



**Notice of a public meeting of
Gambling, Licensing & Regulatory Committee**

To: Councillors Boyce (Chair), Alexander, Crisp,
Cuthbertson, Funnell, Hyman, Horton, King, Looker,
McIlveen, Orrell, Richardson, Taylor, Watt and Watson

Date: Monday, 21 July 2014

Time: 4.00 pm

Venue: The George Hudson Board Room - 1st Floor West
Offices (F045)

AGENDA

1. 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.

2. Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of annex 4 of agenda item 5 and annexes 4 and 6 of agenda item 6 on the grounds that they contain information relating to individuals. This information is classed as exempt under Paragraph 2 of Schedule 12A to Section 100A of the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

3. Minutes

(Pages 1 - 4)

To approve and sign the minutes of the meeting held on 17th March 2014.

4. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is **5:00 pm on Friday 18th July 2014.**

Filming or Recording Meetings

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/downloads/download/3130/protocol_for_webcasting_filming_and_recording_of_council_meetings

5. Private Hire Vehicle Licence Conditions - (Pages 5 - 42) Licence Plate and Signage Exemptions.

This report asks Members to consider implementing an exemption policy with regards to the displaying of licence plates and signage on licensed private hire vehicle who exclusively undertake executive contract work.

6. Grant of Sex Establishment Licence in (Pages 43 - 108) respect of Tokyo York (First Floor), 3-5 Toft Green, York, YO1 6JT.

This report seeks Members determination of an application for the grant of a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments.

7. Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Laura Bootland

Contact Details:

- Telephone – (01904) 552062
- E-mail – laura.bootland@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 میا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

This page is intentionally left blank

City of York Council

Committee Minutes

Meeting	Gambling, Licensing & Regulatory Committee
Date	17 March 2014
Present	Councillors Boyce (Chair), Cuthbertson, Douglas, Funnell, Gillies (Vice-Chair), Hyman, Horton, King, Looker, McIlveen, Orrell, Richardson and Taylor
Apologies	Councillors Riches and Watt

PART A - MATTERS DEALT WITH UNDER DELEGATED POWERS.**14. 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.

Councillor King declared a personal non prejudicial interest in relation to agenda item 4 as the Fire Authority had been consulted on the Licensing Policy and he is a member of the North Yorkshire Fire and Rescue Authority.

15. Minutes

Resolved: That the minutes of the last two meetings held on 21st October 2013 and 27th January 2014 be approved and signed by the Chair as a correct record.

16. Public Participation

It was reported that there had been no registrations to speak under the Council's Public Participation Scheme.

17. A Consultation on Fees under the Licensing Act 2003.

Members considered a report which asked them to approve the licensing authorities response to the Home Office consultation on fees under the Licensing Act 2003.

The Licensing Manager outlined the report and advised that at present, the current fees charged by City of York Council in some cases, were not sufficient to recoup the administration costs associated with the processing of some applications and licences. The new fees as suggested by the Home Office were attached at paragraph 14 of the report.

In response to Members' questions, it was confirmed that the fees charged would need to be re-adjusted for subsequent years if they were found to be too much or too little.

Resolved: That Members approved Option 1 and approved the consultation response at annex 2 subject to any final amendments.

Reason: To provide an appropriate response to the Home Office.

18. The Licensing Act 2003 - (Mandatory Licensing Conditions) Order 2014.

Members considered a report which informed them of the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014 which came into force on 6th April 2014. The order relates to the banning of the sale of alcohol below the cost of duty plus VAT.

Officers outlined the report and advised that it's purpose was to make Members aware of the changes to mandatory conditions. The changes were being made to support the Governments Alcohol Strategy, of which one of the key points was 'The price level and mechanisms for a minimum unit price for alcohol'. The guidance forbids the sale of alcohol below the cost of duty plus VAT.

Members commented that the changes would particularly impact upon the off-sales trade. In response to Members questions, the Licensing Manager confirmed that she would be

writing out to all licensed premises after the 6th April 2014 to inform them of the changes.

Resolved: That Members noted the content of the report.

Reason: To keep Members of the Licensing Committee informed on changes to mandatory licence conditions.

19. Any other business which the Chair considers urgent under the Local Government Act 1972

Councillor Taylor requested an update on the issues surrounding McDonalds Restaurant, Blake Street, York following a Licensing Hearing in 2013 and a subsequent appeal on the decision which was not challenged by the Council.

The Licensing Manager confirmed that a number of meetings had taken place between McDonalds staff, the Police, residents and Council staff to try and resolve the anti-social behaviour issues. McDonalds had taken a number of measures including extending street cleaning, employing extra night marshals and attending residents meetings.

Councillor Looker also raised an issue. She suggested that staff from Children's Services might wish to attend a future meeting to highlight how Licensed Trades, particularly the Taxi Trade, can be useful in relation to the fight against Child Sexual Exploitation. The Licensing Manager agreed to speak to colleagues to bring this forward for a future meeting.

PART B - MATTERS REFERRED TO COUNCIL.

20. STATEMENT OF LICENSING POLICY - REVIEW OF THE SATURATION AND CUMULATIVE IMPACT ZONE.

Members considered a report which outlined the review of the council's Statement of Licensing Policy, advised of the consultation undertaken and sought Members support for the review of the special policy on saturation and cumulative impact for part of the city centre known as the Cumulative Impact Zone (CIZ).

The Licensing Manager reported that a number of small changes had been made to the policy to reflect changes in legislation, the most notable being the addition of public health information at page 10 highlighting the impact of alcohol on York.

North Yorkshire Police had also requested an update to the CIZ boundary to reflect changes in crime and disorder patterns. The CIZ would now include Back Swinegate, Goodramgate and Fossgate. The policy would also now cover off licences following an increase in the number of supermarkets and convenience stores opening in the city centre.

A Member pointed out that following a change in legislation the references to the 'Primary Care Trust' in the document were no longer relevant and that public health was now the responsibility of Local Authorities. The Licensing Manager agreed to amend the wording to reflect this change.

Members welcomed the changes to the CIZ and thanked Officers and North Yorkshire Police for the work on the document.

Resolved: That Council be recommended to adopt the Statement of Licensing Policy subject to the amendment outlined above.

Reason: To reflect the result of the consultation and meet legislative requirements.

Action Required

1. Make amendment to policy.

LC

Councillor Boyce, Chair

[The meeting started at 4.00 pm and finished at 5.25 pm].



Gambling, Licensing & Regulatory Committee 21st July 2014

Report from the Assistant Director – Housing and Community Safety

Private Hire Vehicle Licence Conditions – Licence Plate and Signage Exemptions

Summary

1. This report asks Members to consider implementing an exemption policy with regards to the displaying of licence plates and signage on licensed private hire vehicle who exclusively undertake executive contract work. There is provision within the Local Government (Miscellaneous Provisions) Act 1976 to introduce a policy of this nature.

Background

2. A number of conditions are currently imposed on all private hire vehicle licences, they relate to issues such as:
 - vehicle standards – condition of vehicle, MOT tests, inspection programmes, etc;
 - requirements of the proprietor – notification of accidents, documentation required for inspections, etc.
 - passenger safety/comfort - seating capacity requirements, light transmittance of windows, etc.

A full copy of vehicle licence conditions can be found at Annex 1.

3. Conditions are also in place that relate to the displaying of licence plates and signage, these conditions are as follows:
 - 1) The licensed vehicle shall display the following signs: -
 - a) The licence plates issued by the Council, which should be securely fixed to the front and rear of the vehicle so that they

are clearly visible. The licence plates will remain the property of the Council and must be returned to the Council immediately upon a change of vehicle or when requested upon the suspension, revocation or expiry of a vehicle licence. Temporary plates shall be affixed to the inside of the front screen and rear window providing they do not obscure the visibility of the driver.

- b) A sign on the rear passenger doors including the name and telephone number of the firm and the words "PRIVATE HIRE VEHICLE - PRE BOOKED ONLY" in suitable lettering 50mm high. The approval of the Council should be sought before the display of the sign. The sign must **not** include the words "FOR HIRE", "TAXI", or "HACKNEY CARRIAGE".
4. A number of licensed private hire vehicle proprietors have asked for an exemption in relation to the signage conditions as they believe they undertake executive contract work exclusively.
 5. City of York Council does not have a policy in relation to offering the facility to request an exemption from displaying of licence plates and signage. A proposed policy is attached at Annex 2. Other licensing authorities have similar policies in place.

Consultation

6. Officers prepared a draft policy, that can be found at Annex 3, and carried out a formal consultation, this ended on 30 May 2014. All private hire vehicle licence proprietors along with Hackney Carriage and Private Hire Associations were written to. The consultation and draft policy was available on the councils website.
7. 14 responses were received from the taxi and private hire trade. 9 respondents stated that they were fully in support of the introduction of a policy. 2 stated that they were against the policy. Some comments received were as follows:
 - How would the public know which vehicle is a taxi, with having no sign on the vehicle.
 - If certain taxis are exempt, can they still pick up the public, or would they be specific taxis (for executive hire) only?

- This policy affects my business, in the everyday running, and I agree that there should be a special exemption policy for operators in corporate and chauffeur type of work and where discretion is asked for by the customer.
 - Excellent proposal and one which would bring the City of York in line with London and other major cities throughout the UK who already have such a policy.
 - This could be a prelude to asking for tinted windows as many of the cars stated have tinted windows.
 - This could be easier for unregistered cars to pick up.
 - I consider that a small disc in the windscreen is not sufficient for this purpose and the driver having his badge in the glove box is also insufficient.
 - Many of my clients consider my operation as that of a Chauffeur business and as such, would prefer my vehicle to be “discreet”.
 - The best outcome from your meeting for us would be that we are allowed to compete for chauffeur work on a level playing field with other chauffeur companies in the Leeds, Harrogate, Selby and Teesside areas that already have a discreet style private hire plate or badge and are not required to display plates to the rear and front of their vehicle and rear door stickers.
8. Seven of the responses were from representatives of the private hire trade who believe they currently carry out executive work. They welcome the introduction of a policy and had the following comments on the content of the proposed policy:
- Don't understand the 5 year age policy when you consider how much these quality vehicles cost. A six/seven year old Bentley or Rolls Royce with 30,000 miles on the clock would cost minimum in excess of £50,000+ and an S Class Mercedes £30,000+ all of which would be in immaculate condition.
 - A 5 year age limit would be very restrictive to us as we usually buy a vehicle at 18 months to 2 years old and keep it for another

6 years. I feel a properly maintained and well kept Mercedes of an age of 8, if not 10, years is ample for any of the work we carry out. One of our vehicles is a 2003 model with a little over 60,000 miles on the clock, well capable of another 400,000 miles in the right hands and after all our aim is only for you to introduce a policy that exempts us from displaying plates, we are more than happy to follow all the other rules and regulations stipulated in a private hire licence.

- I would ask that consideration be given to this type of vehicle regarding rear window privacy glass. As vehicles of this type now leave the factory with privacy glass fitted as standard, it is extremely expensive to replace, also it is becoming more difficult to source for the above reason.
- The proposal that bookings for executive/chauffeur vehicles cannot be taken under 24 hours, please can you explain the reasoning behind this proposal? This is not practical as on a daily basis we receive emails from companies in the afternoons wanting to book our services for the following morning, therefore under this proposal we would not be able to service our clients' needs. Apart from the two points I have mentioned I think the policy is excellent and clearly defines the criteria which a vehicle wanting to be exempt from displaying plates and signage has to meet i.e. the type of vehicle which is to be used for executive/chauffeur work.

9. A copy of all responses can be found at confidential Annex 4.
10. Officers have considered these responses and amended the proposed policy removing the reference to vehicle age, and the reference regarding a minimum requirement of 24hr pre bookings for all jobs taken. Officers have not included any reference to the light transmittance of windows within this policy as conditions are already in place for all licensed vehicles regarding this matter.

Options

10. Option 1 – instruct officers to implement the new policy in relation to licence plate and signage exemption.
11. Option 2 – instruct officers to take no action.

Analysis

12. The issues around executive vehicles has the same business, legal and public safety principles as other areas of transport licensed by the City of York Council, with public safety being paramount. The only exemptions proposed within the draft policy that will be available to existing private hire vehicle licence conditions will be the displaying of licence plates and signage.
13. The distinction between the Operators of standard Private Hire Vehicles and the Operators of Executive Vehicles is significant in the terms of the type of clients catered for and the type of services offered. Applicants for plate and signage exemptions must be able to demonstrate that they only provide executive contract work.
14. Applicants for plate and signage exemption will write to the Licensing Manager formally requesting the exemption. If the Licensing Manager believes the work carried out by the applicant is exclusively executive contact work a written exemption certificate will be issued. A draft copy of the exemption certificate can be found at Annex 5.
15. As vehicles in receipt of the exemption will no longer have to display licence plates and signage, it will be a requirement of the exemption that an exemption certificate card will be displayed on the windscreen (inside lower nearside) adjacent to the tax disc. This certificate will be double sided stating the vehicle licence number, registration number, number of passengers and expiry date. A draft copy of the certificate card can be found at Annex 6.
16. It will also be a requirement of the exemption that:
 - (a) the exemption certificate must be kept in the vehicle at all times and will be produced on request by an authorised officer;
 - (b) the private hire vehicle licence plates will be carried in the boot at all times and will be produced on request by an authorised officer;
 - (c) the private hire operator door signage will be carried in the boot at all times and will be produced on request by an authorised officer; and
 - (d) the internal plate shall be displayed within the glove box lid.

17. An additional fee will be payable for exemption certificates, this will be £35.00.

Council Priorities

18. The provision of hackney carriage and private hire licensing supports the council priority 'Get York Moving'.

Implications

19.

(a) **Financial**

There are no financial implications. Fees are set on a cost recovery basis.

(b) **Human Resources (HR)**

There are no HR implications.

(c) **Equalities**

There are no equalities implications.

(d) **Legal**

There are no legal implications.

(e) **Crime and Disorder**

There are no crime and disorder implications.

(f) **Information Technology (IT)**

There are no IT implications.

(g) **Property**

There are no property implications.

(h) **Other**

There are no other implications.

Risk Management

20. There are no known risks associated with this report.

Recommendations

21. That Members approve Option 1 of this report.

Reason: This option will provide the council with a policy to allow the private hire trade, who exclusively undertake executive hire work, with the provision of applying for an exemption from the requirement to display licence plates and signage.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager 01904 551515	Steve Waddington Assistant Director – Housing and Community Safety 01904 554016		
	Report Approved	√	Date 9 th July 14
Specialist Implications Officer(s) Andy Docherty Head of Legal Services 01904 551004			
Wards Affected:		All	√
For further information please contact the author of the report			

Annexes

- Annex 1 - Private Hire Vehicle Licence Conditions
- Annex 2 - Proposed Private Hire Vehicle Licence Plate And Signage Exemption Policy
- Annex 3 - Draft Consultation Policy
- Annex 4 - Consultation responses (confidential).
- Annex 5 - Draft exemption certificate
- Annex 6 - Draft exemption certificate card.

This page is intentionally left blank

PRIVATE HIRE VEHICLE LICENCE CONDITIONS

- 1) The licensed vehicle shall display the following signs:
 - a) The licence plates issued by the Council, which should be securely fixed to the front and rear of the vehicle so that they are clearly visible. The licence plates will remain the property of the Council and must be returned to the Council immediately upon a change of vehicle or when requested upon the suspension, revocation or expiry of a vehicle licence. Temporary plates shall be affixed to the inside of the front screen and rear window providing they do not obscure the visibility of the driver.
 - b) A sign on the rear passenger doors including the name and telephone number of the firm and the words "PRIVATE HIRE VEHICLE - PRE BOOKED ONLY" in suitable lettering 50mm high. The approval of the Council should be sought before the display of the sign. The sign must **not** include the words "FOR HIRE", "TAXI", or "HACKNEY CARRIAGE".
 - c) A statement of fares and the means by which these are calculated placed in a prominent position inside the vehicle.
- 2) The licensed vehicle shall not display any other signs or notices except those detailed above or approved by the Council.
- 3) Every licensed proprietor shall:
 - a) provide means by which any passenger in the vehicle may communicate or talk with the driver
 - b) keep the roof or covering watertight
 - c) maintain the seats in a clean, secure and well maintained condition, properly cushioned and covered
 - d) cover the floor with a proper carpet, mats or other suitable covering and maintain in a clean and sound condition

- e) keep the furniture and fittings in a clean and fit condition and maintain all interior door coverings and head linings in a clean and sound condition
 - f) provide a fire extinguisher to comply with current standards
 - g) maintain in an operable condition all doors, hinges, handles, locks and windows
- 4) The licensed vehicle shall:
- a) be provided with at least two doors for the use of passengers conveyed in the vehicle together with a door for the driver (excluding tailgate)
 - b) be provided with any necessary windows and means of opening or closing not less than one window on either side
 - c) be fitted with effective means of heating and ventilation
 - d) be kept at all times in a good mechanical condition
 - e) comply with the requirements of any statute or of any vehicle test which the Council shall enforce
 - f) have a cubic capacity of not less than 1250 c.c. (engine) except for vehicles fitted with an engine rated with a Euro IV (or better) emission standard
 - g) not be fitted with bull bars or any other device on the front of the vehicle intended to supplement the resistance to impact offered by the vehicles standard bumper
- 5) The seating capacity of a licensed vehicle shall be determined as follows:
- a) where separate seats for each person are provided, one person shall be counted for each separate seat provided
 - b) where the vehicle is fitted with continuous seats, one person shall be counted for each completed length of 400mm measured in a straight line lengthwise over the centre of the seat. The centre of the seat shall be determined as half the distance from the forwardmost point of the front edge of the seat to the rear edge of the seat. Where the seat is fitted with arms for the purpose of

separating the seating spaces and such arms are so constructed that they can be folded back or otherwise put out of use, such seat shall be measured as if it were not fitted with such arms

- c) All licensed vehicles shall comply with the following minimum standard of internal space:
 - i) the distance from the rear seat-back to the rearmost part of the seat in front of that seat or other partition shall not be less than 610mm when the seat in front is in its rearmost position without modification
- d) In addition, licensed vehicles with a third row of seats must also comply with the following minimum standard of internal space:
 - i) the distance from the seat-back of the third row of seats to the rearmost part of the seat in front shall be not less than 610mm when the seat in front is in its rearmost position without modification
 - ii) where there is no door adjacent to a row of seats, no passenger must have to pass through a gap of less than 280mm at the narrowest point in order to exit the vehicle via the rear side door
 - iii) the middle row of seats must have at least one seat capable of adequately tilting to provide a safe exit route for passengers and meet the necessary exit dimension of 280mm, at the narrowest point, at the exit door
- e) All licensed vehicles with a row of passenger seats without adjacent side doors must provide the following:
 - i) means of operating signs which must provide clear instructions to operate the tilting mechanism with letters of no less than 25mm in height
 - ii) adequate lighting that illuminates the sign, catches and levers to operate the tilting mechanism
 - iii) the sign, catches and levers must be clearly visible.
- 6) The licensed vehicle must be of a suitable type and be in good condition. The vehicle must be maintained in such a condition as would satisfy the

current M.O.T. vehicle safety and exhaust emission standards as prescribed by the Department for Transport.

- 7) The licensed vehicle shall not be a licensed hackney carriage or private hire vehicle of any other Council.
- 8) If the licensed vehicle is fitted with a taximeter, the Council's Byelaws will apply, in particular:
 - a) the taximeter shall be so placed that all letters and figures on the face thereof are at all times plainly visible to any person being conveyed in the vehicle and for that purpose the letters and figures shall be capable of being suitably illuminated during the period of hiring
 - b) The operator, owner or driver of a private hire vehicle shall not tamper or permit any person to tamper with the taximeter fitted to the vehicle, with the fittings thereof or with the seals affixed thereto, provided this shall not prevent the taximeter being removed from the vehicle to a place of safety when the private hire vehicle is not in use.
 - c) Unless the hirer wishes to engage by time, the taximeter shall be activated at the commencement of hiring and shut down immediately on completion of the hiring but the amount of fare recorded shall remain displayed to allow the hirer a reasonable opportunity to examine it.
- 9) No taximeter shall be used unless it has first been tested and approved by the Council. Arrangements must be made with the Council to re-test the taximeter upon a change in the scale of fares.
- 10) The licensed proprietor shall immediately notify the Council of the name and address of any other proprietor or person concerned in the keeping, employing or letting for hire of the licensed vehicle.
- 11) Upon a change of proprietor, the Council shall be notified within 14 days of such change by the licensed proprietor (which expression includes both Companies and Partnerships).
- 12) The Council's Taxi Licensing Officer shall be notified within 72 hours of the following:-

- a) any accident or incident affecting the safety, performance or appearance of the licensed vehicle or the comfort or convenience of passengers
 - b) any alteration in the design or construction of the vehicle
- 13) The licensed proprietor of a private hire vehicle shall permit the inspection of all documents relating to the licensed vehicle at all reasonable times and by prior arrangement by the Officers of the Council.
- 14) Only one two way radio may be operational at any one time and this shall be an approved radio used exclusively for the hackney carriage or private hire trade and properly licensed. The radio shall be securely fixed to the vehicle.
- 15) Licensed vehicles exceeding five years old on the day of licensing (calculated from the date of first registration), will be subject to two vehicle inspections in any 12 month period. One inspection shall be the initial grant or annual inspection conducted by the Council, the second inspection will take place approximately six months from the date of the initial grant or annual inspection at a date determined by the Council and can be completed by:
- a) presenting the vehicle for inspection by the Council's vehicle examiner within a time scale determined by the Council
- or
- b) successfully completing a M.O.T. test within a time scale determined by the Council
- 16) Seatbelts must be available for each passenger that the vehicle is licensed to carry. Exemption will be granted where the proprietor can prove to the satisfaction of the Taxi Licensing Officer that it is technically impossible to provide a seat belt to comply with type approval.
- 17) Licensed vehicles must display a sign or signs in a prominent position visible to all passengers (whether seated in the front or rear seats of the vehicle) reminding them of their legal requirement to wear a seatbelt.

- 18) Licensed vehicles must display a sign supplied by the Council inside the vehicle in a visible position to passengers, displaying the Council's details and the plate number of the vehicle. The sign will remain the property of the Council and must be returned to the Council when requested upon the suspension, revocation or expiry of a vehicle licence.
- 19)
 - i) All licensed vehicles shall be fitted with windscreen glass that has a light transmittance of 75% and
 - ii) All other window glass shall have a light transmittance of not less than 70% except those parts of the rear window or any side windows adjacent to the luggage space in any estate-type vehicle which can be of any manufacturer's tint providing it is not opaque.
 - iii) Any self applied material shall satisfy the requirements of i) and ii) above if it has been approved by the Council.
 - iv) Neither i), ii) or iii) above shall apply to tinted glass fitted by the manufacturer in respect to vehicles currently licensed by this Council.
- 20) Every licensed proprietor shall provide means of carrying and securing luggage and in the case of any vehicle without a secure boot so as not to exceed the height of the rear seat.
- 21) The licensed vehicle shall have a luggage space, separate from the passenger compartment, which is capable of holding, at a minimum, two suitcases (a large one measuring 720mm x 460mm x 280mm and a medium one measuring 660mm x 430mm x 280mm) and a folded wheelchair (not at the same time). This condition shall not apply to vehicles already licensed by the Council.
- 22) The licensed vehicle shall not be equipped with any CCTV system unless approved by the Council.
- 23) Where the licensed vehicle is so constructed or adapted as to be a wheelchair accessible vehicle it shall only be driven by a licensed driver who has:
 - a) Completed and passed the Driving Standards Agency wheelchair exercise or equivalent, and

- b) Completed and passed the City of York Council Disability Awareness Training Course (Taxi) or equivalent.

For the purpose of applying condition no. 19 (tinted windows), an estate car will be defined as:

- a) A vehicle with a long body and extended roofline which gives increased luggage capacity in the area behind the rear seats and is accessed from the rear, **and**
- b) is described as an estate car on the vehicle registration document.

The policy was set by the Licensing and Regulatory Committee on 3rd July 2009.

This page is intentionally left blank



**PRIVATE HIRE VEHICLE LICENCE PLATE AND SIGNAGE
EXEMPTION POLICY**

1. The issues around the operating of a business involving executive vehicles has the same business, legal and public safety principles as other areas of transport licensed by the City of York Council, with public safety being paramount.
2. The Council recognises the very distinct role of executive vehicles in the arena of public transport. The distinction between the operator of standard private hire vehicles and the operator of executive vehicles is significant in terms of the type of client catered for and the type of service offered.
3. This policy set outs the requirements of the council with regards to the operators of private hire vehicles who wish to apply for or already hold an exemption with regards to the displaying of licence plates and signage.
4. Operators who wish to use their vehicle for executive contract hire work ONLY (the booking of a high standard vehicle by private individuals for transportation to special events, celebrations or nights out is considered to be regular private hire work, not executive contract hire work), can apply to licence their vehicle as private hire and write to the Licensing Manager requesting an exemption from the requirements of having to display the front and rear licence plates and the door signage (operator side plates).
5. An exemption from displaying licence plates and signage is a privilege rather than a right and the benefit of the exemption will be granted at the

Proposed Policy

Council's discretion. The Council has the power to withdraw the exemption if the related conditions are not adhered to.

6. The Licensing Manager will consider each application on its own merit.
7. The vehicle type is not specified, however due to the nature of the work it will undertake it is recommended that the vehicle will be:
 - (a) 4 door saloon or people carrier;
 - (b) be right hand drive; and
 - (c) an engine size above 2000cc:
 - (d) The following types of vehicles would be considered appropriate for executive use (this list is not exhaustive and other vehicles would be considered):
 - Rolls Royce
 - Mercedes S class and E class
 - Jaguar XJ SWB and LWB,
 - BMW 5 series upwards
 - Audi A5 or above
 - Lexus GS and LS
 - Ford Galaxy or similar
8. The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim.
9. The service provided must only be for executives and other VIP's, weddings, tours etc. An executive is a senior manager in an organisation travelling as part of his/her employment.
10. If the vehicle is approved it will be issued with a City of York Council Vehicle Exemption Certificate at a cost of £35.00.

Proposed Policy

11. The following conditions will form part of the exemption and must be adhered to at all times:

- (a) The vehicle will not be engaged at all in any specific passenger service contracts for the carriage of school children, young persons or vulnerable adults.
- (b) The vehicle will operate only in accordance with contracts entered into for a chauffeur type executive level of service. This does not include normal airport journeys and private hire work.
- (c) The driver must follow a formal dress code, suit, collared shirt and tie. The suit jacket may be removed in warmer weather. Female drivers must follow an equivalent dress code but will not be required to wear a tie.
- (d) The driver will be exempt from the requirement to wear the private hire driver's badge issued by City of York Council whilst acting as driver of the vehicle. The private hire driver's badge shall be carried on the driver's person at all times and be produced for inspection at the request of any authorised person.
- (e) It is recommended that all bookings undertaken by the vehicle shall be by means of a written contract between the Private Hire Operator and the business user.
- (f) No advertising or identification (including company logos) may be displayed on or in the vehicle at any time.
- (g) The council's exemption certificate card will be displayed on the inside lower nearside of the front windscreen, adjacent to the tax disc.
- (h) The council's exemption certificate will be carried in the vehicle at all times and will be produced on request by an authorised officer.
- (i) The front and rear licence plates will be carried in the boot at all times and must be produced on request to an authorised officer.

Proposed Policy

- (j) The private hire operator's door signage (side plates) will be carried in the boot at all times and must be produced on request to an authorised officer.
- (k) The internal plate issued by City of York Council shall be displayed within the glove box lid.
- (l) No taximeter or PDU type unit will be displayed within the vehicle.
- (m) All fares will be agreed in advance with the hirer and paid after the issue of an invoice from the operator.
- (n) The driver will not take money at the end of the hire.
- (o) Notable of fares shall be carried within the vehicle at all times and will be produced on request by the hirer or authorised officer on request.



**PRIVATE HIRE VEHICLE LICENCE PLATE AND SIGNAGE
EXEMPTION POLICY**

1. The issues around the operating of a business involving executive vehicles has the same business, legal and public safety principles as other areas of transport licensed by the City of York Council, with public safety being paramount.
2. The Council recognises the very distinct role of executive vehicles in the arena of public transport. The distinction between the operator of standard private hire vehicles and the operator of executive vehicles is significant in terms of the type of client catered for and the type of service offered.
3. This policy set outs the requirements of the council with regards to the operators of private hire vehicles who wish to apply for or already hold an exemption with regards to the displaying of licence plates and signage.
4. Operators who wish to use their vehicle for executive contract hire work ONLY (the booking of a high standard vehicle by private individuals for transportation to special events, celebrations or nights out is considered to be regular private hire work, not executive contract hire work), can apply to licence their vehicle as private hire and write to the Licensing Manager requesting an exemption from the requirements of having to display the front and rear licence plates and the door signage (operator side plates).
5. An exemption from displaying licence plates and signage is a privilege rather than a right and the benefit of the exemption will be granted at the

Draft consultation policy

Council's discretion. The Council has the power to withdraw the exemption if the related conditions are not adhered to.

6. The Licensing Manager will consider each application on its own merit.
7. The vehicle type is not specified, however due to the nature of the work it will undertake it is recommended that the vehicle will be:
 - (a) 4 door saloon or people carrier;
 - (b) no more than five years old at date of grant of the exemption;
 - (c) be right hand drive; and
 - (d) an engine size above 2000cc:
 - (e) The following types of vehicles would be considered appropriate for executive use (this list is not exhaustive and other vehicles would be considered):
 - Rolls Royce
 - Mercedes S class and E class
 - Jaguar XJ SWB and LWB,
 - BMW 5 series upwards
 - Audi A5 or above
 - Lexus GS and LS
 - Ford Galaxy or similar
8. The vehicle will be in immaculate condition with no visible defects, dents or blemishes to the external bodywork or internal trim.
9. The service provided must only be for executives and other VIP's, weddings, tours etc. An executive is a senior manager in an organisation travelling as part of his/her employment.
10. If the vehicle is approved it will be issued with a City of York Council Vehicle Exemption Certificate at a cost of £35.00.

Draft consultation policy

11. The following conditions will form part of the exemption and must be adhered to at all times:

- (a) The vehicle will not be engaged at all in any specific passenger service contracts for the carriage of school children, young persons or vulnerable adults.
- (b) The vehicle will operate only in accordance with contracts entered into for a chauffeur type executive level of service. This does not include normal airport journeys and private hire work.
- (c) The driver must follow a formal dress code, suit, collared shirt and tie. The suit jacket may be removed in warmer weather. Female drivers must follow an equivalent dress code but will not be required to wear a tie.
- (d) The driver will be exempt from the requirement to wear the private hire driver's badge issued by City of York Council whilst acting as driver of the vehicle. The private hire driver's badge shall be carried on the driver's person at all times and be produced for inspection at the request of any authorised person.
- (e) The minimum requirement of 24 hours pre booking for all jobs taken.
- (f) All bookings undertaken by the vehicle shall be by means of a written contract between the Private Hire Operator and the business user.
- (g) No advertising or identification (including company logos) may be displayed on or in the vehicle at any time.
- (h) The council's exemption certificate card will be displayed on the inside lower nearside of the front windscreen, adjacent to the tax disc.
- (i) The council's exemption certificate will be carried in the vehicle at all times and will be produced on request by an authorised officer.
- (j) The front and rear licence plates will be carried in the boot at all times and must be produced on request to an authorised officer.

Draft consultation policy

- (k) The private hire operator's door signage (side plates) will be carried in the boot at all times and must be produced on request to an authorised officer.
- (l) The internal plate issued by City of York Council shall be displayed within the glove box lid.
- (m) No taximeter or PDU type unit will be displayed within the vehicle.
- (n) All fares will be agreed in advance with the hirer and paid after the issue of an invoice from the operator.
- (o) The driver will not take money at the end of the hire.
- (p) Notable of fares shall be carried within the vehicle at all times and will be produced on request by the hirer or authorised officer on request.

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

Document is Restricted

This page is intentionally left blank

DRAFT



**PRIVATE HIRE VEHICLE LICENCE
EXEMPTION CERTIFICATE**

City of York Council confirm that this vehicle is a licensed Private Hire Vehicle.

Licence Number:

Registration Number:

This vehicle is exempt for the requirement to display:

- front and rear licence plates
- signage (operator's side plates)

This exemption may be suspended or revoked if the conditions affixed to this exemption are not adhered to.

This exemption expires on:

Dated:

Sign:

Conditions

1. The vehicle will not be engaged at all in any specific passenger service contracts for the carriage of school children, young persons or vulnerable adults.
2. The vehicle will operate only in accordance with contracts entered into for a chauffeur type executive level of service. This does not include normal airport journeys and private hire work.
3. The driver must follow a formal dress code, suit, collared shirt and tie. The suit jacket may be removed in warmer weather. Female drivers must follow an equivalent dress code but will not be required to wear a tie.
4. The driver will be exempt from the requirement to wear the private hire driver's badge issued by City of York Council whilst acting as driver of the vehicle. The private hire driver's badge shall be carried on the driver's person at all times and be produced for inspection at the request of any authorised person.
5. The minimum requirement of 24 hours pre booking for all jobs taken.
6. All bookings undertaken by the vehicle shall be by means of a written contract between the Private Hire Operator and the business user.
7. No advertising or identification (including company logos) may be displayed on or in the vehicle at any time.
8. The council's exemption certificate card will be displayed on the inside lower nearside of the front windscreen, adjacent to the tax disc.
9. The council's exemption certificate will be carried in the vehicle at all times and will be produced on request by an authorised officer.
10. The front and rear licence plates will be carried in the boot at all times and must be produced on request to an authorised officer.
11. The private hire operator's door signage (side plates) will be carried in the boot at all times and must be produced on request to an authorised officer.
12. The internal plate issued by City of York Council shall be displayed within the glove box lid.
13. No taximeter or PDU type unit will be displayed within the vehicle.
14. All fares will be agreed in advance with the hirer and paid after the issue of an invoice from the operator.
15. The driver will not take money at the end of the hire.
16. Notable of fares shall be carried within the vehicle at all times and will be produced on request by the hirer or authorised officer on request.

DRAFT



CITY OF
YORK
COUNCIL

Exemption Certificate

Vehicle Licence Number: 567

Vehicle Registration Number: AB12CBE

Licensed to carry persons

Expiry date: 31 November 2016

This page is intentionally left blank

	
Meeting of Gambling, Licensing & Regulatory Committee	21 July 2014
Report of the Assistant Director – Housing & Community Safety	

**Local Government (Miscellaneous Provisions) Act 1982
Schedule 3 as amended by Policing and Crime Act 2009**

**Grant of Sex Establishment Licence for Tokyo York (First Floor), 3-5
Toft Green, York, YO1 6JT**

Summary

1. This report seeks Members determination of an application for the grant of a Sex Establishment Licence for a sexual entertainment venue which has been made under the Local Government (Miscellaneous Provisions) Act 1982, Schedule 3 Control of Sex Establishments in respect of Tokyo York (First Floor only), 3-4 Toft Green, York, YO1 6JT.
2. Name of applicant: Aaron Mellor
3. Summary of Application: A copy of the application is attached at Annex 1 of this report and is summarised as follows: This is an application for the grant of a Sex Establishment Licence to authorise hours of opening Monday to Sunday 21:00hrs to 03:30hrs, and 18:00hrs to 04:30hrs on York Race Days only.
4. A copy of the proposed plans of the premises is attached at Annex 2.
5. The premise currently has a premises licence issued under the Licensing Act 2003. A copy of the premises licence is attached at Annex 3 and is summarised as follows:

Licensable Activity	Current Days & Hours
Films	Monday to Sunday 11:00 – 03:30
Boxing or Wrestling	Monday to Sunday 11:00 – 02:00
Live Music	Monday to Sunday 11:00 – 03:30
Recorded Music	Monday to Sunday 11:00 – 03:45
Performance of Dance	Monday to Sunday 11:00 – 03:30
Late Night Refreshment	Monday to Sunday 23:00 – 03:45
Supply of Alcohol (On sales only)	Monday to Sunday 11:00 – 03:30
Opening Hours	Monday to Sunday 11:00 – 04:00
Non Standard Timings for all activities	From the end of permitted hours on New Year's Eve until the start of permitted hours New Year's Day. An additional hour on the day British Summertime commences.

Background

6. On 6 April 2010, section 27 of the Policing and Crime Act 2009 was introduced. This legislation reclassified lap dancing clubs and other similar venues as 'sexual entertainment venues'; a sex establishment under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. This allowed Local Authorities who adopted the provisions of the legislation to regulate lap dancing clubs and similar venues under the same regime as sex shops.
7. Sexual entertainment venues are defined as 'any premises at which relevant entertainment is provided for a live audience for the financial gain of the organiser or the entertainer'. The meaning of relevant entertainment is 'any live performance or any live display of nudity which is of such a nature that, ignoring financial gain, it must be reasonably assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means)'.
8. This Authority adopted the provisions of the legislation on 7 October 2010 when the resolution was approved by full council. A copy of City of York Council's Policy for the Determination of Applications for Sexual Entertainment Venues is attached at Annex 9.
9. A copy of the Standard Conditions Applicable to Licences Issued to Sex Establishments which were approved by full Council is attached at Annex 10.

Consultation

10. Consultation was carried out by the applicant and the Licensing Authority in accordance with paragraph 10 of Schedule 3 of the 1982 Act relating to the process which the applicant must follow for the application to be considered valid.
11. As a result of the consultation eleven objections have been received: four represent three local businesses. Two objections from the management of the Hilton Hotel on Toft Green, are concerned that existing noise issues and anti-social behaviour attributed to Tokyo's will increase if the Sex Establishment Licence is granted. They are concerned that the hotel will become known as 'a hotel opposite a Sexual Entertainment Venue' and this will have a negative impact on the hotel's family friendly reputation; many of the family rooms face onto the venue. They also felt that it would have a negative impact on York as a tourist destination.
12. One objection was received from Safestay Tourist Hostel, 88-90 Micklegate. These premises back directly onto Tokyo which overlooks the rear of the hostel. Users of the hostel are UK and foreign tourists, school groups and teenagers. The objector is concerned that 'parents place their children and adults bring their families into the safe custody of the [hostel's] facilities in the full expectation that the premises live up to their name and destination'. It is felt the grant of the licence 'jeopardises the status quo and will generally bring the area into disrepute'.
13. One objection was received from a local residential business located within the vicinity of Tokyo. The clients of this business include families with young children. The objector claims that complaints from guests concerning noise issues and anti-social behaviour relating to Tokyo have 'increased dramatically in recent months'. The nature of the complaints include music from the venue, 'sound of brawling, vomiting, shouting, smashing bottles, and even committing lewd acts'. The objector is concerned that these incidents will increase if the licence is granted. They are also concerned for the safety of children who stay in their establishment.
14. Five objections were received from individual representatives of York Feminist Network (these letters were identical); and two objections from local residents (these two letters were identical to the letters received from York Feminist Network excluding the final paragraph). The Network objects to the grant of the licence on the following grounds;

- Tokyo is located near to premises of 'sensitive use'. Within less than half a mile of Tokyo there are a number of places of worship, schools, nurseries, community centres, women's refuges, vulnerable groups' services and residential properties.
 - Given the existence of a lap-dancing establishment nearby in Micklegate, it would not be appropriate to allow another such venue to operate within close proximity.
 - Sexual Entertainment Venues impact negatively on the character and reputation of York as a city of culture and tourism.
 - Sexual Entertainment Venues promote unfair and unequal working practices which do not act in the best interests of the performers.
15. The list of objectors is attached at Annex 4 (Confidential).
16. Details identifying the objectors have been redacted from the letters of objection where express permission was not given to the licensing authority to disclose personal details. Copies of these objections are attached at Annex 5.
17. Schedule 3, paragraph 10(17) of the 1982 Act (as amended) states "The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant."
18. A map showing the location of Tokyo in relation to the objections from businesses is attached at Annex 6 (Confidential).
19. A map showing the 'sensitive' properties within the vicinity of Tokyo, referred to in the objections received from York Feminist Network is attached at Annex 7. A key to this map is attached at Annex 8.

Other Relevant Information

20. There are no planning implications in relation to this application.

Options

21. By virtue of paragraphs 10, 12 and 13 of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended), the Committee have the following options available to them in making their decision:

22. Option 1: Grant the licence.
23. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
24. Option 3: Refuse the application.

Analysis

25. The following could be the result of any decision made by this Committee:
26. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application. The only route to challenge the decision is by way of Judicial Review in the High Court.
27. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
28. Option 3: This decision could be appealed at Magistrates Court by the licence applicant.

Council Plan

29. The approved City of York Council Standard Conditions Applicable to Licences issued to Sex Establishments will support the Council's priority to protect vulnerable people and create jobs and grow the economy.

Implications

30. The implications arising from this report are:
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – Dependant upon the option agreed, the decision could be appealed through either Judicial Review in the High Court or Magistrates Court by the applicant.
 - **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

31. All Members are aware that any decision which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
32. 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

33. Members determine the application for the grant of the licence in accordance with the Local Government (Miscellaneous Provisions) Act 1982 Schedule 3 as amended by the Policing and Crime Act 2009.

Reason: To address the objections received as required by the legislation.

Contact Details

Author:	Chief Officer Responsible for the report:		
Lesley Cooke Licensing Manager Ext 1515	Steve Waddington Assistant Director - Housing & Community Safety Ext 4016		
	Report Approved	√	Date 9 th July 2014

Wards Affected: Micklegate

Annexes

- Annex 1** - Copy of application
- Annex 2** - Copy of plan of premises
- Annex 3** - Copy of Premises Licence issued under the Licensing Act 2003
- Annex 4** - List of objectors (**Confidential**)
- Annex 5** - Copy of objections received (redacted)
- Annex 6** - Map showing addresses of Business Objectors in relation to Tokyo (**Confidential**)
- Annex 7** - Map of 'sensitive' premises in relation to Tokyo
- Annex 8** - Key to Annex 7

Background Papers

- Annex 9** - Copy of CYC Policy for the Determination of Applications for Sexual Entertainment Venues
- Annex 10** - Copy of Standard Conditions Applicable to Licences issued to Sex Establishments
- Annex 11** - Legislation and Policy Considerations

This page is intentionally left blank

MAY 23 4 01



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

ANNEX 1
RECEIVED
06 MAY 2014

SCHEDULE 3 - CONTROL OF SEX ESTABLISHMENTS

**Application for the Grant / Renewal / Transfer of a Sex Establishment Licence
Sexual Entertainment Venues**

Please complete this application form in ink and block capitals.

Type of application	Grant	<input checked="" type="checkbox"/>	Renewal	<input type="checkbox"/>	Transfer	<input type="checkbox"/>
---------------------	-------	-------------------------------------	---------	--------------------------	----------	--------------------------

1. If application is made on behalf of an individual please state:

Full Name		AARON MCHUR			
Permanent address					
Age		Date of birth		Place of birth	

2. Give full names and private addresses of all directors or other persons responsible for management of the establishment:

Name		DAMIAN CONWAY			
Address					
Age		Date of birth		Place of birth	

Name		OTHERS TO BE CONFIRMED PRIOR TO VENUE OPENING			
Address					
Age		Date of birth		Place of birth	

Name					
Address					
Age		Date of birth		Place of birth	

Name					
Address					
Age		Date of birth		Place of birth	

3. Have you any convictions recorded against you? Or if a body corporate or unincorporated body that body or any of its directors or other persons responsible for its management? If so please state:

Date of Conviction	Offence	Sentence (including suspended sentence)

- (a) All convictions must be disclosed
- (b) Spent convictions, as defined below, should not be included

Sentence	Becomes spent after
Imprisonment of between 6 months and 30 months	10 years
Imprisonment of up to 6 months	7 years
Borstal training	7 years
A fine or other sentence not otherwise covered in this table	5 years
Absolute discharge	6 months
Probation order, conditional discharge or bind over	1 year (or until order expires, whichever is longer)
Detention Centre Order	3 years
Remand home, attendance centre or approved school order	The period of the order and a further year after the order expires
Hospital order under the Mental Health Act	The period of the order and a further 2 years after it expires
Cashiering, discharge with ignominy or dismissal with disgrace from the Armed Forces	10 years
Dismissal from Armed Forces	7 years
Detention	5 years

Note

- (i) A sentence of more than 2½ years imprisonment can never become spent.
- (ii) If you were under 17 years of age on the date of conviction, please halve the period shown in the right-hand column.

4. Have you been resident in the United Kingdom throughout a period of six months immediately preceding the date of this application? YES / ~~NO~~

5. If the application is made on behalf of a body corporate is that body incorporated in the United Kingdom? YES / ~~NO~~

6. Full name and address of premise desired to be used as a sex establishment:

Name	TOP 10 - YORK
Address	FIRST FLOOR, 35 TOFT GREEN, YORK, YO1 6JT

If this application relates to a vehicle/vessel/stall give description and state where it is to be used as a sex establishment:

N/A

7. On which days and hours do you wish to trade:

Monday	0900-0300	Tuesday	0900-0300	Wednesday	00	Thursday	
Friday	0900-0300	Saturday	0900-0300	Sunday			

2100 HRS TO 0300 HRS DAILY + ON DAYS WHEN RACING IS TAKING PLACE AT YORK RACECOURSE FROM 1800 HRS TO 0300 HRS DAILY.

- 8. Are the premises licensed under the Licensing Act 2003? YES / NO
- 9. Are you (or, if a corporate or unincorporated body, that body) disqualified from holding a licence for a sex establishment? YES / NO
- 10. Have you ever been refused a licence for a sex establishment? YES / NO

If yes please give details

11. In the case of a transfer:

Name of Existing Licensee _____ being the existing licensee of the within named premises hereby consent to the transfer of licence to _____

Signature _____ (AARON MELLOR) Date 2/5/14

I declare that I have checked the information given on this application form and to the best of my knowledge and belief it is correct, and that:

- (a) The fee is enclosed.
- (b) A copy of the application has been served on North Yorkshire Police, Headquarters, Fulford Road, York, YO10 4BY.
- (c) A notice publicising this application will be displayed for 21 days beginning with the date of the application on or near the premises and in a place where it can conveniently be read by the public.
- (d) Notice of the application will be given by publishing an advertisement in a local newspaper circulating in the local area. The publication of the notice shall not be later than seven days after the date of application.

Please provide contact details for correspondence associated with this application:

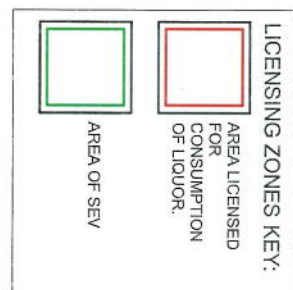
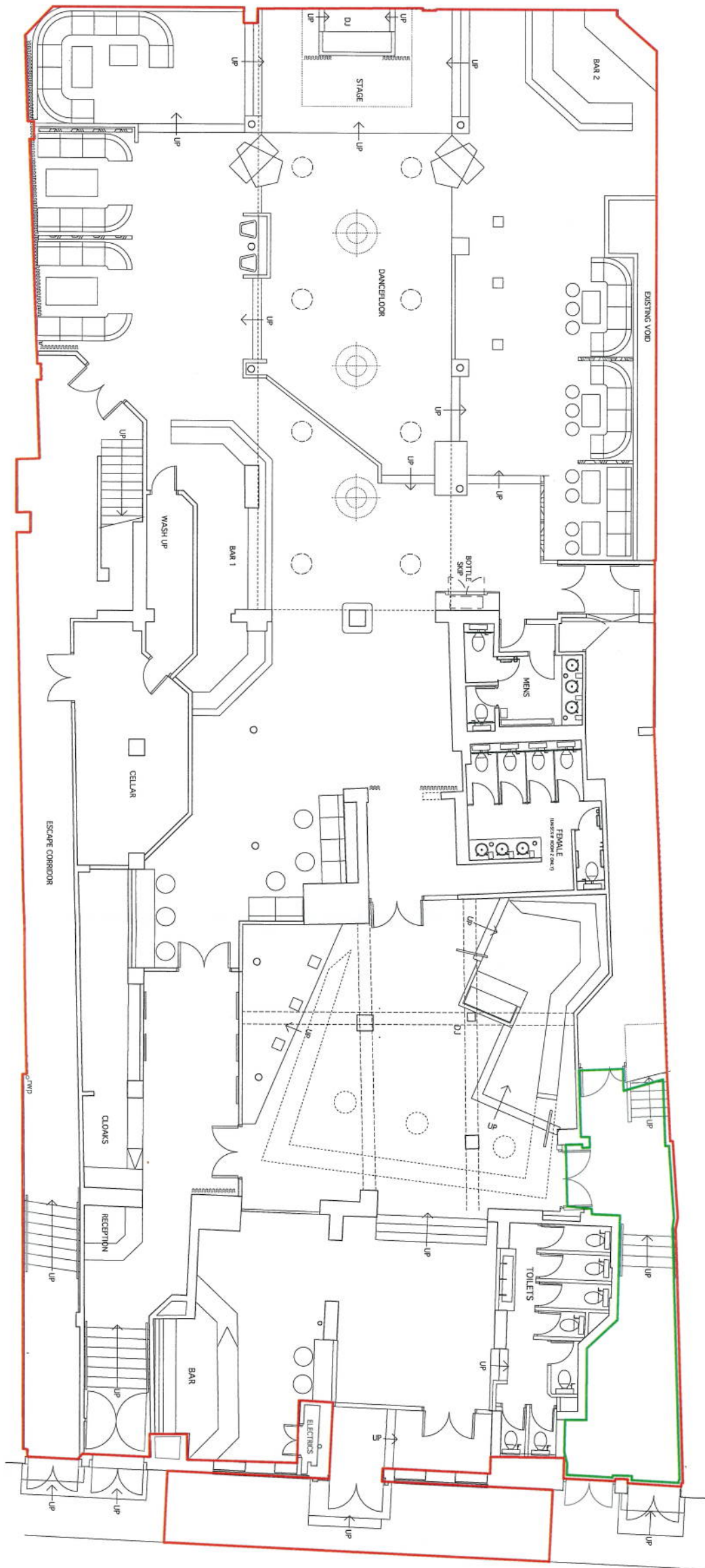
Name	SARAH SMITH
Address	SINTONS SOUTHOLES, THE CURB, BARRACK ROAD, NEWCASTLE UPON TYNE, NE4 0DB.
Contact Number / Email	

Signed _____ (AARON MELLOR) Date 2/5/14

when completed this form should be returned to:
City of York Council
Licensing Services,
Hazel Court EcoDepot,
James Street York, YO10 3DS

This page is intentionally left blank

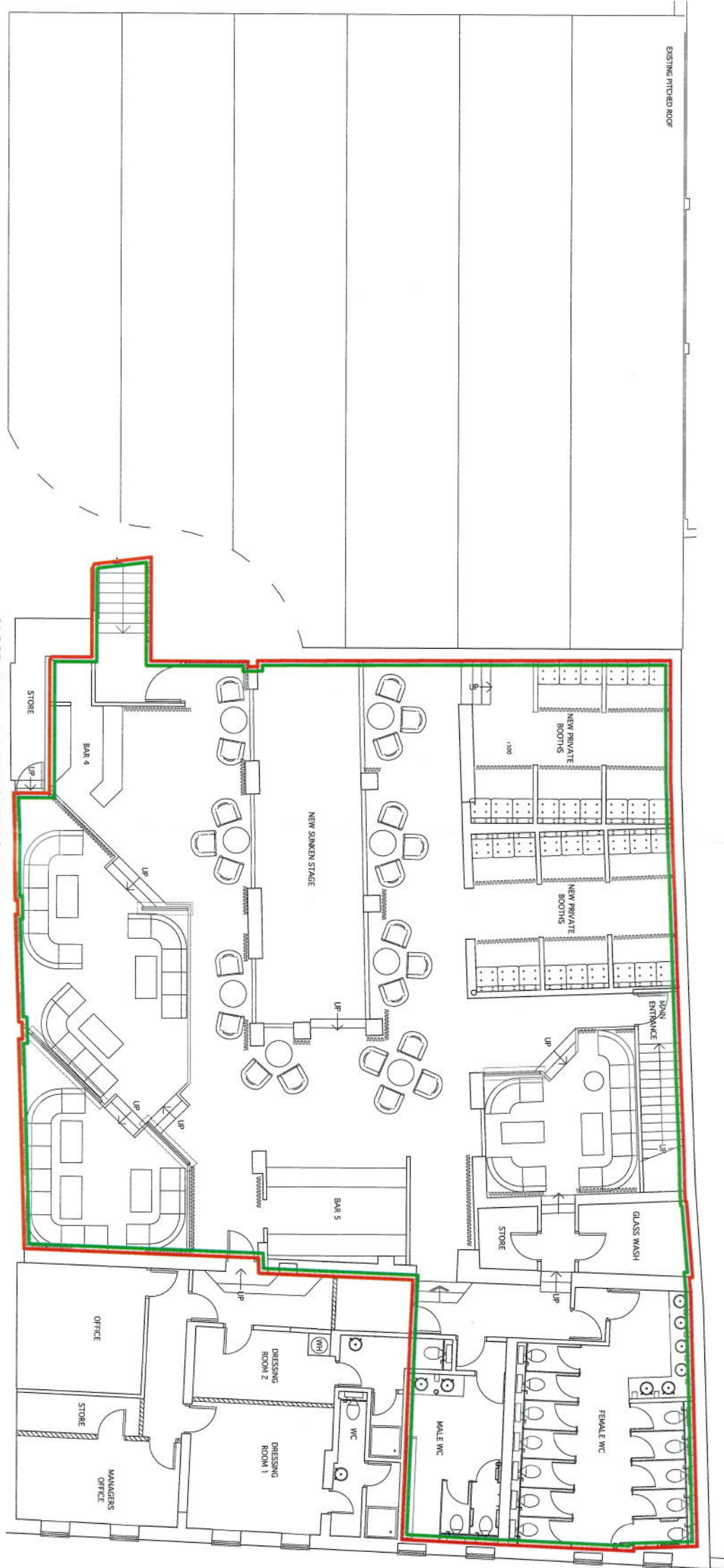
RECEIVED
06 MAY 2014



JULIAN

Architectural Services



301
 2000 BROADWAY
 Suite 1000
 New York, NY 10002
 Tel: 212 512 1000
 Fax: 212 512 1001
 Email: info@julianarch.com



GROSS AREA = 470 SQM (5057.2 SQFT)

RECEIVED
06 MAY 2014

LICENSING ZONES KEY:

	AREA LICENSED FOR CONSUMPTION OF LIQUOR.
	AREA OF SEV

JULIAN
THE
ARCHITECTS

235/237
Licensing Zone 17
235/237
17th Fl
17th Fl

235/237
Licensing Zone 17
235/237
17th Fl
17th Fl



LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Part 1 Premises details

Premises licence number
CYC - 009396

Postal address of premises:

3-5 Toft Green

Post town: **York**

Post code: **YO1 6JT**

Telephone number: 01904 620203

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Films
Boxing or Wrestling
Live Music
Recorded Music
Performances of Dance
Late Night Refreshment
Supply of Alcohol

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

FILMS

Indoors

Monday 11:00 - 03:30	Tuesday 11:00 - 03:30	Wednesday 11:00 - 03:30	Thursday 11:00 - 03:30
Friday 11:00 - 03:30	Saturday 11:00 - 03:30	Sunday 11:00 - 03:30	

BOXING OR WRESTLING

Indoors

Monday 11:00 - 02:00	Tuesday 11:00 - 02:00	Wednesday 11:00 - 02:00	Thursday 11:00 - 02:00
Friday 11:00 - 02:00	Saturday 11:00 - 02:00	Sunday 11:00 - 02:00	

LIVE MUSIC

Indoors

Monday 11:00 - 03:30	Tuesday 11:00 - 03:30	Wednesday 11:00 - 03:30	Thursday 11:00 - 03:30
Friday 11:00 - 03:30	Saturday 11:00 - 03:30	Sunday 11:00 - 03:30	

RECORDED MUSIC

Indoors

Monday 11:00 - 03:45	Tuesday 11:00 - 03:45	Wednesday 11:00 - 03:45	Thursday 11:00 - 03:45
Friday 11:00 - 03:45	Saturday 11:00 - 03:45	Sunday 11:00 - 03:45	

PERFORMANCES OF DANCE

Indoors

Monday 11:00 - 03:30	Tuesday 11:00 - 03:30	Wednesday 11:00 - 03:30	Thursday 11:00 - 03:30
Friday 11:00 - 03:30	Saturday 11:00 - 03:30	Sunday 11:00 - 03:30	

LATE NIGHT REFRESHMENT

Indoors

Monday 23:00 - 03:45	Tuesday 23:00 - 03:45	Wednesday 23:00 - 03:45	Thursday 23:00 - 03:45
Friday 23:00 - 03:45	Saturday 23:00 - 03:45	Sunday 23:00 - 03:45	

SUPPLY OF ALCOHOL

Monday 11:00 - 03:30	Tuesday 11:00 - 03:30	Wednesday 11:00 - 03:30	Thursday 11:00 - 03:30
Friday 11:00 - 03:30	Saturday 11:00 - 03:30	Sunday 11:00 - 03:30	

Non Standard Timings for Films, Boxing or Wrestling, Live Music, Recorded Music, Performances of Dance, Late Night Refreshment and Supply of Alcohol:

From the end of permitted hours New Years Eve to the start of permitted hours New Year's Day.

An additional hour to the standard and non-standard times on the day when British Summertime commences.

The Opening Hours of the Premises

Monday 11:00 - 04:00	Tuesday 11:00 - 04:00	Wednesday 11:00 - 04:00	Thursday 11:00 - 04:00
Friday 11:00 - 04:00	Saturday 11:00 - 04:00	Sunday 11:00 - 04:00	

Non Standard Timings:

From the end of permitted hours New Year's Eve to the start of permitted hours New Year's Day.

An additional hour to the standard and non-standard times on the day when British Summertime commences.

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

On the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:

Name: Mr Aaron Mellor

Address: The Castle
38 Union Street
Oldham
OL1 1DJ

Telephone number: None

Email address: None

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE 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.

(4) - (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(4) - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

(5) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

(6) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

(7) - (1) The premise licence holder or club premise certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(7) - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

(8) The responsible person shall ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) beer or cider: half pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

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.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

Schedule of additional conditions to be complied with when entertainments attended wholly or mainly by children are given.

1. A sufficient number of competent and adequately trained adult attendants shall be on duty during events which are to be attended wholly or mainly by children. The minimum number of attendants on duty must be as follows:

One attendant for every 100 or part there of accomodated on the ground floor.

One attendant for every 50 or part there of accommodated on the first floor.

Persons whose normal duties are other than the assistance of persons entering the entertainment area, should not be included in calculating the number of attendants.

2. Attendants must be specifically instructed as to their essential duties and responsibilities in the event of fire or other emergency.

3. Attendants should be easily identifiable by means of some conspicuous clothing or marking system which is visible under all lighting conditions.

4. Training of attendants must include instruction in the following areas:

- a) the action to be taken upon discovering a fire;
- b) the action to be taken upon hearing the fire alarm;
- c) raising the alarm, including the location of the alarm call points and alarm indicator panels;
- d) the correct method of calling the fire brigade;
- e) the location and use of fire fighting equipment;
- f) knowledge of escape routes;
- g) knowledge of the method of operation of any special escape door fastenings;

- h) appreciation of the importance of fire doors and the need to close all doors at the time of a fire and on hearing the fire alarm;
- i) the operating of all escape doors not in regular use, to ensure that they function satisfactorily; and
- j) evacuation of the building to an assembly point at a place of safety (to include reassuring persons attending the entertainment and escorting them out of the premises).

5. Attendants must have attended at least one practice fire drill following completion of training.

6. Notices must be prominently displayed where parents deposit children, saying that in the event of an emergency children will be escorted by a member of staff to a named collection point outside the building.

7. Account should be taken of the additional responsibility caused by the attendance of disabled children. Further attendants will need to be on duty, the number of which will depend on the number of disabled children attending and the nature of their disabilities.

General

1. Staff will be trained to the requirements of relevant legislation.

Prevention of Crime & Disorder

2. If a DJ is used on any night they will ask customers to leave quietly.

3. CCTV is installed and maintained within the premise. Notices stating that CCTV is in operation 24 hours a day are displayed throughout the venue.

4. Any person who appears to be intoxicated or who is behaving disorderly will not be allowed entry to the venue. Any person within this venue who appears to be intoxicated or who is behaving disorderly will be given care and consideration in leaving the venue.

5. The venue will actively participate in the local Pubwatch or equivalent scheme.
6. Text/radio pagers are used within the venue, they are monitored by a responsible member of staff.
7. Toughened glass is used in the venue.
8. The venue will only accept photographic driving licences, passport or in agreement with the police a form of identification with the PASS hologram.
9. Music and dancing will be a prominent feature of trading.

Public Safety

10. Free drinking water will be available at all times.
11. A person trained in first aid will be at the venue who will have received training in any problems associated with alcohol and drug misuse.
12. A qualified first aider shall be present throughout any sporting entertainment involving boxing, wrestling, judo, karate or sport of a similar nature.
13. Where a ring is used it will be constructed by a competent person and shall be inspected by a competent authority before use and any material used to form the skirt of the ring shall be flame retardant.
14. The seating layout shall be agreed with the appropriate authorities.

Public Nuisance

15. Reasonable steps will be taken to recognise the need of local residents and businesses.

Protection of Children from Harm

16. A person under the age of 18 years will only visit the venue with a responsible adult usually for the purpose of dining unless there is an event especially organised for the youth market. Unaccompanied persons under the age of 18 are not welcome in the venue except at events especially organised for the youth market.

17. A person under 18 years will not be allowed to use any AWP machine.

18. The venue intends to have specially organised events for the youth market when the venue will adhere to the following Company Policies:

- a) Admission Policy
- b) General Policies Statement
- c) Code of Conduct for Staff Statement and
- d) Child Protection Policy

For Regulated Entertainment consisting of Music and Dancing

a) The licence holder shall attach a copy of the City Council's Rules for the Management of Places of Public Entertainment to the valid licence. This document shall form part of the licence.

b) The licence holder shall ensure prompt compliance with any written report received from the City Council.

c) The licence holder shall ensure prompt compliance with any written report received from North Yorkshire Fire and Rescue Service.

d) The maximum occupancy of the licensed premises shall not exceed the following numbers at any time:

860 Persons of which no more than 150 persons are to be accommodated on the first floor.

NB: No part of the premises other than the area(s) specified above shall be used for purposes permitted by this licence.

e) The noise generated from the use of these premises shall not exceed a Noise Rating 25 (ISO.R=1966: 1971) when measured at a distance of one metre from the nearest noise sensitive facade and be of such a level so as not to constitute a nuisance to inhabitants of the neighbourhood.

f) In accordance with Condition 1.11 of the Rules of Management of Places of Public Entertainment licensed by the City of York Council, written consent is hereby given for these premises to be used for entertainment attended wholly or mainly by children subject to the attached conditions being complied with. This consent is limited to Tuesday evenings between the hours of 18:30 - 21:00 when the premises may remain open for disco and dancing from 14 to 17 year olds.

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

19. There shall be no admissions to the premise after 03:00 hours, except for patrons using the smoking terrace.

20. The sale of alcohol shall cease 30 minutes before closing time.

21. The sale of late night refreshment shall cease 15 minutes before closing time.

22. Recorded music shall cease 15 minutes before closing time.

23. All licensable activities identified in Section B, E, G, I and J of the application form shall cease 30 minutes before closing time.

24. The licensable activity identified in Section D of the application form shall cease by 02:00 hours.

25. A dispersal policy agreed with the Licensing Authority and North Yorkshire Police shall be adhered to at all times.

26. To approve Plan 0640/05 (Revision B) that was initialled by the Chair at the meeting with the proviso that the fence to be erected to be at least 8 foot high.

27. There will be no drinking in the smoking area.

28. There will be no seating in the smoking area.

29. There will be no licensed entertainment in the smoking area.

30. One marshal will control the access and egress from the internal door in the premises leading to the smoking area and the second marshal shall monitor the behaviour of those patrons using the smoking area.

31. The maximum occupancy of the area shall be agreed with the appropriate authorities.

32. A 24 hour contact telephone number is to be provided to the representor.

33. Signs shall be prominently displayed asking patrons not to make noise.

Annex 4 – Approved Plan

Plan Number 255/P/26 & 27

For and on behalf of
The Director of Communities &
Variation)
Neighbourhoods

Date: 15/12/2008
20/12/2013 (DPS)

Licensing Services
Hazel Court EcoDepot
York
Y010 3DS

Phone: 01904 552512
Fax: 01904 551590
Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing

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

Document is Restricted

This page is intentionally left blank

①

ANNEX 5 D
23 MAY 2014



Mark Nogal
Regional Head, Focused Service
Brand Management, Europe, Middle East & Africa.
Tel: +44 (0)7581 049902
Fax: +44 (0)20 7856 8414

Hilton Worldwide
Maple Court, Reeds Crescent
Watford, Hertfordshire
WD24 4QQ
United Kingdom

21 May 2014

Licensing Officer
Eco Depot
Hazel Court
York YO10 3DS

To Whom It May Concern:

I represent the Hampton by Hilton brand in Europe, Middle East and Africa and am based in our offices in Watford, UK. The Hampton by Hilton brand is part of the portfolio of brands that the Hilton Worldwide organization offers to travelers. The purpose of this letter relates to our Hampton by Hilton York hotel located on Toft Green in York and the night club located across the street from the hotel main entrance. It has come to my attention that there has been an application presented to change or modify the existing license of the night club to include a Sexual Entertainment License for which I am very concerned. Many of our guests are family groups with children, both younger children and older teenagers.

Since the opening of the hotel in October 2012, we have had to deal with complaints from guests staying in the hotel, in rooms overlooking the front of the hotel, of noise late at night which comes from the patrons of the night club across the street from the hotel. These complaints are tracked in multiple ways. First, our Hilton Worldwide system of guest comments are independently captured and monitored. Second, Trip Advisor captures comments from guests who have stayed in our hotel in York. Third, as part of our brand promise, we have a 100% Satisfaction Guarantee in place and we have repeatedly had guests claim the guarantee resulting in the refund of the cost of the room because their night's sleep was interrupted by noise emanating from the night club. When we refund the cost of the room, this includes the tax revenue collected resulting in reduced revenue for the city of York.

The Hampton by Hilton brand is a new brand in the UK and we take pride in being family friendly which makes York, a family friendly city, an ideal location for us. Our reputation is being hindered by the noise coming from the night club across from the hotel in York and the impact on our guests. Guests have stated they will not stay at Hampton by Hilton hotels because they could not get a good night's rest due to the noise issue from the night club. As a result of this, we are concerned about a potential change to the license of the club that could result in even more noise emanating from the patrons of the club. I ask that you consider the impact this could have on our hotel and the guests that are traveling to York. If a guest has a bad experience because they cannot sleep, it not only affects the brand but it also impacts negatively on the impression of the city of York.

We ask that this license to operate an SVE is not granted.

Thank you for your consideration of this letter.

Sincerely

Mark F. Nogal

cc: Kishor Majithia

File number 27/15/14 KC.

30.05.2014 | re- Tokyo York, 3-5 Tofts Green, York YO1 6JT - Entertainment & Licensing Applications.

Ack 07/06

Licensing Unit
York City Council
Eco Depot,
Hazel Court
York YO10 3DS

Dear Sir | Madam,

award

I am writing to you on behalf of my clients, Safestay, a tourist Hostel located at Micklegate House, 88-90 Micklegate, York, YO1 6JX, in regard to the recent applications for changes to the Entertainment and Licensing of the above premises. My Clients wish to register the strongest objections to the proposals to change the existing Nightclub to a Strip-club. The basis for my clients objections fall within the terms of the act covering the CYC area and relate not to just one, as required, but all four of the required objections that can be lodged, namely;

1. Prevention of Crime & Disorder
2. Public Safety
3. Prevention of Public Nuisance
4. Protection of Children from harm

As a Tourist Hostel, which aims to both bring UK & foreign tourist of all ages, including School groups and teenagers to York, my clients feel it is wholly inappropriate to have the aforementioned proposed Strip-club usage in the immediate area and overlooking the rear of the Hostel premises. My Clients take the brand name 'Safestay' not just as a moniker, but very seriously, as the whole reason-detre for of its operations, since parents place their children and adults bring their families into the safe custody of my Clients facilities in the full expectation that the premises live up to their name and reputation. We fill that the proposed change of destination to the neighbouring building jeopardises the status quo and will generally bring the area into disrepute and we trust you will consider our strong objections when considering the proposals, particularly in relation to item 4 above.

Yours Faithfully.

Andrew Wakeling

29th May 2014

Dear Sir/Madam,

I am writing
to make a representation against Tokyo' nightclub's
application for a 'Sex establishment' licence.

As a local business, we feel that the approval of this licence
would have a greatly detrimental impact to businesses and residents
of the Micklegate area, as well as damaging York's reputation as a
beautiful and historic tourist destination.

We work closely with VisitYork and other local businesses, to
help boost York's tourist industry and support the local economy.
Our guests consist mainly of couples & families visiting York for a
relaxing break. Unfortunately, noise related complaints have
increased dramatically in recent months. This noise is music coming
from the venue itself, and perhaps more worryingly, Tokyo's clients
leaving the venue intoxicated. We have had many complaints from
guests awoken by the sound of brawling, vomiting, shouting,
smashing bottles, and even committing lewd acts. Surely these
incidents would only increase if Tokyo were to become a sex
entertainment venue- attracting groups of rowdy men, and stag
parties.

We are also concerned for the safety of the children who stay
with their guardians at our establishment. Families returning from a
civilised meal in one of York's many independent restaurants should
not have to bear witness to, or be confronted by intoxicated patrons
of this establishment, discussing inappropriate matters.

Thank you for taking the time to consider our representation,
we hope to hear from you soon,

City of York Council
Licensing Unit
West Offices
Station Rise
York
YO1 6GA
licensing.unit@york.gov.uk

1st June 2014

Dear Entertainment Licensing,

We write with regards to the application for a new Sexual Entertainment Venue (SEV) licence submitted by Tokyo on Toft Green, York, with a view to opening a lap-dancing establishment on their first floor.

We are opposed to the presence of SEVs in York, and our objection is centred on four key arguments:

- 1) **That Tokyo nightclub is located near to premises of 'sensitive use'**. From your own policy on the licensing of SEVs, you state that "Sensitive uses will include places of worship, schools, youth clubs, community centres, women's refuges, parks and leisure facilities. A concentration of residential property particularly included sheltered accommodation for vulnerable groups may also cause concern". Within less than half a mile of Toft Green the following premises may be found:
 - a) Places of worship - all with regular services
 - a. The Priory Church
 - b. York Baptist Church
 - c. The Rock of York
 - d. Bar Convent
 - e. St Mary's Church
 - f. St Columbas with New Lendal
 - b) Schools/Nurseries
 - a. Priory Street Nursery
 - b. All Saints Roman Catholic school
 - c) Community Centres
 - a. The Priory Centre

- b. York CVS
 - c. Family Matters
- d) Women's refuges/vulnerable groups services (within the vicinity of Priory Street Centre)
- a. IDAS
 - b. Survive
 - c. York Women's Counselling Service
 - d. Jessie's Fund
 - e. Mainstay (mental health service)
 - f. BASPCAN (British Association for the Study and Prevention of Child Abuse and Neglect)
 - g. Skills For Care
 - h. Inclusion Housing
 - i. Reflect
 - j. Priory Street Nursery
 - k. Bon Social Club
- e) Residential property
- There are residential properties on Toft Green itself and in the immediately surrounding areas of Micklegate and Priory Street.
- 2) **That, given the existence of a lap-dancing establishment nearby in Micklegate, it would not be appropriate to allow another such venue to operate within close proximity.** From your policy you state that a licence may be refused if "...the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the authority considers is appropriate for that locality". City of York Council has not committed to a policy with regard to the number of SEVs it deems to be appropriate for York, but we would urge you to consider that a city of this small size and with so many alternative forms of leisure and entertainment does not need two lap-dancing establishments to boost its night-time economy.
- 3) **That SEVs impact negatively on the character and reputation of York as a city of culture and tourism.** The area of York comprising Micklegate and its immediate environs is already known by both local residents and those who visit York regularly as an area which attracts large groups of drinkers, especially on weekends and race days, and which subsequently has more than its share of public order problems. In view of the fact that Tokyo intends to extend its opening hours to include the early evening on race days, when local businesses and services to vulnerable people may still be operating, we are of the opinion that granting this application could only impact negatively on this situation.
- 4) **That SEVs promote unfair and unequal working practices which do not act in the best interests of the performers.** The business model adhered to by most existing SEVs is run on exploitative and discriminatory principles. Performers are not employed directly by the clubs, but are deemed to be self-employed, and therefore must pay a fee on every night that they are working, and give a certain proportion of their earnings to the club. They may incur fines for being late or for not coming to work, which creates difficulties for those who have family responsibilities, and if the club experiences a quiet night, some performers may be sent home. It is not uncommon for them to lose money on some nights, but as they have no contract of employment they have no recourse to complaint. We would strongly urge you to consider the business model the proprietor of this establishment intends to follow and take this into account before making any decision about

granting the licence, since we would expect that City of York Council should be committed to promoting fairness and equality at work.

This objection is brought by members of our York Feminist Network, drawing on the work of human rights organisation Object and its supporters, including The Fawcett Society, Eaves, Million Women Rise, National Alliance of Women's Organisations, UK Feminista, White Ribbon Campaign and Women's Aid Federation of England.

Regards,



3rd June 2014

Licensing Services
City of York Council
Hazel Court EcoDepot,
James Street
York
YO10 3DS

Dear Sir/Madam,

**Objection to the application by Tokyo York for:
1. Sex Establishment Licence;**

I am the Managing Director of Avantis York Ltd, the owning company of the Hampton by Hilton Hotel, Toft Green.

I write to make representation against the application for a Sex Establishment Licence at 3-5 Toft green, York, YO1 6JT, on the basis that the grant of the licence would be inappropriate, having regard to the use to which premises in the vicinity are put.

The SEV (Sex Establishment Licence) application is for the premises which are directly opposite our Family Friendly Hampton by Hilton hotel. It would be totally wrong and unacceptable for our guests when returning to our hotel in the late evening, often with children, to pass crowded revellers possibly in a state of intoxication and probably sexual excitement and so prone to make abusive, rude and unwarranted remarks.

From the day the hotel opened in October 2012 our guests have made frequent complaints over the late night noise disturbance generated by attendees at the existing night club. This is well documented at the EPU and we understand investigations are currently being made in this regard with a view to a prosecution for breach of the existing licence.

We also have received many complaints from guests and staff over the congregation of revellers outside the premises most of which are not contained within the "smoking area" and spill into Toft Green and onto the hotel entrance stairway and disabled access slope. The attached photographs evidences this clearly.

Our General Manager is resident at the hotel on four nights per week (to enable the performance of the Duty Manager role on a late evening shift and an early morning shift the following day) and frequently has to make arrangements for the area immediately in front of the hotel to be cleared of debris and cleaned of vomit.



The grant of an SEV licence and the creation of a new venue within these premises can only exacerbate this nuisance.

The grant of SEV licence will also have a significant negative impact on our hotel's reputation as a Family Friendly Hilton hotel, and so our business, as the hotel will without doubt be referred to in guest reviews as a hotel opposite a Sexual Entertainment Venue. These guest reviews are posted on widely accessible websites (e.g. Trip Advisor) which are very powerful tools for travellers when choosing not only hotels but destinations generally.

- the creation of a smoking deck within the area licensed to serve alcohol immediately opposite our hotel entrance. I noted above the current noise and disturbance from attendees exiting the club to smoke and this will be exacerbated if the "smoking deck" is formalised and formalised as a licensed area. We also have grave concerns that SEV performers, in their outfits, may use the smoking deck which is not appropriate as we have family rooms (with large glass windows) facing the night club and this may cause offence to guests, particularly if the children are awake.
- The creation of an additional entry and exit point for access to and exit from the upper floor SEV. The creation of a distinct entry/exit point can only increase the noise and disturbance generated by the premises.

The Hampton by Hilton Hotel generates significant tourism expenditures in York including admission revenues to York's attractions, revenues to York's many restaurants and bars and over £2 million in hotel revenues, the negative impact of both the noise disturbance and the general melee of club attendees on Toft Green, on not only the hotel but York as a destination is clear.

As examples Trip Advisor – a web site frequently used by potential guests to explore other people opinions of a property and destination - lists Travellers Tips such as:

"Ask for a room away from the night club" ○○○○○○ 27 Mar 2014,
"Ask for a room at the back of the hotel to avoid noise from the street in front, if there is any." ○○○○○○ 8 Mar 2014
"Rooms the back quieter as the front faces a club and pubs" ○○○○○○ 30 Dec 2013
"Ask for a room at the back of the hotel - to avoid any upset with the night club morons!" ○○○○○○ 27 Dec 2013

The hotel as a part of Hilton Worldwide is assessed by an independent third party (Medallia) through an e-mail "Satisfaction and Loyalty Tracker" score. The recent "SALT" comments identify noise from the night club as a recurring complaint.

Under separate cover (and also attached) Hilton Worldwide have made representations to you in this regard. Hampton by Hilton is a family friendly brand with a significant number of guests at the York hotel comprising family groups with children.

With the experience of the SALT survey and Trip Advisor comments (above) in connection with noise, it is inevitable that similar negative comments will be posted should the SEV come into operation with the consequent impact on reputation of not only the hotel but York as a family friendly destination.

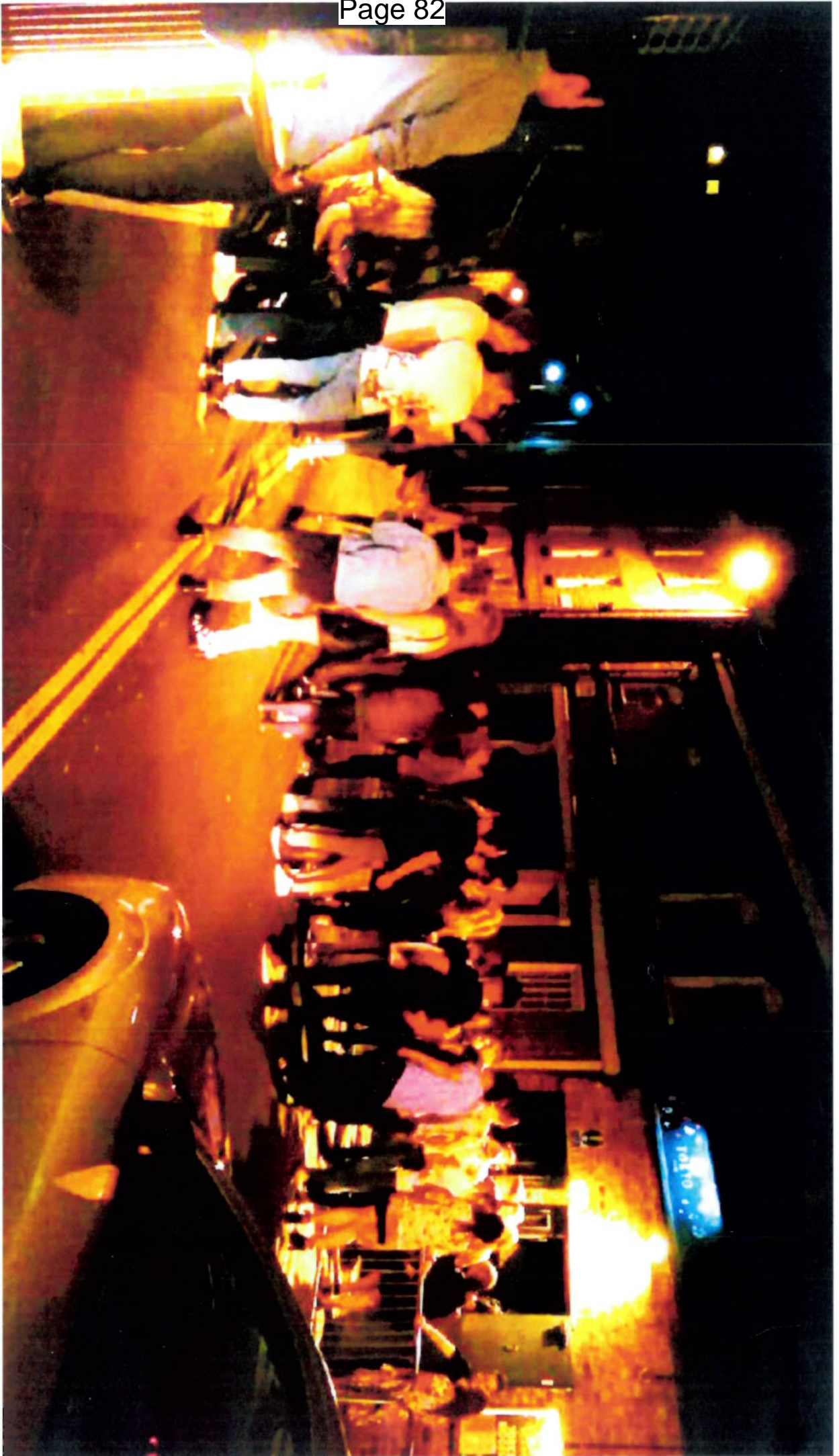
I ask that you refuse the application for a SEV Licence and the variation to the Premises Licence.

Yours faithfully



K Majithia
Managing Director

ENC. - 2 x PICTURES TAKEN ON 29/05/14



HANDYMAN

TOKYO N/C



Hampden

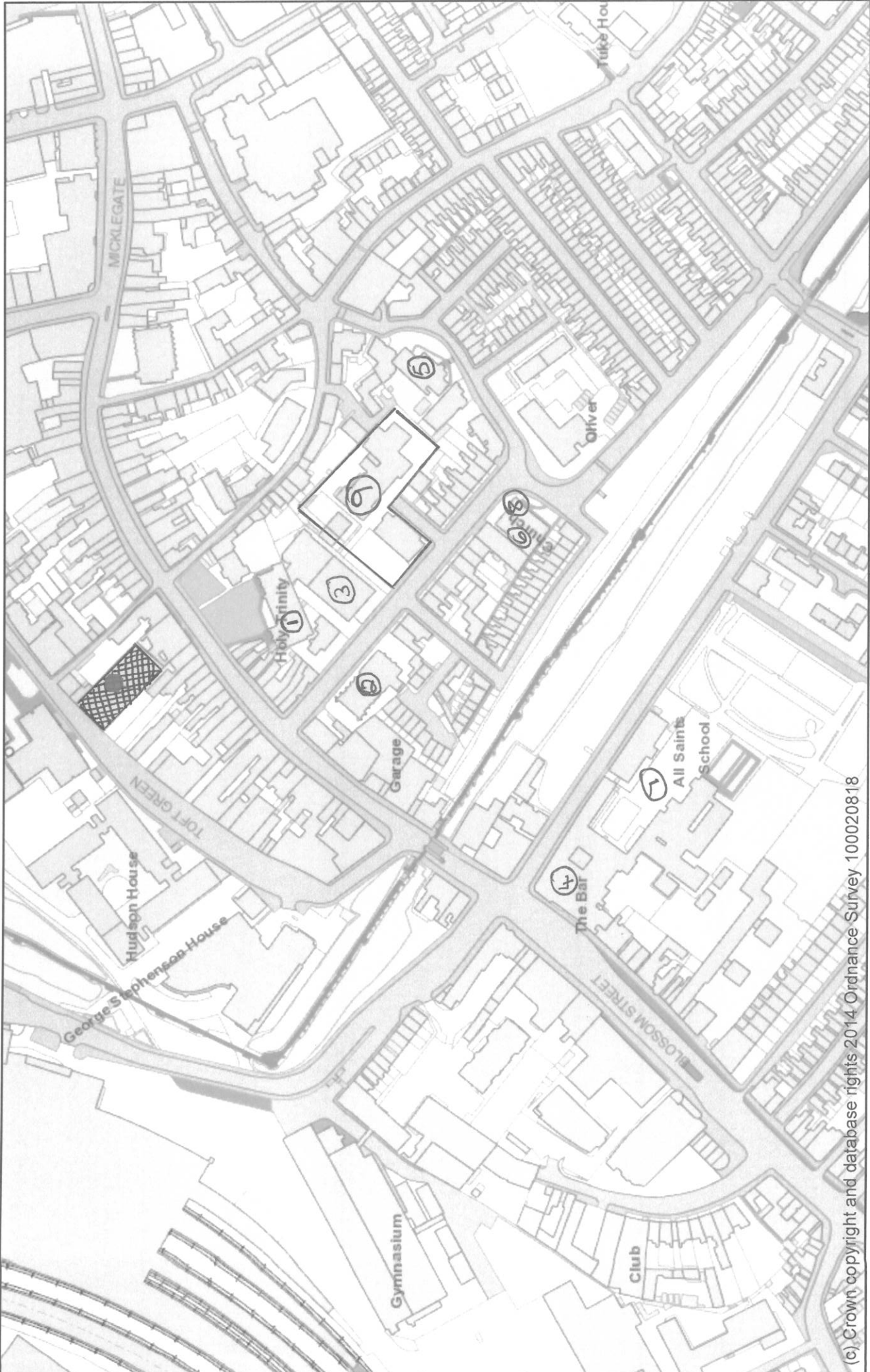
TORONTO N/C

This page is intentionally left blank

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

Document is Restricted

This page is intentionally left blank



(c) Crown copyright and database rights 2014 Ordnance Survey 100020818

Tokyo, 3-5 Toft Green

Map Notes:

Date: 09/06/2014

Author:



This page is intentionally left blank

ANNEX 8

KEY TO MAP (at Annex 7)

(premises/organisations referred to in objection)

- 1) The Priory Church (Holy Trinity), Micklegate
- 2) York Baptist Church, Priory Street
- 3) The Rock of York, Priory Street
- 4) Bar Convent, Blossom Street
- 5) St Mary's Church, Bishophill Junior
- 6) St Columbus with New Lendal United Reform Church, Priory Street
- 7) All Saints RC School, Mill Mount Lane
- 8) Reflect, 32 Priory Street (located within no. 6)

- 9) The Priory Centre, 15 & 17 Priory Street. The following organisations are based at the Centre:
 - a) York CVS
 - b) Priory Street Nursery
 - c) Family Matters
 - d) Independent Domestic Abuse Services (IDAS)
 - e) Survive
 - f) York Women's Counselling Service
 - g) Jessie's Fund
 - h) Mainstay
 - i) BASPCAN (British Association for the Study and Prevention of Child Abuse and Neglect), 17 Priory Street
 - j) Skills for Care
 - k) Inclusion Housing
 - l) Brunswick Nursery Social Club (BON)

This page is intentionally left blank



Policy for the Determination of Applications for Sexual Entertainment Venues

In determining applications for sexual entertainment venue licenses the Licensing and Regulatory Committee shall treat each application on an individual basis, on its own merits, in accordance with the Local Government (Miscellaneous Provisions) Act 1982 (as amended).

A decision to refuse the licence may not be made solely on moral grounds or that the establishment may cause offence.

Grounds for Granting or Refusing the Application

A licence **must be** refused on any of the grounds listed in paragraph 12(1) of Schedule 3 of the Local Government (Miscellaneous provisions) Act 1982, that is to say:-

- to a person under the age of 18;
- to a person who is for the time being disqualified as being a licence holder whose licence has been revoked within the previous 12 months;
- to a person, other than a body corporate, who is not resident in the United Kingdom or who was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- to a body corporate that was not incorporated in the United Kingdom; or
- to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

A licence **may be** refused where any of the following matters mentioned in paragraph 12(2) and (3) of the Act applies:

- (a) The applicant is unsuitable to hold a licence by reason of having been convicted of any offence or for any other reason:
- Officers will make diligent enquiries with the applicant to establish:-

- That the operator is honest.
- That the operator is qualified by experience to run the type of sex establishment in question.
- That the operator understands the general conditions.
- That the operator is proposing a management structure which delivers compliance with the operating conditions, e.g. through managerial competence, presence, a credible management structure, enforcement of rules internally, a viable business plan and policies for welfare of performers.
- That the operator can be relied upon to act in the best interests of performers, eg in how they are remunerated, the facilities they enjoy, how they are protected and how and by whom their physical and psychological welfare is monitored.
- That the operator can be relied upon to protect the public, eg transparent charging, freedom from solicitation.
- That the operator can show a track record of management of compliant premises, or that s/he will employ individuals who have such a track record.

(b) That if the licence were to be granted, renewed, varied or transferred the business to which it relates would be managed by or carried on for the benefit of a person other than the applicant, who would be refused the grant, renewal, variation or transfer of such a licence if he made the application himself:

- Officers will establish that there would be no third party beneficiary by asking appropriate questions in the application form and by interviewing the applicant.

(c) That the number of sexual entertainment venues in the relevant locality at the time the application is made is equal to or exceeds the number which the authority consider is appropriate for that locality:

- The number can be nil, but this decision needs to be rationally underpinned. The Council has not determined any appropriate number of sexual entertainment venues.

(d) That the grant or renewal of the licence would be inappropriate, having regard to the:

- (i) character of the relevant locality; or
- (ii) use to which any premises in the vicinity are put; or
- (iii) layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

- (i) The character of the relevant locality. Relevant locality is defined in relation to premises as “the locality where they are situated”. The locality cannot include for example the whole of the administrative area or an entire town. The relevant locality might cover the area of a ward, specific estates, shopping areas or areas bounded by rivers and major roads. The relevant locality will be determined on a case by case basis dependent on the situation of the proposed licensed premises.
- (ii) The use to which any premises in the vicinity are put. Vicinity is not defined but is clearly an area smaller than relevant locality. It maybe considered in the same context as with the Licensing Act 2003. Regard should not only be had to the juxtaposition of uses within the vicinity but also to the times of operation or occupation of those uses. Sensitive uses will include places of worship, schools, youth clubs, community centres, women’s refuges, parks and leisure facilities. A concentration of residential property particularly included sheltered accommodation for vulnerable groups may also cause concern.
- (iii) The layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made. The premises should meet or can be made to meet the layout and structural requirements set out in the “standard conditions applicable to licences issued to sex establishments”.

This page is intentionally left blank



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

**STANDARD CONDITIONS APPLICABLE TO LICENCES ISSUED TO
SEX ESTABLISHMENTS**

<u>CONTENTS</u>	<u>PAGE</u>
1.0 DEFINITIONS	1
2.0 GENERAL	1
3.0 TIMES OF OPENING	1
4.0 CONDUCT AND MANAGEMENT OF SEX ESTABLISHMENTS & 2	1
5.0 USES	3
6.0 GOODS AVAILABLE IN SEX ESTABLISHMENTS	3
7.0 APPERANCE, CONDITION AND LAYOUT OF THE PREMISES & 4	3
8.0 ADDITIONAL CONDITONS RELATING TO SEXUAL ENTERTAINMENT VENUES	4, 5 & 6
ANNEX 1 – HOUSE RULES (CUSTOMERS)	7
ANNEX 2 – HOUSE RULES (PERFORMERS)	8

1.0 DEFINITIONS

1.1 In these conditions save when the context otherwise requires the following expressions shall have the following meanings:

- a) “Sex Establishments”, “Sexual Entertainment Venues”, “Sex Cinema”, “Sex Shop” and “Sex Article” shall have the meanings ascribed to them in the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.
- b) “Premises” means a building or part of a building and any forecourt yard or place of storage used in connection with a building or part of a building which is the subject of licence for a sex establishment granted under the said Third Schedule.
- c) “Approval of the Council” or “Consent of the Council” means the approval or consent of the Council in writing.
- d) “The Council” means the City of York Council.
- e) “Film” shall have the meaning ascribed to it in the Films Act 1960-1980.

2.0 GENERAL

2.1 In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex establishment the special conditions shall prevail.

2.2 The grant of a licence for a sex establishment shall not be deemed to convey any approval or consent which may be required under any enactment by law order or regulation other than the Third Schedule of the Local Government (Miscellaneous Provisions) Act 1982.

3.0 TIMES OF OPENING

3.1 Except with the written consent of the council, the premises shall not remain open to the public outside the hours licensed.

4.0 CONDUCT AND MANAGEMENT OF SEX ESTABLISHMENTS

- 4.1 Where a Licensee is a body corporate or an un-incorporated body any change of Director, Company Secretary or other person responsible for the management of the body is to be notified in writing to the Council within 14 days of such change. Such written details as the Council may require in respect of any new Director, Secretary or Manager are to be furnished within 14 days of a request in writing from the Council.
- 4.2 The Licensee or a responsible person nominated by him in writing for the purpose of managing the sex establishment in his absence and of whom details (including 2 photographs) have been supplied to and approved in writing by the Council shall be in charge of and upon the premises during the whole time they are open to the public. This condition shall be read in conjunction with condition 4.3 below.
- 4.3 The Licensee shall maintain a daily register in which he shall record the name and address of any person who is to be responsible for managing the sex establishments in his unavoidable absence, and the names and addresses of those employed in the sex establishment. The register is to be completed each day within 30 minutes of the sex establishments opening for business and is to be available for inspection by the Police and by authorised officers of the Council.
- 4.4 The name of the person responsible for the management of a sex establishment be he/she the Licensee or a Manager approved by the Council shall be prominently displayed within the sex establishment throughout the period during which he/she is responsible for its conduct.
- 4.5 The Licensee shall retain control over all portions of the premises and shall not let, licence or part with possession of any part of the premises.
- 4.6 The Licensee shall maintain good order in the premises.
- 4.7 No person under the age of 18 shall be admitted to the premises and no person under the age of 18 shall be employed in the business of a sex establishment.
- 4.8 A notice stating that persons under the age of 18 may not enter the premises shall be prominently displayed at the entrance.
- 4.8 The Licensee shall ensure that the public are not admitted to any part or parts of the premises other than those which have been approved by the Council.
- 4.9 No part of the premises shall be used by prostitutes (male or female) for the purposes of solicitation or of otherwise exercising their calling.

- 4.10 Neither the Licensee nor any employee or other person shall seek to obtain custom for the sex establishment by means of personal solicitation outside or in the vicinity of the premises.
- 4.11 The Licensee shall comply with all statutory provisions and any regulations made thereunder.
- 4.12 The Licensee shall ensure that during the hours the sex establishment is open for business every employee wears a badge of a type approved by the Council indicating his name and that he is an employee. In the case of Sexual Entertainment Venues other approved forms of identification maybe accepted.
- 4.13 A copy of the licence and of these conditions shall be exhibited in a prominent place within the premises where the public may see and read them. These displays shall be reproductions to the same scale as those issued by the Council. The copy of the licence required to be displayed as aforesaid shall be suitably framed and the copy of these conditions shall be retained in a clean and legible condition.

5.0 **USES**

- 5.1 No change of use of any portion of the premises from that approved by the Council shall be made until the consent of the Council has been obtained thereto.
- 5.2 No change between the uses of a sex shop, sex cinema or sexual entertainment venue shall be effected without the consent of the Council.
- 5.3 Neither sex articles nor other things intended for use in connection with, or for the purpose of stimulating or encouraging sexual activity or acts of force or restraint which are associated with sexual activity shall be displayed, sold, hired, exchanged, loaned or demonstrated in a sex cinema.
- 5.4 A sex shop shall be conducted primarily for the purpose of the sale or hire of goods by retail.

6.0 **GOODS AVAILABLE IN SEX ESTABLISHMENTS**

- 6.1 All sex articles and other things displayed for sale, hire, exchange or loan within a sex shop shall be clearly marked to show to persons who are inside the shop the respective prices being charged.
- 6.2 All printed matter offered for sale, hire, exchange or loan shall be available for inspection prior to purchase and a notice to this effect is to be prominently displayed within the sex establishment.
- 6.3 The Licensee shall, without charge, display and make available in the Licensed Sex Establishment, such free literature on infections, safer sex, local services and other related sexual health issues as may be published by York Teaching Hospital NHS Foundation Trust or successor organisation and any other providers as maybe. Such literature is to be displayed in a prominent position approved by the Council adjacent to all cash points in the Licensed Sex Establishment.

7.0 **APPEARANCE, CONDITION AND LAYOUT OF THE PREMISES**

- 7.1 The Licence Holder shall comply with requirements relating to external appearance of the licensed premises as the Council may consider reasonably necessary. The Licensee shall give prior notice to the Council of any proposed change to the external appearance of the premises and shall support the prior notice by the submission of detailed drawings to show the proposed changes.

- 7.2 Without prejudice to the generality of condition 7.1 above, no display, advertisement, word, letter, model, sign, placard, board, notice, device, representation, drawing, writing, or any matter or thing (whether illuminated or not) shall be exhibited so as to be visible from outside the premises unless the prior approval of the Council has been received in writing.
- 7.3 The entrance doors to the premises shall be of a material or covered with a material which will render the interior of the premises invisible to passers by.
- 7.4 Windows and openings to the premises other than the entrances shall be obscured in a manner and with such material as may be approved by the Council. Plans and drawings showing the proposed scheme shall be submitted to the Council for prior approval. This condition shall not be construed as lessening the obligation of the Licensee under condition 7.3 hereof.
- 7.5 Lighting in all parts of the premises as approved by the Council shall be in operation continuously during the whole of time that the sex establishment is open to the public.
- 7.6 The number, size and position of all doors or openings provided for the purposes of the ingress and egress of the public shall be approved by the Council and shall comply with the following requirements:
- a) Access to the premises may only be through 2 or more doors placed consecutively, so arranged that when a person enters or leaves the premises the interior of the premises is not recognisable to persons outside the premises.
 - b) All such doors or openings approved by the Council shall be clearly indicated on the inside by the word "Exit".
 - c) Doors and openings which lead to parts of the premises to which the public are not permitted to have access shall have notices placed over them marked "Private".
 - d) Save in the case of emergency no access shall be permitted through the premises to any unlicensed premises adjoining or adjacent.

- 7.7 The external doors to the sex establishment shall be fitted with a device to provide for their automatic closure and such devices shall be maintained in good working order.
- 7.8 No fastening of any description shall be fitted upon any booth or cubicle within the sex establishment nor shall more than 1 person (including employee be present in any such booth or cubicle at any time).
- 7.9 Alterations or additions either internal or external and whether permanent or temporary to the structure, lighting or layout of the premises shall not be made except with the prior approval of the Council.
- 7.10 All parts of the premises shall be kept in a clean and wholesome condition to the satisfaction of the Council.

8.0 ADDITIONAL CONDITIONS FOR SEXUAL ENTERTAINMENT VENUES

- 8.1 The premise will be conducted in a decent, sober and orderly manner at all times. Steps will be taken to ensure that none of the following takes place:
 - a. indecent behaviour including sexual intercourse
 - b. the offer of any sexual or other indecent service for reward
 - c. unlawful possession and/or supply of drugs controlled by the Misuse of Drugs Act 1971.
 - d. any acts of violence against persons or property and/or the attempt or threat of such act likely to cause a breach of the peace.
- 8.2 No one under the age of 18 shall be permitted to enter the premises (or remain on the premises) whilst entertainment of an adult nature is being provided.
- 8.3 All performers shall be over 18 years of age.
- 8.3 Notices to be displayed within the premises and at the entrance informing customers of the “House Rules” that affect them and a warning that “adult entertainment” is provided within the premises.
- 8.4 Written information shall be given to the dancers/entertainers advising them of the house rules for performers and customers and possible consequences of failure to comply.

- 8.5 Adult entertainment shall not take place in a location that could be viewed from outside the premises.
- 8.6 Advertising of adult entertainment either on the premises or otherwise shall not include any photographs or images which indicate that entertainment involving nudity or sexual performance takes place on the premises.
- 8.7 CCTV for both monitoring and recording shall be installed, maintained and operated in accordance with Data Protection guidelines and will cover all areas where dancing takes place. All cameras shall continually record whilst the premises are open to the public and recordings shall be kept for a period of 28 days with times and dates indicated. These recordings shall be kept secure and shall be made available to an authorised officer of the Local Authority or a Police Officer on request.
- 8.8 Performers shall be provided with separate dressing/changing rooms which shall be located so as to be separate and set apart from the public facilities. No person other than performers and authorised staff will be allowed in or near the dressing/changing room. Safe and controlled access to the dressing/changing room will be maintained at all times.
- 8.9 There shall be at least one female member of staff authorised to be responsible for the safety and welfare of the performers.
- 8.10 SIA (Security Industry Authority) registered door supervisors shall be positioned at all entrances to the premises throughout the performance and shall be present in the room/area in which the performance takes place.
- 8.11 Dance entertainment shall be given only by performers/entertainers who are engaged exclusively for that purpose. Audience participation shall not be permitted.
- 8.12 Dance entertainment shall only be performed in the areas of the club as marked on the plans deposited with the Licensing Authority and with the Authority's approval. These areas can only be changed with the approval of the Licensing Authority.
- 8.13 If performers are invited to have a drink with a customer, the performer will remain fully clothed during this period. Performers will not be paid commission on the sale of beverages.

- 8.14 On leaving the premise performers will be escorted to their transport by a door supervisor.
- 8.15 Adult entertainment shall not take place before 9.00 pm.
- 8.16 The premises licence holder shall ensure that the house rules for both customers and performers are strictly adhered to.

ANNEX 1

House Rules (Customers)

1. Dancers may only dance to seated customers.
2. Customers must remain clothed at all times.
3. Dancers must not be touched by the customer while they are dancing except for the placing of gratuities into the hand or garter of the dancer at the beginning or conclusion of the performance.
4. No person shall take any video recordings or photographs by any means of the authorised adult entertainment.
5. No persons other than performers and authorised staff shall be permitted in the dressing/changing rooms.
6. Dancers shall re-dress at the conclusion of the performance.
7. Customers who fail to comply with these rules shall be removed from the premise by the management or security staff
8. No customers shall be admitted to the premises or allowed to remain on the premises if they appear to be intoxicated or unruly.
9. The duty manager and security staff will ensure that all customers and performers adhere to the house rules.

ANNEX 2

House Rules (Performers)

1. All performers shall be over 18 years of age. Prior to engagement all performers will provide documentation that they are aged 18 years or over. Checks will be made to make sure the necessary legal work permits to work in the United Kingdom are in place. Should performers be employed from agencies the same checks will be carried out. Management shall keep written record of these checks which shall be available to authorised officers of the council and the Police.
2. No performer shall be allowed to work, if under the judgement of the management, they appear to be intoxicated or under the influence of illegal substances.
3. No performance shall involve the use of sex articles (as defined in the Local Government (Miscellaneous Provisions) Act 1982).
4. Performers shall not use any props or clothing in the act which portrays them as a minor.
5. Garters worn for the collection of gratuities shall be situated no higher than mid thigh.
6. Dancers shall re-dress at the conclusion of the performance and are to remain clothed (minimum bikini top and bottoms) at all times except when giving a performance.
7. Performances of adult nature must be restricted to the designated areas.
8. All staff and performers are forbidden to give personal details including real name and address or other contact details of any other performer or staff member to a customer. Performers are strongly advised not to pass their own personal details to customers.
9. The duty manager and security staff will ensure that all customers and performers comply with the house rules.

This page is intentionally left blank

Legislation and Policy Considerations

1. The following provisions of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended) apply to this application:
 - Paragraph 10 (Grant, renewal and transfer of licences for sex establishments) relates to the process which the applicant must have followed for the application to be considered valid.
 - Paragraph 12 (Refusal of licences) relates to the grounds under which an application shall not be granted and also describes the powers by which the licensing authority has a discretion to refuse the licence.
 - Paragraph 13 (Power to prescribe standard conditions).

2. The following provisions of the Home Office Guidance apply to this application:
 - Paragraphs 3.23 – 3.24 (Objections) explain who can object and how this is done and that the applicant must be made aware of the general grounds for the objection before the application is determined.
 - Paragraphs 3.25 – 3.26 (Hearings) explain that the applicant must be given the opportunity to appear and be heard in front of the sub-committee considering the application. Schedule 3 does not make any explicit provision for objectors to be heard, this is left to the discretion of the appropriate authority.
 - Paragraphs 3.32 – 3.31 (Grounds for refusal).
 - Paragraphs 3.32 – 3.38 (Relevant locality) define the meaning of “relevant locality” and the powers of the appropriate authority to decide the maximum number of premises allowed in a particular locality.
 - Paragraphs 3.39 – 3.42 (Licence conditions) explain that once the decision is made to grant, the appropriate authority can attach conditions specific to the individual premises and/or standard conditions for the particular type of establishment. These conditions should not duplicate conditions placed on a premises licence issued under the Licensing Act 2003 and should be appropriate to the activities authorised by the licence.
 - Paragraphs 4.19 – 4.21 (European Convention on Human Rights) explain whilst applications from existing operators can be refused on one or more grounds set out in paragraph 12 of schedule 3 of the 1982 Act, account must be taken of rights existing operators may have under Article 1 of Protocol 1 to the European Convention which protects the peaceful enjoyment of their possessions (including licences) and article 10 (freedom of expression).

4. City of York Council’s Policy for the Determination of Applications for Sexual Entertainment Venues and the Standard Conditions Applicable to Licences issued to Sex Establishments applies to this application.

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 Home Office Guidance for England and Wales relating to Sexual Entertainment Venues.

3.23 When considering an application for the grant, renewal or transfer of a licence the appropriate authority should have regard to any observations submitted to it by the chief officer of police and any objections that they have received from anyone else within 28 days of the application. Any person can object to an application but the objection should be relevant to the grounds set out in paragraph 12 of Schedule 3 for refusing a licence. Objections should not be based on moral grounds/values and local authorities should not consider objections that are not relevant to the grounds set out in paragraph 12. Objectors must give notice of their objection in writing, stating the general terms of the objection.

3.24 Where the appropriate authority receives notice of any objection the authority shall, before considering the application, give notice in writing of the general terms of the objection to the applicant. However, the appropriate authority shall not without the consent of the person making the objection reveal their name or address to the applicant.

Hearings

3.25 Under paragraph 10(19) of Schedule 3, before refusing an application, all applicants should be given the opportunity to appear before and be heard by the local authority committee or sub-committee that is responsible for determining the application.

3.26 Schedule 3 does not make explicit provision for objectors to be heard, but this does not mean that such hearings cannot take place. Rather, case law on this matter states that while local authorities are under no obligation to offer an oral hearing to objectors, they may do so at their discretion. Although a local authority is under a duty to consider any objections made within 28 days of the application, it has discretion to hear later objections provided the applicant is given the opportunity to deal with those objections.

Refusal of a Licence

3.27 Paragraph 12 of Schedule 3 sets out the grounds for refusing an application for the grant, renewal or transfer of a licence.

A licence must not be granted:

- a) to a person under the age of 18;
- b) to a person who is for the time being disqualified due to the person having had a previous licence revoked in the area of the appropriate authority within the last 12 months;
- c) to a person, other than a body corporate, who is not resident in an EEA State or was not so resident throughout the period of six months immediately preceding the date when the application was made; or
- d) to a body corporate which is not incorporated in an EEA State; or
- e) to a person who has, within a period of 12 months immediately preceding the date when the application was made, been refused the grant or renewal of a licence for the premises, vehicle, vessel or stall in respect of which the application is made, unless the refusal has been reversed on appeal.

3.28 A licence may be refused where:

- a) the applicant is unsuitable to hold the licence by reason of having been convicted of an offence or for any other reason;
- b) if the licence were to be granted, renewed or transferred the business to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant, renewal or transfer of such a licence if he made the application himself;
- c) the number of sex establishments, or of sex establishments of a particular kind, in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality;
- d) that the grant or renewal of the licence would be inappropriate, having regard -
 - i. to the character of the relevant locality;
 - ii. to the use to which any premises in the vicinity are put; or
 - iii. to the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made.

3.29 A decision to refuse a licence must be relevant to one or more of the above grounds.

3.30 When determining a licence application, the local authority must have regard to any rights the applicant may have under Article 10 (right to freedom of expression) and Article 1, Protocol 1 (protection of property) of the European Convention on Human Rights.

3.31 The Provision of Services Regulations 2009 amended Schedule 3 to the 1982 Act to state that, if having considered an application for the grant, renewal or transfer of a licence, the appropriate authority decides to refuse it if one or more of

the above grounds, it must provide the applicant with reasons for the decision if writing.

Relevant Locality

3.32 Paragraph 12(3)(c) and 12(3)(d) of Schedule 3 allow appropriate authorities to refuse applications on grounds related to an assessment of the “relevant locality”. A licence can be refused if either, at the time the application is determined the number of sex establishments, or sex establishments of a particular kind, in the relevant locality is equal to or exceeds the number that the authority considers appropriate for that locality; or that a sex establishment would be inappropriate having regard to the character of the relevant locality, the use to which any premises in the vicinity are put or the layout, character or condition of the premises. Nil may be the appropriate number.

3.33 Schedule 3 to the 1982 Act does not define “relevant locality” further than to say that:

- (a) in relation to premises, it is the locality where they are situated; and
- (b) in relation to a vehicle, vessel or stall, any locality where it is desired to use it as a sex establishment.

3.34 Clearly, the decision regarding what constitutes the ‘relevant locality’ is a matter for the appropriate authority. However, such questions must be decided on the facts of the individual application.

3.35 Therefore, it is reasonable and potentially useful to future applicants, for a local authority to decide in advance of receiving any applications that certain areas are, or are not, appropriate locations for a sex establishment or a particular number of sex establishments. Nevertheless, all applications must be considered on their individual merits.

3.36 When considering a particular application case law has indicated that the relevant locality does not have to be a clearly pre-defined area nor are local authorities required to be able to define its precise boundaries. Therefore, while a local authority is not prevented from defining the exact area of the relevant locality, it is equally free to conclude that it simply refers to the area which surrounds the premises specified in the application and does not require further definition. Nevertheless a local authority’s view of what constitutes a locality could be open to challenge if they took a completely unreasonable view of the area covered, for example, by concluding two sex establishments 200 miles away from one another were in the same locality. Case law indicates that a relevant locality cannot be an entire local authority area or an entire town or city.

3.37 Once the appropriate authority has determined the relevant locality, it should seek to make an assessment of the ‘character’ of the relevant locality and how many, if any, sex establishments, or sex establishments of a particular kind, it considers appropriate for that relevant locality.

3.38 Section 27 amends paragraph 12(3)(c) of Schedule 3 to allow local authorities to determine an appropriate number of sex establishments of a particular kind. In practice, this means that the appropriate authority may, for example, decide that a particular locality is suitable for a sex shop but is not suitable for a sexual entertainment venue or vice versa.

Licence Conditions

3.39 Once the appropriate authority has decided to grant a licence they are able to impose terms, conditions and restrictions on that licence, either in the form of conditions specific to the individual licence under paragraph 8 of Schedule 3 or standard conditions applicable to all sex establishments, or particular types of sex establishments, prescribed by regulations made by the appropriate authority under paragraph 13 of Schedule 3.

3.40 Paragraph 13 provides examples of the matters that standard conditions may address which include but are not restricted to:

- The hours of opening and closing
- Displays and advertisements on or in sex establishments
- The visibility of the interior of a sex establishment to passers-by
- Any change of use from one kind of sex establishment to another

3.41 Where the appropriate authority decides to produce standard conditions under paragraph 13 they will apply to every licence granted, renewed or transferred by the authority unless they have been expressly excluded or varied.

3.42 Most sexual entertainment venues will require a 2003 Act licence as well as a sex establishment licence. Where this is the case, local authorities should avoid duplicating licence conditions and should ensure that conditions imposed on each licence are relevant to the activities authorised by that licence. For example, conditions relating to the sale of alcohol should only appear on a premises licence or clubs premises certificates and should not be imposed on sexual entertainment venue licence. Likewise, conditions relating the provisions of relevant entertainment should appear on the sexual entertainment venue licence and not a premises licence or club premises certificate. Local authorities should also avoid imposing conditions on either licence that are contradictory.

This page is intentionally left blank