010
PRESENT	COUNCILLORS HYMAN, MOORE AND TAYLOR

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**107. CHAIR**

RESOLVED: That Councillor Hyman be elected as Chair.

**108. DECLARATIONS OF INTEREST**

At this point in the meeting Members were invited to declare whether they had any personal or prejudicial interests in the business on the agenda.

None were declared.

**109. MINUTES**

RESOLVED: That the minutes of the meetings of the Licensing Review Panel held on 14 May and 17 May 2010 be signed and approved by the Chair as a correct record.

**110. THE DETERMINATION OF AN APPLICATION BY MRS. ASMA CHAUDHRY FOR A PREMISES LICENCE SECTION 18 (3)(A) IN RESPECT OF 98 MICKLEGATE, YORK, YO1 1JX. (CYC-017036)**

Members considered an application by Mrs Asma Chaudry for a Premises Licence in respect of 98 Micklegate, York.

In coming to their decision the sub-committee took into consideration all of the evidence and submissions that were presented to them and determined their relevance to the issues raised and the licensing objective – Prevention of Public Nuisance. The following were taken into account:

1. The application form.
2. The Licensing Officer's report and his comments made at the Hearing. He advised that the application was for a premises licence for a hot food restaurant and takeaway for the hours of 23:00 to 04:00. The premises is in the Cumulative Impact Zone. He advised that the applicant had applied for a licence in July, which had been turned down. Following mediation with North Yorkshire Police, in particular the applicant's agreement to surrender a licence at another premises on Micklegate, the Police had withdrawn their objections but the Council's Environmental Protection Unit still had concerns regarding a potential increase in noise nuisance in the

area should the licence be granted. The Sub-Committee were advised that the premises currently had planning permission until 01:00 and the applicant would need to seek relevant planning permission.

3. The applicant's representations at the Hearing, including the fact that since the last hearing in July they a noise impact assessment had been obtained for the premises. This had shown that there would little difference in noise levels if the premises opened until 4am due to Micklegate being such a busy street. The applicant had agreed a number of conditions with North Yorkshire Police including the provision of door supervisors who would assist in monitoring the behaviour of patrons. The applicant advised that their family had worked in the restaurant and takeaway business for many years and that they were an experienced and responsible operator.
4. Representations made the Council's Environmental Protection Unit who advised that the premises is within the Cumulative Impact Zone which is an area with high noise levels that should not be increased by the opening of more late night premises. The Officer advised that as the area had residential properties, 12.45 to 01:00 am would be a reasonable terminal hour for the premises.

Representations made by North Yorkshire Police were withdrawn prior to the Hearing after the applicant had agreed to a number of licence conditions.

Having regard to the above evidence and representations received, the Sub Committee considered the steps which were available for them to take under Section 18 (4) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives.

Members were presented with the following options:

- Option 1: Grant the licence in the terms applied for and including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.
- Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.
- Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.
- Option 4: Reject the application.

Members chose to modify the conditions of the licence (Option 2). The following additional conditions were imposed:

1. Hours of operation shall be 11:00 to 03:00 on each and everyday.
2. Late Night Refreshment shall cease 15 minutes prior to closing on each and everyday.
3. CCTV will cover the premises and will include all area to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings should be of sufficient quality to be produced in Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days and will be made available to any Responsible Authority within 48 hrs of request.
4. Prominent clear and legible notices shall be displayed requesting the public to respect the needs of local residents and to leave the premises and area quietly.
5. 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.
6. There shall be a minimum of two members of staff on duty at all times.
7. An adequate number of Door Supervisors will be provided at the premises from 24:00 hrs until the close of business on each and everyday.
8. Persons aged under 18 years shall not be served.
9. Documentary staff training will be given regarding the conditions attached to the Premises Licence. Such records shall be kept for at least one year and they will be made available upon a reasonable request from any Responsible Authority.

Mandatory condition 21 would still apply.

RESOLVED: That, in line with Option 2, the conditions of the licence be modified.

REASON: To address the representations made.

Cllr Hyman, Chair

[The meeting started at 10.00 am and finished at 12.00 pm].

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MEETING	LICENSING HEARING
DATE	15 OCTOBER 2010
PRESENT	COUNCILLORS HORTON, MERRETT AND WISEMAN

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**111. CHAIR**

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

**112. DECLARATIONS OF INTEREST**

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

Councillors Merrett and Horton both declared a personal interest as they both know the representor Mr. Blitz.

Councillor Wiseman declared a personal interest as Conservative MP Julian Sturdy had made representations against the application and she is a member of the Conservative party.

**113. MINUTES**

RESOLVED: That the minutes of the Licensing Hearing held on the 19<sup>th</sup> August 2010 be approved and signed as a correct record.

**114. THE DETERMINATION OF AN APPLICATION BY SAINSBURY'S SUPERMARKET LTD FOR A PREMISES LICENCE SECTION 18(3)(A) IN RESPECT OF 1A HAXBY SHOPPING CENTRE, THE VILLAGE, HAXBY, YORK YO32 2LU. (CYC-017365)**

Members considered an application by Sainsbury's Supermarket for a premises licence in respect of 1A Haxby Shopping Centre, The Village, Haxby, York.

In coming to their decision the sub-committee took into consideration all of the evidence and submissions that were presented to them and determined their relevance to the issues raised and the licensing objectives –Crime and Disorder and the Prevention of Public Nuisance. The following were taken into account:

1. The application form.
2. The Licensing Officer's report and his comments made at the Hearing. He advised that the premises is a retail outlet which already had a licence for the hours being applied for and that the applicant had applied for a new licence in line with company policy. The applicant had withdrawn late night refreshment from the application and had reduced the sale of alcohol hours from 06:00 to 00:00 to 07:00 to 23:00 in response to the concerns raised by local residents.
3. The applicants representation at the hearing including the fact that the application was a standard application by Sainsbury's and it is the intention that the stores normal hours would be 08:00to22:00. The later hour requested for the sale of alcohol would only be utilised at busy periods such as Christmas. You advised that the store would operate a challenge 25 policy and staff would be trained in alcohol laws. Sainsbury's had agreed not to accept deliveries at the store prior to 07:00. The applicant reminded those present that the premises already had a licence and could operate 24hours a day if it wished to, the application before Members was purely for the sale of alcohol.
4. The representations made by local residents in writing and at the hearing. The Sub-Committee considered the representations to be relevant to the licensing objectives as concerns were raised regarding the potential for public nuisance and crime and disorder in an area which is generally quiet at night.
5. The representations made by the York Outer Member of Parliament in writing and at the hearing who advised residents had approached him with their concerns. He was pleased that Sainsbury's representatives had addressed the concerns of residents via a community meeting.
6. Written representations made during the consultation period.

Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available for them to take under Section 35 (4) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives.

Members were presented with the following options:

- Option 1: Grant the licence in the terms applied for and including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.
- Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee including any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.

Option 3: Grant the licence to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions as set out in ss19, 20 and 21 of the Licensing Act 2003.

Option 4: Reject the application.

RESOLVED: That in line with Option1 the licence be granted. This was on the basis of late night refreshment being withdrawn from the application and the reduced sale of alcohol hours.

REASON: To address the representations made.

Councillor Merrett, Chair

[The meeting started at 2.30 pm and finished at 3.30 pm].

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MEETING	LICENSING HEARING
DATE	21 OCTOBER 2010
PRESENT	COUNCILLORS MOORE, REID AND LOOKER

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**115. CHAIR**

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

**116. DECLARATIONS OF INTEREST**

At this point in the meeting Members are asked to declare any personal or prejudicial interests they have in the business on the agenda. None were declared.

**117. MINUTES**

RESOLVED: That the minutes of the Licensing Hearing held on 23<sup>rd</sup> August 2010 be approved and signed by the Chair as a correct record.

**118. THE DETERMINATION OF AN APPLICATION BY LUNCHBOX THEATRICAL PRODUCTIONS FOR A PREMISES LICENCE SECTION (18)(3)(A) IN RESPECT OF YORK DESIGNER OUTLET CAR PARK, ST. NICHOLAS AVENUE, FULFORD, YORK, YO19 4TA . (CYC-017400)**

Members considered an application by Lunchbox Theatrical Productions for a premises licence in respect of the Ice factor, York Designer Outlet car park.

In coming to their decision the sub-committee took into consideration all of the evidence and submissions that were presented to them and determined their relevance to the issues raised and the licensing objectives.

The following were taken into account:

1. The application form.
2. The Licensing Officers report and his comments made at the hearing. He advised that the application is for the coach park area of the Designer Outlet. The Ice Rink would not require a licence as it is a sporting activity, but that a licence is required **for live music**,

recorded music and the sale of alcohol. He advised that the operating schedule had 41 self imposed conditions and that the applicant had successfully operated the Ice Factor at the Eye of York. The application had been advertised correctly and the applicant had agreed to accept conditions suggested by the Environmental Protection Unit and North Yorkshire Police.

3. The applicants representations at the hearing including the fact that this application had been brought about due to the requirement to relocate the Ice Rink after 5 years at the Eye of York. Members were advised that many schools and local clubs use the ice rink and that it is a very popular event. The applicant is confident that the event would not cause problems at the Designer Outlet Car Park and highlighted the 41 conditions contained within the operating schedule. It was agreed that residents meetings for the duration of the event would be held with the first meeting scheduled for the following week with the Ward Councillor due to attend.
4. The representations made by a local resident, Fulford Parish Council and the Ward Councillor in writing. The representations were considered relevant as they had raised concerns relating to the potential for an increase in public nuisance in the area, should the application be approved.

Having regard to the evidence and representations received, the Sub Committee considered the steps which were available for them to take under Section 72 (4) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives.

Members were presented with the following options:

- Option 1: Grant the variation of the certificate in the terms applied for and including any applicable mandatory conditions as set out in ss73, 74 and 75 of the Licensing Act 2003.
- Option 2: Grant the variation of the certificate with modified/additional conditions imposed by the Licensing Committee including any applicable mandatory conditions as set out ss73, 74 and 75 of the Licensing Act 2003.
- Option 3: Grant the variation of the certificate to exclude any of the qualifying club activities to which the application relates and modify/add conditions accordingly to include any applicable mandatory conditions as set out ss73, 74 and 75 of the Licensing Act 2003.
- Option 4: Reject the application.

Members chose to grant the variation of the certificate with modified/additional conditions imposed by the licensing committee (Option 2). Members imposed the following conditions:

1. All off-sales shall be made in sealed containers.

2. Documented patrols be carried out by members of staff or volunteers at no less than hourly intervals whilst live or amplified music is being played. These checks shall be undertaken on the public footpath outside the nearest residential premises on Naburn Lane to check for noise coming from the premises. These documents should be available on request for inspection by authorised officers of City of York council.
3. Direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.
4. A documented procedure for investigating noise complaints received by Ice factor shall be submitted prior to commencement and approved by the City Council prior to operation and shall be implemented.
5. No music or amplified sound shall be audible on the public footpath outside the nearest residential premises on Naburn Lane.
6. The playing of recorded music shall be restricted to the hours 09:00 – 21:30 on any day.
7. The playing of live music shall be restricted to the hours of 12:00 – 18:00 on any day other than the opening day on 12 November where the hours shall be restricted to 12:00 – 21:00.
8. The Licence shall not come into force until an amended plan showing the changes to the skating facilities plan submitted with the application form is received by the Licensing Authority.
9. The premises to which this licence relates are shown on the plan at Annex 6 of the Licensing Officers report on page 63 of the agenda.

The 41 conditions offered by the applicant in the operating schedule shall apply unless contradictory to any of the above.

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

REASON: To address the representations made.

Councillor Looker, Chair

[The meeting started at 10.00 am and finished at 10.50 am].

**Agenda Item****Licensing Act 2003 Sub Committee**

18 April 2011

Report of the Director of Communities and Neighbourhoods

**Section 18(3)(a) Application for a premise licence for 1, Church Street, Copmanthorpe, York, YO23 3SE****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-018096
3. Name of applicant: Caroline Kay Davison.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application: The nature of the application is to allow for the sale of alcohol, off the premises, between 07:00 hours and 23:00 hours daily.

**Background**

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

**Promotion Of Licensing Objectives**

7. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
8. General
  - (a) Staff training and procedures in place including Challenge 21.
  - (b) Management will liaise with local police partnerships and community groups.
9. The prevention of crime and disorder:
  - (a) A refusals log and incident book will be kept and incidents reported.
10. Public safety:
  - (a) Liaise with community groups to maintain public safety.

11. The prevention of public nuisance:
  - (a) Display signs encouraging customers to respect local area and to keep noise down.
  - (b) Provide litterbins.
12. The protection of children from harm:
  - (a) A strict Check 21 policy will be implemented.

### **Special Policy Consideration**

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

### **Consultation**

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

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

16. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following conditions being attached to the licence if granted: -
  - (i) CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings should be of sufficient quality to be produced in Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days and will be made available to any Responsible Authority within 48 hours of a request.
  - (ii) Copies of the recordings will display the correct time and date of the recording.
  - (iii) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo (until other effective identification technology, e.g. thumb print or pupil recognition is adopted by the Premises Licence Holder).
  - (iv) All off-sales shall be made in sealed containers.

- (v) Documented staff training will be given regarding the retail sale of alcohol and the conditions attached to the Premises Licence. Such records shall be kept for at least one year and they will be made available upon a reasonable
- (vi) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken 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 and will be kept for at least one year.

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

- 17. Representations have been received from 21 interested parties listed at Annex 2. Their representations are attached at Annex 3.
- 18. The location of the residential properties owned by the interested parties in relation to the premises subject to this application is shown on the map attached at Annex 4.
- 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. These premises have planning permission for a mixed retail / cafe use granted in February 2008. Condition 5 of that planning permission (07/02894/FUL) restricts the opening hours to the following: -

Monday	06:00 – 19:00	Friday	06:00 – 19:00
Tuesday	06:00 – 19:00	Saturday	06:00 – 19:30
Wednesday	06:00 – 19:30	Sunday	06:00 – 16:00
Thursday	06:00 – 19:00		

And all staff should vacate the premises within one hour after closing.

### **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

35. 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.
36. 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

37.
  - **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

38. 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.
39. 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

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

### Contact Details

**Author:**

John Lacy  
Licensing Manager

Tel No. 01904 551593

**Chief Officer Responsible for the report:**

Steve Waddington  
Assistant Director– Housing & Public  
Protection.

Report Approved

 Y

Date 28 March 2011

**Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

Wards Affected: Rural York West

All

For further information please contact the author of the report

**Background Papers:**

- Annex 1** - Application form
- Annex 2** - List of Interested Parties
- Annex 3** - Copy of representations from Interested Parties
- Annex 4** - Map showing general area from which representations received
- Annex 5** - Mandatory Conditions
- Annex 6** - Legislation and Policy Considerations

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