



## Licensing Hearing

**To:** Councillors Horton, Looker and Watt  
**Date:** Monday, 15 September 2014  
**Time:** 10.00 am  
**Venue:** The Auden Room - Ground Floor, West Offices (G047)

### AGENDA

#### 1. Chair

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

#### 2. Introductions

#### 3. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

#### 4. Minutes

To approve and sign the minutes of Licensing Hearing held on 23<sup>rd</sup> June 2014.

#### 5. The Determination of an Application by Burnholme Social Club for a Club Premises Certificate Licence Section 18(3)(a) in respect of Burnholme Social Club, Burnholme Drive, York, YO31 0LL. (CYC-023794)

Democracy Officer:

Name: Jill Pickering

Contact Details:

- Telephone – (01904) 552061
- Email - [jill.pickering@york.gov.uk](mailto:jill.pickering@york.gov.uk)

For more information about any of the following, please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

**Distribution:**

Members of Licensing Act 2003 Sub-Committee

Licensing Officer

Legal Services

Applicant

Representors

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## **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.



City of York Council

Committee Minutes

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Meeting Licensing Hearing

Date 23 June 2014

Present Councillors Boyce, Crisp and Horton

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**6. Chair**

Resolved: That Councillor Boyce be elected as Chair of the meeting.

**7. Introductions****8. Declarations of Interest**

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

**9. Minutes**

Resolved: That the minutes of the Licensing Hearing held on 15<sup>th</sup> May 2014 be approved and signed by the Chair as a correct record.

**10. The Determination of an Application by Mr. Barbaros Ayata to Vary a Premises Licence Section 35(3)(a) in respect of Jorvik Cafe, Units 4 & 5, Stonebow House, Stonebow, York, YO1 7NP. (CYC-013040)**

Members considered an application to vary a premises licence in respect of Jorvik Café, Units 4&5, Stonebow House, York.

In coming to their decision, Members took into consideration all of the evidence and the 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 in particular the operating schedule

and the additional steps agreed to be taken by the applicant to promote the licensing objectives.

2. The Licensing Manager's report and her comments made at the Hearing. She advised that the application was to vary the existing licence to extend the opening hours, provide regulated entertainment consisting of live and recorded music and performance of dance. The application was also seeking the removal of a condition which would remove the requirement for the retail sale of alcohol to be ancillary to the provision of food. The premises are not located within the special policy zone. Conditions had been agreed with North Yorkshire Police and the Council's Environmental Protection Unit. Consultation had been carried out correctly.
  
3. The representations made at the hearing by the applicants Solicitor. He advised that the applicant had made the application in order to develop the business which was in need of refurbishment. 31 additional licence conditions had been agreed to in conjunction with the Police and the Council's EPU. It was not intended that the premises would be run as a nightclub, but would be a restaurant and bar, with food being served up to 11pm and a snack menu until 2am. In relation to noise in the area, a taxi rank to the rear of the premises and two live music venues nearby meant that there was already noise in the area, but the applicant had agreed to stop serving alcohol at 2am to avoid a clash of dispersal times with the other venues. It was confirmed that the exit to the rear of the premises would only be used in case of an emergency.
  
4. The representations made in writing by two local residents who raised concerns about noise and anti-social behaviour in the St. Saviourgate area late at night.

In coming to their decision the Sub-Committee considered the following options:

- Option 1 Grant the licence variation in the terms applied for.
  
- Option 2 Grant the licence variation with modified/additional conditions imposed by the Sub-Committee.

Option 3 Grant the licence variation to exclude any of the licensable activities to which the application relates.

Option 4 Reject the application.

Members chose Option 2 and agreed to grant the licence with the following additional conditions:

The following conditions as agreed with North Yorkshire Police:

1. Digital colour CCTV will be installed to cover the premises and will include all areas to where the public have access to consume alcohol and where licensable activities are undertaken.
2. CCTV will be maintained, working and recording at all times when the premises are open.
3. The recordings shall be of an evidential quality in all lighting conditions and will be of sufficient quality to be produced in court or other such hearing.
4. Copies of the recordings will be kept available for any responsible authority for 28 days.
5. Copies of the recordings will display the correct time and date of the recording.
6. A member of staff trained to use the CCTV system shall be on duty at all times so as to ensure the recorded images are made available for inspection and downloading immediately upon request to any responsible authority.
7. All images downloaded from the CCTV system must be provided in a format that can be viewed on readily available equipment without the need for specialist software.
8. Clear notices shall be prominently displayed requesting customers to leave the premises and area in a quiet and orderly manner.
9. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.

10. Drinking vessels of any type shall not be allowed to enter or leave the premises whilst under the customers care.
11. Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and the opening times of the venue.
12. Such records (referred to in condition 11) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.
13. 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 premises.
14. Both documents (referred to in condition 13) shall be kept for at least one year and they will be made available immediately upon a reasonable request from any responsible authority.
15. The venue shall partake in the York Night-time economy radio system.
16. All off-sales shall be in sealed containers.
17. The footprint of the outside area shall be clearly marked at all times (when in use) by semi-permanent barrier, screen or similar (such as a plant screen).
18. There will be no vertical drinking in the external seating area; for the purpose of clarity customers shall remain seated whilst consuming alcohol in that area.
19. *This condition was amended by the Sub-Committee with the agreement of the applicant*– The rear entrance of the venue (onto St. Saviourgate) shall not be used as a means of entry or egress (save for the use as a fire exit in an emergency).
20. Any queuing in to the premises shall be managed by staff to ensure that the queue stays close to the building line and goes away from the premises along the pedestrian ramp (accessed from Stonebow) towards the city centre.

21. So as to afford proper supervision of customers there shall be a member of staff deployed in the basement of the venue whenever there are customers consuming alcohol or when licensable activities are undertaken.
22. An adequate number of Door Supervisors (at least two) shall be provided at the venue from 2100hrs on the following occasions:
  - i. Every Friday and Saturday evening
  - ii. The evening before a Bank Holiday
  - iii. The evening of race meetings held at York Racecourse (save for the family meeting in September and the first meeting held in May).
23. An adequate number of Door Supervisors (at least two) shall be provided at the venue from 2300hrs on all other occasions.

The following conditions as agreed by the Councils Environmental Protection Unit:

24. All doors and windows shall be closed during regulated entertainment or, when regulated entertainment is not provided after 2300 hours each night (except for ingress and egress).
25. Clear signage shall be displayed requesting that customers respect local residents and to leave the premises quietly.
26. A documented noise management plan shall be submitted to and approved by the City of York Council within two months of the licence being granted, once approved it shall be implemented. The noise management plan will also include a procedure for investigating noise complaints.
27. Bottle bins are only to be emptied between the hours of 9am and 10pm Monday to Sunday.

28. The outside drinking/eating area shall not be used for any licensable activities or the consumption of alcohol after 2300 hours until the close of business.
29. Noise originating from within the premises shall be inaudible at noise sensitive properties.

The Sub-Committee also amended the following timings, with the agreement of the applicant:

The supply of alcohol shall take place between 11:00am and 02:00 Monday to Sunday.

Late night refreshment shall take place between 23:00 and 02:00 Monday to Sunday.

All Mandatory Conditions shall apply.

REASON FOR THE DECISION:

The Sub-Committee resolved that the application for a variation be granted based on the evidence given by the applicant's representative at the hearing. The application was satisfactory to North Yorkshire Police and the Council's Environmental Protection Unit with additional conditions to promote the licensing objectives.

Having regard to the submissions made on behalf of the applicant, the Sub-Committee were satisfied that the operation of the premises with the additional conditions would promote the licensing objectives.

The Sub-Committee therefore agreed to grant the application and reminded the applicant of the necessity of upholding all of the licensing objectives.

Resolved: That the licence variation be approved in line with Option 2.

Reason: To address the issues raised.

Councillor Boyce, Chair

[The meeting started at 10.00 am and finished at 11.15 am].

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## Licensing Act 2003 Sub Committee

15 September 2014

Report from the Assistant Director – Housing & Community Safety  
**Section 18(3) (a) Application for a club premises certificate for  
 Burnhome Social Club, Burnholme Drive, York Yo31 0LL.**

### Summary

1. This report seeks Members determination of an application for the grant of a club premises certificate which has been made under the Licensing Act 2003.
2. Application reference number: CYC-023794
3. Name of applicant: Burnholme Social Club.
4. Type of authorisation applied for: Grant of Club Premise Certificate
5. Summary of application: The proposal is to allow for the provision of the following activities:

Proposed Activity	Timings
Plays	11:00 – 24:00
Films	11:00 – 24:00
Indoor sporting events	11:00 – 24:00
Live Music	11:00 – 24:00
Recorded music	11:00 – 24:00
Supply of alcohol	11:00 – 24:00
Opening times	11:00 – 00:30

Non standard timings	Boxing day 11:00 – 00:30 New Year's Day 11:00 – 02:00
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### **Background**

6. A copy of the application is attached at Annex 1.
7. A club premises certificate, CYC 009759 is already in force for this venue but a new clubhouse has been built on the same site and this necessitates the grant of a new club certificate. The current building is set to be demolished.  
A copy of this certificate is attached at Annex 2.

### **Promotion of Licensing Objectives**

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. General
  - a) There is strict control of membership and guests as per club rules.
10. Prevention of Crime and Disorder
  - a) P.A. announcements advise members when entering and leaving the club.
11. Public Safety
  - a) Regular health and safety risk assessments are carried out.
12. Prevention of Public Nuisance
  - a) Notices and P.A, announcements advise members.
13. Protection of Children From Harm
  - a) Members shall ensure their children are under supervision at all times.

### **Special Policy Consideration**

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

### **Consultation**

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

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

17. North Yorkshire Police have mediated with the applicant who has agreed to 9 conditions being added to the licence if granted. These conditions are show at Annex 3
18. The Council's Environmental Protection Unit has mediated with the applicant who has agreed to 5 conditions being added to the licence if granted. These proposals are shown at Annex 4

### **Summary of Representations made by Parties other than Responsible Authorities**

19. One relevant representation has been received and a copy of this is attached at Annex 5.
20. A map showing the general area around the venue is attached at Annex 6.

### **Planning Issues**

21. There are no planning issues or conditions relevant to this application.

### **Options**

22. By virtue of s18 (4) of the Act, the Committee have the following options available to them in making their decision: -
23. Option 1: Grant the licence in the terms applied for.

24. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
25. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
26. Option 4: Reject the application.

### **Analysis**

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

### **Council Plan**

32. 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.
33. The promotion of the licensing objectives will support the Council's priorities to protect vulnerable people, build strong communities, and protect the environment.

### **Implications**

34.
  - **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**

35. 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.
36. 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**

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

**Contact Details**

**Author:**

Lesley Cooke  
Licensing Manager

Tel No. 01904 551515

**Chief Officer Responsible for the report:**

Steve Waddington  
Assistant Director  
Housing & Community Safety.

**Report  
Approved**



**Date** 22/08/2014

**Specialist Implications Officer(s)**

Head of Legal & Democratic Services  
Ext: 1004

**Wards Affected: Heworth**



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

**Background Papers:**

- Annex 1** - Copy of application form.
- Annex 2** – Copy of existing club certificate
- Annex 3** - Copy of proposed Police conditions.
- Annex 4** - Copy of Environmental Protection Unit conditions.
- Annex 5** - Copy of representation.
- Annex 6** - Map showing location of venue.
- Annex 7** - Mandatory Conditions.
- Annex 8** - Legislation and Policy Considerations.