



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

To: Councillors Aspden (Chair), Boyce, Alexander, Crisp, Funnell, Hyman, Horton, Healey, King, Looker, McIlveen, Orrell, Richardson (Vice-Chair), Wiseman and Watt

Date: Monday, 23 February 2015

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 7 of agenda item 6 on the grounds that it contains 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. 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 20th February 2015** .

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

4. City of York Council Community Governance Review. (Pages 1 - 28)

This report seeks agreement to the proposed processes for undertaking a city wide Community Governance Review of the parishing arrangements for the City of York, including the Terms of Reference and the timetable for the review.

5. Renewal of a Sex Establishment Licence for Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ. (Pages 29 - 70)

This report seeks Members determination of an application to renew 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.

6. Variation of a Sex Establishment Licence (Pages 71 - for Upstairs (Mansion) 53-55 Micklegate, 106) York, YO1 6LJ.

This report seeks Members determination of an application for the variation 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 مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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Gambling, Licensing & Regulatory Committee 23rd February 2015

Report of the Assistant Director of Governance & ICT

City of York Council Community Governance Review

1. Summary

- 1.1 This report updates councillors on the outcome of an initial consultation exercise as part of a community governance review approved by Staffing Matters and Urgency Committee. The report seeks agreement to the requests from two parish councils in regard to electoral arrangements and recommends further steps to be taken in respect of other requests.

2. Background

- 2.1 The community governance review commenced in September 2014 following the agreement of the Staffing Matters and Urgency Committee on 1 September 2014.
- 2.2 Each council must regularly undertake community governance reviews, with government guidance indicating that they should take place every 10 to 15 years. The last full review of parishing arrangements in York was in 2002. It was carried out under earlier legislation and was implemented by Order of the Department of Communities and Local Government in 2008.
- 2.3 Prior to the commencement of the current community governance review two Parish Councils had requested alterations to their electoral arrangements. The structure of the review allows for these two matters to be considered early in the review process.
- 2.4 The first stage of the community governance review during which interested parties were invited to put forward proposals for areas to be reviewed ended on 31 December. During this period:

- Each Parish Council was consulted individually
- All City of York Councillors were notified of the review
- An article appeared in the York Press
- All resident associations were notified individually
- A web page was maintained on the Council's website providing information about the review
- The Electoral Services manager attended a number of meetings on request

2.5 Twelve submissions were received. Full details appear in appendix one. Of the twelve submissions received, three were to confirm that current arrangements were considered to be satisfactory, one requested a reduction in councillors, three requested consideration to alterations of the boundaries, one requested de-warding and two expressed interest in parishes being created.

2.6 When conducting a community governance review Members are obliged to make a recommendation as to whether or not Parishes should be abolished and whether or not their areas should be changed. Recommendations are also required to be made as to whether the name of a Parish should be changed and whether a Parish with a Council should cease to have one. In light of the consultation responses and in reliance on their local knowledge Members are asked to formally confirm that no changes are to be proposed to the existing arrangements for Parish Councils beyond those which may come about following the further work and consultation being recommended in section 3 below or those recommended for implementation in section 4. Likewise Members are asked to confirm that no other changes to electoral arrangements are proposed.

3. Representations received

3.1 Groves Resident Association (CGR/Y/7) and a member of the public (CGR/Y/12) have both requested the creation of a parish council which would be within the Guildhall Ward.

- 3.2 It is recommended that both these proposals should be the subject of public consultation. It is proposed that Officers should work with the parties to seek to define an exact boundary for the proposed parish or parishes but that the consultation should be broad enough to allow other options to be brought forward. During the consultation period residents would be contacted individually and at least one public meeting would be offered. The consultation would need to be supported by an information document providing details of the powers of Parish Councils, how parish councillors are appointed, their tax raising powers etc. In order to allow for the outcome of the consultation to be reported to Committee in September but bearing in mind the forthcoming elections, it is proposed that the consultation should begin in late June and run for a minimum period of six weeks. If Members would prefer a longer period of consultation then it would be preferable to report the outcome to the planned meeting in October.
- 3.3 Haxby Town Council (CGR/Y/4), Rawcliffe Parish Council (CGR/Y/1 & CGR/Y/10) and Osbaldwick Parish Council (CGR/Y/11) have all requested changes to the parish boundaries. In each case the proposal or part of it impacts on neighbouring parishes and the relevant Councils will need to be consulted. In addition it is recommended that there should be direct consultation with the occupiers of properties affected by the submissions. The proposed consultation timetable would be the same as for Guildhall.
- 3.4 Two parish councils have requested that current wards be abolished, Haxby Town Council (CGR/Y/4/2) and Heslington Parish Council (CGR/Y/9). In each case it is recommended that Officers work with the Parish Councils to ensure that the case for this change can be detailed and properly presented to Members for consideration at a future meeting, most probably in September.
- 3.5 Wheldrake Parish Council (CGR/Y/8) has requested a reduction in its number of Parish Councillors from the current number of thirteen. The parish feels a reduction thirteen seats will allow the parish council to fill vacancies and operate more affectivity. It is recommended that this proposal should also be the subject of further work to detail the evidence of difficulties in filling existing vacancies, to ascertain the Parish Council's wishes as to the future size of the Council and to confirm how the proposed number can effectively perform the functions of the Parish Council.

This information can then be presented to a future meeting of this Committee.

4. Requests from the Parish of Earswick and the Parish of Strensall with Towthorpe for alterations to the Electoral Arrangements

- 4.1 The separate parish councils of Strensall and Towthorpe merged in 2008 and an election was required to be held in 2009, which resulted in the new parish being two years ahead of all the other parish councils on their election cycle. The Parish Council confirmed at a meeting attended by the Electoral Services Manager that it still wishes to move the cycle of elections to that of all the parish councils in the City of York Council area. That electoral cycle follows the same pattern as City Council elections. Ward Councillors support this request.
- 4.2 In considering this request Member should have regard to statutory guidance issued by the Secretary of State and the Local Government Boundary Commission for England under section 100 of the Local Government and Public Involvement and Health Act 2007.
- 4.3 The Guidance indicates that: "Parish council elections should normally take place every four years at the same time as the elections for the district". In this case changing the electoral arrangements would therefore be consistent with that guidance as well as advantageous to electors and it is recommended that Members agree to support the implementation of this proposal.
- 4.4 After the last parish elections held in 2011 the Parish of Earswick requested an increase in the number of parish councillors from five to seven, to allow better representation of the electors. The Parish Council has confirmed this during the period of the Review.
- 4.5 The statutory guidance says:
- "In considering the issue of council size, the LGBCE is of the view that each area should be considered on its own merits, having regard to its population, geography and the pattern of communities. Nevertheless, having regard to the current powers of parish councils, it should consider the broad pattern of existing council sizes. This pattern appears to have stood the test of time

and, in the absence of evidence to the contrary, to have provided for effective and convenient local government.”

4.6 The guidance points out that there is a wide variation in council size between parish councils. However, it points to research which suggests that typically a parish council of the size of Earswick would have between six and twelve Councillors. The National Association of Local Councils has recommended that the minimum number of councillors for any Parish should be seven.

4.6 Ward Councillors support this request. It does appear to allow for better representation in the Parish and would be consistent with the statutory guidance. Accordingly it is recommended for approval.

5. Options

5.1 Members may approve all or some of the recommendations or ask for further consultation in respect of those proposals which are currently recommended for approval.

6. Implications

- **Financial**

The costs of undertaking the alterations to electoral arrangements will be met from existing resources

- **Human Resources (HR)** *None*

- **Equalities**

The recommendation to alter the electoral cycle of Strensall with Towthorpe Council has no equalities implications. Increasing the size of Earswick Council provides opportunities for additional candidates to put themselves forward for election which may have positive equalities implications. Further stages of the review will consider a range of equalities issues. In particular the impact of any changes on community cohesion will be an important factor in determining recommendations

- **Legal**

The Council's powers and duties in respect of community governance reviews are set out in the Local Government and Public Involvement in Health Act 2007. The changes to electoral arrangements to parishes must be conducted having regard to guidance from the Secretary of State and Electoral Commission.

In addition to its general equalities duties, with which Members are familiar, the Council has a specific obligation in undertaking a community governance review to: have regard to the need to secure that community governance within the area under review reflects the identities and interests of the community in that area, and is effective and convenient. The Council must take into account other arrangements which have or could be made for the purposes of community representation or community engagement in the area.

Other legal requirements are described within the body of the report.

- ***Crime and Disorder*** None
- **Information Technology (IT)** None
- **Property** None
- **Other** None

Recommendations

7. The Committee is requested to:
 - a) Ask Officers to pursue the further work and consultation in respect of proposals affecting the Guildhall ward, Haxby Town Council, Rawcliffe Parish Council, Osbaldwick Parish Council, Heslington Parish Council and Wheldrake Parish Council.
 - b) Recommend that Council approve the following two items and instruct Officers to complete the necessary formalities:
 - An increase in the number of parish councillors for the Parish of Earswick from five to seven

- The alteration of the cycle of elections for the Parish of Strensall with Towthorpe to be the same as all other parish councils, commencing with next full elections on Thursday 7 May 2015.
- c) Recommend that Council confirm that no other changes to community governance arrangements are to be pursued at this time

Reason: To allow better local representation for the electors of the parishes.

Contact Details

Author:

Andrew Flecknor
Electoral Services Manager
Electoral Services
01904 552032

Chief Officer Responsible for the report:

Andy Docherty
AD Governance of ICT

**Report
Approved**

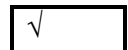


Date

12/02/2015

Wards Affected:

All



For further information please contact the author of the report

Background Papers: None

Annexes

Annex A: Consultation Responses

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Flecknor, Andrew

To: mark waudby
Subject: RE. [All Councillors] COMMUNITY GOVERNANCE REVIEW FOR YORK

From: mark waudby
Sent: 06 October 2014 20:51
To: Flecknor, Andrew
Subject: FW: [All Councillors] COMMUNITY GOVERNANCE REVIEW FOR YORK

Dear Andrew

I am writing to submit a submission for the above review, I wish to make clear that in this submission the views and ideas I put forward for consideration are written in my role as a resident and an elector of the Parish of Rawcliffe and NOT as either my role of Chairman of Rawcliffe Parish Council or Chair of the Rawcliffe and Clifton Without Liberal Democrats. Clearly though my views are shaped by my experience of 31 years of public life in Rawcliffe (Including 8 years as a city councillor and 14 years as a parish councillor).

I wish to suggest that the southern boundary of the Parish of Rawcliffe be amended as currently it cuts across gardens and houses in the Clifton Moor area and causes confusion amongst residents as to which parish they are in, the same problem happens amongst residents who live on the Flyingdale Avenue estate (the former Clifton Hospital site). Having given it much thought I wish the following directions as a suggestion for a revised southern boundary

"Starting at a point in line with the southern edge of the former Clifton Hospital Chapel, the running along the southern edge of Clifton Park Avenue as far as the middle of the A19 Shipton Road, Then running north along the middle of Shipton Road as far as the northern edge of the private road which runs behind East Cottages, The boundary to then run along the northern boundary of the Play area next to the Clifton Library, the running along the western edge of Rawcliffe Lane until meeting the eastern edge of no 81 Rawcliffe Lane. The boundary would then run north along the eastern boundary of the houses of the eastern side of Eastholme Drive, Grasmere Grove, Borrowdale Drive and Kentmere Drive as far as the southern edge of Rawcliffe Lake. The boundary would then run along the southern and eastern edge of Rawcliffe Lake until it is opposite the southern edge of Lakeside School. It would then run east along the southern boundary of Lakeside School until it meets the western edge of Clifton Moor Gate, It would then run north along the western edge of Clifton Moor Gate until it would the current northern parish boundary on the A1237 Outer York Ring Road. "

I feel that this proposal would help end any confusion about where which parish starts and finishes. Concerning the rest of the review I would like to suggest that in addition to the streets that would become part of Clifton Without Parish due to the redrawing of the southern boundary of Rawcliffe Parish, I would like to propose that the parts of the current Clifton city council ward which will become part of the new Rawcliffe and Clifton Without City Council ward be added to the the Parish of Clifton Without (namely Arbor Close, the southern part of Lilbourne Drive, Rawcliffe Grove, numbers 1-29 Rawcliffe Lane (odd numbers only), Shipton Road no 1-27 and 2-26), the western side of Clifton from the north of Clifton Green and 2-38 Water End). I feel that the current number of parish councillors for both the Parish of Rawcliffe and the Parish of Clifton Without , namely nine is the right number. As I have always felt that parish councils can provide a wide range of services to their communities I would strongly support any and all proposals to create new parish councils in the currently unparished part of the city.

If you need any additional information or clarification I will be more than happy to provide it.

Yours Sincerely
Mark Waudby

Wigginton Parish Council

The Old School Community Hall, Mill Lane, Wigginton, York YO32 2PU
Phone/Fax: 01904 763880 e-mail: clerk@wiggintonparishcouncil.org.uk

Andrew Flecknor
Electoral Services Manager
Customer & Business Support Services
City of York Council
West Offices
Station Rise
York
YO1 6GA

13th October 2014

Dear Andrew

Community Governance Review for York 2014

Further to your letter of 26th September 2014 in respect of the Community Governance Review 2014.

I enclose a copy of a letter we have sent to Haxby Town Council following an approach received from them in respect of the possibility of holding discussions with them on the feasibility of merging.

The Parish Council has discussed this and they are unanimous in not wishing to merge. A copy of our letter to Haxby Town Council confirming this and outlining reasons is attached for your information.

We would like to reaffirm to you our unanimous wish not to merge.

Kind regards

Yours sincerely

David W Geary
Clerk to the Parish Council

Wigginton Parish Council

The Old School Community Hall, Mill Lane, Wigginton, York YO32 2PU
Phone/Fax: 01904 763880 e-mail: clerk@wiggintonparishcouncil.org.uk

The Chair
Haxby Town Council,
The Memorial Hall,
The Village,
Haxby

8th October 2014

Dear Mary

Proposed merger of Haxby Town Council and Wigginton Parish Council

Following the emailed request from Mark to David in respect of a possible merger or at least our thoughts on it. The Parish Council considered this at length at its monthly meeting held on Tuesday 7th October 2014 and I can share the members views as follows:-

1. The members were unanimous in that they are opposed to any merger.
2. Wigginton is an historical village and has an ethos of a village rather than a town as Haxby might be considered especially bearing in mind the likely growth of Haxby should the proposed housing developments go ahead.
3. Wigginton Parish Council is a significant land owner all of which is leased to detached village organisations. It also a property owner and likewise this is administered separately within the village.
4. The Parish Council administers the finances to the best advantage of the residents, in an enlarged organisation members feel that their best interests may not be appropriately served with members having diluted opportunities to fund relevant organisations or activities.
5. The likely growth of Haxby will be such that there may be a serious case to devolve the existing Ward Council to its previous separate form.
6. Where necessary Wigginton Parish Council will always continue to collaborate with Haxby Town Council as we currently do with the Joint Burial Committee.
7. The administration of an enlarged organisation would be a burden that Wigginton residents should not be subjected to especially bearing in mind likely funding cuts.

I hope you do not find our response negative, we have the best interests of Wigginton residents in mind and do not want to see any demise of whatever nature in our village.

Yours sincerely

Peter Vaughan
Chairman Wigginton parish Council

CC. A Flecknor City of York Electoral Services manager
The Clerks Haxby Town Council and Wigginton Parish Council

CGR/H/2/2

Wigginton Parish Council

The Old School Community Hall, Mill Lane, Wigginton, York YO32 2PU
Phone/Fax: 01904 763880 e-mail: clerk@wiggintonparishcouncil.org.uk

Andrew Flecknor
Electoral Services Manager
Customer & Business Support Services
City of York Council
West Offices
Station Rise
York
YO1 6GA

27 OCT 2014

24th October 2014

Dear Andrew

Community Governance Review for York 2014

Further to my letter of 13th October 2014 in respect of the approach from Haxby Town Council regarding the holding of discussions to discuss a possible merger between Haxby Town Council and Wigginton Parish Council.

The Parish Council has now received a letter from Haxby Town Council confirming that they are not looking at this matter any further. A copy of the letter is attached for your records.

We now consider the matter closed and reaffirm to you our unanimous wish not to merge with Haxby Town Council.

Kind regards

Yours sincerely



David W Geary
Clerk to the Parish Council

CGR/113

Flecknor, Andrew

From: Malcolm Sunderland
Sent: 14 October 2014 08:32
To: Flecknor, Andrew
Subject: re CGR for York

Hello Andrew

For sake of good order I e mail to say that Councillors discussed your letter and attachments at our meeting last night and were happy with the existing boundaries

They did not therefore recommend any change.

Regards Malcolm
Clerk
Heworth Without PC

CGR/14

Flecknor, Andrew

From: Haxby Town Council Clerk [clerk@haxbytowncouncil.gov.uk]
Sent: 17 October 2014 10:59
To: Flecknor, Andrew
Cc: mike.harrison@haxbytowncouncil.gov.uk
Subject: Community Governance Review of York

Dear Andrew

The Community Governance Review of York was discussed by Haxby Town Council at their most recent meeting held on 13th September 2014. The result of this was to ask me to inform you of their Statement of Interest in moving the current boundary line on the south of Haxby from the present railway crossing on York Road to the A1237. This would result in a few houses in Crompton Terrace effectively moving from New Earswick to Haxby. I know this issue has been discussed in the past and New Earswick were against it but logic would seem to suggest that the A1237 would be a more appropriate boundary line these days.

I should point out that on this occasion we have advised New Earswick Parish Council of our intent to put this Statement of Interest to yourself.

Yours sincerely

Mark Scott

Clerk to the Council
Haxby Town Council
01904 750378

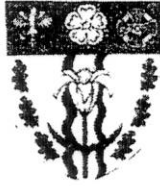
office@haxbytowncouncil.gov.uk
www.haxbytowncouncil.gov.uk

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Haxby Town Council disclaims any liability for action taken in reliance on the content of this communication. The views indicated are solely those of the author and, unless expressly confirmed, not those of Haxby Town Council.



HAXBY TOWN COUNCIL

The Council Office, The Memorial Hall, The Village, Haxby, York YO32 3HT
Telephone 01904 750378 Email: office @haxbytowncouncil gov uk

16 October 2014

The Chairman
Wigginton Parish Council
The Old School Community Hall
Mill Lane
Wigginton
York
YO32 2PU

Dear Peter

Possible merger of Haxby Town Council and Wigginton Parish Council

Thank you for the consideration which was given to this suggestion at the recent meeting of Wigginton Parish Council.

In light of the current Community Governance Review for York it was felt appropriate by Haxby Town Council that the possibility of merging with Wigginton should be explored, especially when so many similar tasks are currently undertaken separately at present. It was felt that there would be significant financial benefits to be achieved by administering the two villages as one. This said, Haxby Town Council acknowledges the unanimous opposition by Wigginton Parish Council and recognises your strong commitment to the preservation of the individual character of your village and its high standards of maintenance in the face of the current financial climate.

Haxby Town Council is also delighted to note that Wigginton Parish Council will always look to cooperate and collaborate with it in the future and looks forward to this.

Having discussed your letter at our recent meeting I can advise that Haxby Town Council will not be looking to take this matter any further and would like to draw your attention to the minutes of our meeting of 13th October 2014 which confirms this.

Many thanks.

Yours sincerely

Mary Crawford
Chairman

CGR/v/4/2

Flecknor, Andrew

From: Haxby Town Council Clerk [clerk@haxbytowncouncil.gov.uk]
Sent: 14 January 2015 09.01
To: Flecknor, Andrew
Subject: Haxby Wards

Dear Andrew

Just a quick note to confirm that Haxby Town Council voted in favour of de-warding the village. If you could make the necessary arrangements I would be most grateful.

Yours sincerely

Mark Scott

Clerk to the Council
Haxby Town Council
01904 750378

office@haxbytowncouncil.gov.uk
www.haxbytowncouncil.gov.uk

This communication is from Haxby Town Council

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CGR1415

Flecknor, Andrew

From: James Mackman
Sent: 23 October 2014 11:52
To: Flecknor, Andrew
Subject: Re: Community Governance Review for York

Hi Andrew

At the Parish Council meeting on 13 October the Councillors considered the above review.

After a short discussion it was resolved that the Parish Council would not seek any changes to the current arrangements.

Kind regards

James Mackman
Clerk to Upper Poppleton Parish Council

----- Original Message -----

From: "Flecknor, Andrew" <Andrew.Flecknor@york.gov.uk>
To: "Parish Council Hessay and Nether and Upper Poppleton" <jmackman@tesco.net>
Sent: Thursday, October 23, 2014 11:29 AM
Subject: RE: Community Governance Review for York

Hello James

I hope you are well.

For the initial phase an email is fine, just an outline of what the parish would like to have reviewed.

After January I will contact those parishes and community groups for more detailed information.

Hope this helps

Regards

Andrew

CGR/Y/6

Flecknor, Andrew

From: James Mackman
Sent: 23 October 2014 11.45
To: Flecknor, Andrew
Subject: Re: Community Governance Review for York

Hi Andrew

At the Parish Council meeting on 20 October the Councillors considered the above review.

After a short discussion it was resolved that the Parish Council would not seek any changes to the current arrangements.

Kind regards

James Mackman
Clerk to Nether Poppleton Parish Council

----- Original Message -----

From: "Flecknor, Andrew" <Andrew.Flecknor@york.gov.uk>
To: "Parish Council Hessay and Nether and Upper Poppleton" <jmackman@tesco.net>
Sent: Thursday, October 23, 2014 11:29 AM
Subject: RE: Community Governance Review for York

Hello James

I hope you are well.

For the initial phase an email is fine, just an outline of what the parish would like to have reviewed.

After January I will contact those parishes and community groups for more detailed information.

Hope this helps

Regards

Andrew

-----Original Message-----

CGR/v/7

Flecknor, Andrew

To: Chair, Groves Association
Subject: RE: Response to Community Governance consultation

From:] On Behalf Of Chair, Groves Association
Sent: 05 November 2014 12:36
To: Cllr. N. Ayre
Cc: Flecknor, Andrew; Groves Residents Association; Cllr. J. Looker; Ashton, Joe
Subject: Re: Response to Community Governance consultation

Thanks Nigel and Andrew for so promptly acknowledging my message.

Apologies everyone that Google seems to have garbled my message last night. I have reproduced it below for ease of reading

Dear Andrew,

I wanted to follow up to your request for expressions of interest from community organisations in parishing. The Groves Association is interested in being considered however like all voluntary groups we have challenges: our capacity, our sustainability past the current committee term and our accountability/representativeness to the area we are involved in.

However, we would require to move forward with the proviso that something fundamental to how resident's services are provided shouldn't be rushed and we need further information before considering our position. We expect our area to follow something like the following timeline:

1. The period from January-Purdah be used to research and develop the different options for what 'parishing' could look like for us- from the smallest unit able to be tested to a larger town council structure.
2. The Groves Association would then be happy to call a public meeting for late June where officers would be requested to report back and residents could ask questions.

Interested in hearing your thoughts/the viability of this.
Martin

CGR/1/18

Flecknor, Andrew

From: Sally Look [sallylook1@gmail.com]
Sent: 10 November 2014 22:25
To: Flecknor, Andrew
Subject: Re: Number of Parish Councillors

Andrew

Wheldrake Parish Council have asked me to follow this up as they would like to reduce the number of Councillors in our Parish.

Regards
Sally

On Fri, Sep 12, 2014 at 12:54 PM, Flecknor, Andrew <Andrew.Flecknor@york.gov.uk> wrote:
Hello Sally

Jo passed me your recent email in which you mention reducing the number of councillors for Wheldrake.

It is possible and next week I will be writing to all parish councils to inform them of a Community Governance Review that will begin and run for a year.

This review will permit parishes to reduce or increase the number of parish councillors.

Once I write, the parish will just have to initially express an interest in a change to electoral arrangements.

Regards

Andrew

Andrew Flecknor | Electoral Services Manager
t: 01904 552032 | m: 07767 272506 | e: andrew.flecknor@york.gov.uk

City of York Council | Electoral Services
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CGR/y/12

Flecknor, Andrew

To: Ashton, Joe
Subject: RE: Potential city centre parish

-----Original Message-----

From:
Sent: 29 January 2015 16:02
To: Ashton, Joe
Subject: proposed parishes

Following last night's meeting, I would like to put in a plea for a city centre parish to collect many isolated groups of housing. Our particular block, South Esplanade, Friars Terrace, Peckitt St, Tower Street, Tower Place, has about 40 residents. Other groups are Kings Staith, King Street, Low Ousegate: Coppergate centre area above shops:

Stonegate Court, Duncombe Place: Petergate, Talbot Court: and several other places. Walmgate, Hope Street, Navigation Road etc have a large number of dwellings, and some are covered by a residents association, so might want to set up their own scheme, but I would think the whole area inside the walls on this side of the river would be a suitable area for consideration.

Regards,

(iii) The inclusion of the few properties on Tranby Avenue that fall within Murton parish into Osbaldwick parish purely as a tidying up exercise to avoid confusion amongst residents.

The earlier 2010 request to include the B&Q site and the housing estate to the rear (Redbarn Drive) within Osbaldwick parish is withdrawn after discussing the implications with Murton Parish Council and the potential loss of precept to Murton Parish Council.

The parish council are content with the integrity of the rest of the parish boundary and in particular wish to report the strong desire of Meadlands residents via the Meadlands Residents Association to remain within Osbaldwick parish.

The parish council look forward to your comments in due course.

Best Regards,

Louise Pink
On behalf of Osbaldwick Parish Council

CGR/v/11

Statement of Interest Community Governance Review

Dear Andrew,

Further to your letter of the 25th September inviting the submission of a 'Statement of Interest' and having due regard to the earlier representations of Osbaldwick Parish Council in October and November 2010, the following alterations to the parish boundary are proposed along with brief explanations,

(i) Removal of land west of Metcalf Lane and north of Osbaldwick beck, i.e. the Derwenthorpe Estate from Osbaldwick parish.

As stated in earlier correspondence this change would be entirely consistent with the historical pattern established over the last century whereby the Osbaldwick parish boundary was moved east from Tang Hall Lane every time the city expanded with the new housing development.

The Derwenthorpe Estate is a privately managed housing estate, the highway system remains unadopted and given the construction and layout may very well remain so.

The parish council has no role to play in providing services or improving infrastructure on this privately managed estate and the parish council has had no effective influence on any aspects of this site since the first proposals of development were publicised in 1999 with even less influence since the Joseph Rowntree Housing Trust indicated that Osbaldwick Parish Council were no longer welcome at consultation meetings some time ago.

Given that the parish council can't do anything tangible on this part of the parish nor influence any aspect of its development or management it is considered completely inappropriate that residents on Derwenthorpe are levied a parish precept on top of their council tax and Joseph Rowntree Housing Trust management charges. It might also be considered that City of York Council council tax levels on this site are reviewed to take into account those residents paying City of York Council for services provided within their Joseph Rowntree Housing Trust management charges (double taxation).

In short, if the Derwenthorpe site is removed from within the parish of Osbaldwick then the Derwenthorpe Residents Association could then be invited to form a parish council to cover the 540 home estate, with their own precept raising function, alternatively the Derwenthorpe Residents Association could remain as currently constituted and act on Derwenthorpe residents interests to attempt to influence the Joseph Rowntree Housing Trust in all matters appertaining to Derwenthorpe.

Whatever route is taken the unfair anomaly of residents paying a parish precept to a parish council that cannot act on their behalf must end.

The parish council await confirmation that your office will approach the Derwenthorpe Residents Association with the 2 potential scenarios, for the formation of either an autonomous precept raising parish council for Derwenthorpe or the continuance of the Derwenthorpe Residents Association within a formally un-parished area.

(ii) The inclusion of former parts of the parish back into Osbaldwick parish to include Derwent School (now part of Osbaldwick school), Broughton Way and all side roads off, Sadberge Close, Carlton Avenue and Wolviston Avenue.

RAWCLIFFE PARISH COUNCIL - STATEMENT OF INTEREST CGX/V/10/11

RE:- COMMUNITY GOVERNANCE REVIEW FOR YORK



CGR/v/110

12 DEC 2014

RAWCLIFFE PARISH COUNCIL

Nicola Moorcroft - Clerk to the Council
83, Broome Close, Huntington, York, YO32 9RH

Tel:

E-mail:

www.rawcliffeparishcouncil.gov.uk

10th December 2014

Community Governance Review for York

Rawcliffe Parish Council - Statement of Interest

Dear Andrew.

Rawcliffe Parish Council has resolved to take the opportunity given to it by the Community Governance Review of York to forward the following as a recommendation with regard to the tidying of boundary lines between the parish of Rawcliffe and that of Clifton without Parish:

- Starting at a point in line with the southern edge of the former Clifton Hospital Chapel
- Running along the southern edge of Clifton Park Avenue as far as the middle of the A19 Shipton Road
- Running north along the middle of Shipton Road as far as the northern edge of the private road which runs behind East Cottages.
- The boundary to then run along the northern boundary of the Play area next to the Clifton Library.
- Running along the western edge of Rawcliffe Lane until meeting the eastern edge of no 81 Rawcliffe Lane.
- The boundary would then run north along the eastern boundary of the houses of the eastern side of Eastholme Drive, Grasmere Grove, Borrowdale Drive and Kentmere Drive as far as the southern edge of Rawcliffe Lake.
- The boundary would then run along the southern and eastern edge of Rawcliffe Lake until it is opposite the southern edge of Lakeside School.
- Running east along the southern boundary of Lakeside School until it meets the western edge of Clifton Moor Gate.
- Running north along the western edge of Clifton Moor Gate until it would the current northern parish boundary on the A1237 Outer York Ring Road.

Please do not hesitate to contact me if you require any further information at this point.

I look forward to hearing from you in due course.

Regards,

CGR/1/9

Flecknor, Andrew

From: Fiona Hill
Sent: 26 November 2014 10:13
To: Flecknor, Andrew
Cc: 'pauline bramley'
Subject: City of York Council Governance Review

Dear Mr Flecknor

Heslington Parish Council understands that you are currently conducting a community governance review on behalf of City of York Council.

The Parish Council is concerned about the current proposals, outlined in the recent electoral review of York, to split the parish into "North" and "South" wards for the next parish council election in May 2015.

We strongly believe it would be in the best interests of convenient and effective local government for Heslington to remain un-warded, with 9 Parish Councillors representing the whole village.

We look forward to hearing from you how you will bring forward consultation in order to address the above concern as part of your community governance review.

Yours sincerely

Fiona Hill
Parish Clerk
Heslington Parish Council

Flecknor, Andrew

Subject: FW: Visiting Earswick Parish Council, and the number of Councillors for Earswick

From: earswickclerk@aol.com [mailto:earswickclerk@aol.com]

Sent: 14 January 2015 14:58

To: Flecknor, Andrew

Cc: Subject: Visiting Earswick Parish Council, and the number of Councillors for Earswick

Hi Andrew

Following on from Earswick Parish Council's meeting last Monday night, I have been asked to contact you to see if you would be free to address a meeting on the process surrounding the Parish Council elections in May, and the responsibilities of a Parish Councillor please. We were hoping you would be able to join us at 7.30pm, on the 9th February, at Earswick Village Hall. Please would you let me know whether or not you would be available.

The Parish Council also discussed the option of increasing the number of Earswick Parish Councillors from 5 to 7, and decided it would like to proceed with the option of 7 Councillors. Please would you confirm this is agreeable.

Many thanks

Joanne Fisher
Earswick Parish Clerk

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Meeting of Gambling, Licensing & Regulatory Committee	23 February 2015
Report of the Assistant Director – Housing & Community Safety	

**Local Government (Miscellaneous Provisions) Act 1982
Schedule 3 as amended by Policing and Crime Act 2009
Renewal of Sex Establishment Licence for
Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ**

Summary

1. This report seeks Members determination of an application to renew 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 Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ. There is another application before Members on the Agenda requesting a variation of the licence. Should the renewal application be granted, Members will then be asked to determine the application for variation of the licence.
2. Name of applicant: Upstairs VIP Limited
3. Summary of Application: A copy of the renewal application is attached at Annex 1 of this report.
4. A sex establishment licence is valid for 12 months, the licence holder must submit an application to renew the licence to the licensing authority before the existing licence expires if they wish to continue running a sexual entertainment venue.

Background

5. 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.

6. 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)'.
7. 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 2.
8. Standard conditions for the licensed sex shops were amended to include sexual entertainment venues and were approved by full Council. A copy of the conditions is attached at Annex 3.

Consultation

9. 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 for renewal to be considered valid.
10. As a result of the consultation an objection has been received from North Yorkshire Police. This is attached at Annex 4 and the main points in relation to this application are summarised as follows:-

North Yorkshire Police objection is based upon an alleged breach of licence conditions witnessed during a compliance visit at the premises on 24 October 2014. It was noted that not all the areas used for the provision of SEV dancing were covered by CCTV as stipulated in Condition 8.7. Also at the time of the visit the CCTV was unable to be viewed and it was unknown which cameras, if any, were recording or working in compliance with Condition 8.7. The police consider the provision of CCTV within every booth

necessary to protect the dancers should the customers breach the “customer code” rules and to ensure the “no contact” rules are enforced. CCTV footage also provides evidential quality material for use during criminal investigations and prosecutions.

11. There are no further objections to the renewal application.
12. A map showing the location of Upstairs, 53-55 Micklegate is attached at Annex 5.

Relevant Legislation – Grounds for Refusal

13. When considering the renewal application, the Authority does not have an unfettered discretion as to whether to refuse an application or grant a renewal. The grounds on which an application could be refused are set out in paragraph 12 to Schedule 3 of the 1982 Act, which is attached at Annex 6.

Options

14. 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:
15. Option 1: Grant a renewal of the licence.
16. Option 2: Renew the licence with modified/additional conditions imposed by the licensing committee.
17. Option 3: Refuse the application for renewal on one of the appropriate ground within paragraph 12 to Schedule 3 of the 1982 Act (as amended).

Analysis

18. The following could be the result of any decision made by this Committee:
19. Option 1: This decision cannot be appealed at Magistrates Court by an objector to the application.

20. Option 2: This decision could be appealed at Magistrates Court by the licence applicant.
21. Option 3: This decision could be appealed at Magistrates Court by the licence applicant.

Council Plan

22. 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

23. The direct implications arising from this report are:
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – A decision to refuse the application or impose additional conditions could be appealed at the 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

24. 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.

25. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with paragraph 24 above there are no known risks involved with this recommendation.

Recommendations

26. 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 consider 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 13 th Feb 15

Wards Affected: Micklegate

Annexes

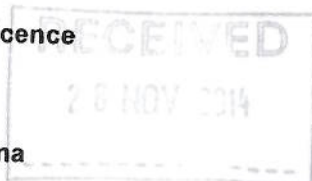
- Annex 1** - Copy of application for renewal
- Annex 2** - Copy of CYC Policy
- Annex 3** - Copy of Standard Conditions
- Annex 4** - Copy of Police objection
- Annex 5** - Map showing location of premises
- Annex 6** - Grounds to Refuse
- Annex 7** - Legislation Extracts – Renewal Applications

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CITY OF YORK COUNCIL
Licensing Services, Hazel Court EcoDepot, James Street, York, YO10 3DS

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 AS AMENDED
SCHEDULE 3 – CONTROL OF SEX ESTABLISHMENTS
Application for the Grant / Renewal / Transfer of a Sex Establishment Licence



TYPE OF VENUE

- Sexual Entertainment Venue Sex Shop Sex Cinema

TYPE OF APPLICATION

- Grant Renewal Transfer

APPLICANT DETAILS

1. Is the applicant:
- An individual (please answer questions 2, 5 to 9)
 - A company or other corporate body (please answer questions 3, 5 to 9)
 - A partnership or other unincorporated body (please answer questions 4, 5 to 9)

2. Full name of applicant (individual):

Former or previous names:

Home address:

Post town:

Post code:

Telephone numbers:

Date of birth:

3. Name of applicant (company name):

Upstairs VIP Limited

Address of registered or principal office:

53-55 Micklegate
York

Post town:

Post code:

YO1 6LJ.

Registration number:

4. Name and address of applicant:

Names and addressed of applicant's partners (please use additional sheet):

5. Are there any other persons responsible for the management of the premises/business other than the partners? Please state their names and addresses:

Mathew Trolle

- 6. a. Has the applicant ever been known by any other name? YES NO
- b. Has the applicant ever been convicted of a criminal offence? YES NO
- c. Has the applicant ever been refused a sex establishment licence? YES NO
- d. Has the applicant ever had a sex establishment licence revoked? YES NO
- e. Has the applicant ever been served with a winding up petition? YES NO

If the answer to any of these questions is yes, please provide details:

7. Applicants' trading address or head office (other than the premises)

8. Will the business for which this licence is sought be carried on for the benefit of a person other than the applicant? YES NO

If the answer is yes, state the name, address, place of registration, registered number and the identity of all directors, company secretary and those with a greater than 10% shareholding (use separate sheet if necessary).

9. Does the applicant operate any other sex establishments, licensed or otherwise? Please state name, address, and type of sex establishment of each.

N/A.

PREMISES DETAILS

10. Please state the name the business will be known as:

Upstairs - VIP.

11. Is the premises a Building Vehicle Vessel Stall

12. Where is it proposed to use the vehicle, vessel or stall?

13. Does the company propose to only operate on the internet?
(f yes answer Q14 to 19 only)

No.

14. Premises address

53-55 Middlegate
York

Post town

Post code YO1 6LJ.

Telephone number at premises

01904 500880.

15. Which part of the premises is to be used as a sex establishment?

Upstairs - 1st Floor.

16. Is the applicant owner lessee sub-lessee other

17. If the applicant rents the property state:

a. Name and address of landlord:

Andrew Elliott.

b. Name and address of the superior landlord:

c. Total annual rental:

d. Length of unexpired term:

e. Notice required to terminate tenancy:

18. Please provide details of the building management company (if appropriate):

—

19. State the current use of the premises:

Renewed.

20. Has planning permission, or a certificate of lawful use, been obtained for the use of the proposed premises?

YES NO

21. Can members of the public access the premises:
 a. Directly from the street?
 b. From other premises?
 c. Not at all? (internet sales only)

YES NO
 YES NO
 YES NO

22. Are the premises currently being used as a sex establishment?
 Please provide details of the business currently operating the business:

Yes.

OPERATING SCHEDULE

23. Opening hours: (If internet sales only please tick here and continue to Q 26)

Monday	Tuesday	Wednesday	Thursday	Friday
21.00 - 05.00	21.00 - 05.00	21.00 - 05.00	21.00 - 05.00	21.00 - 05.00
Saturday	Sunday			
21.00 - 05.00	21.00 - 05.00			

Any non-standard timings:

24. Has the applicant entered into any written or oral agreement in connection with the business, for example a management agreement, partnership agreement or profit share arrangement? Please provide details.

a. Please provide details of any lender, mortgage or others providing finance:

N/A.

b. Please provide details of any merchandising agreements:

N/A.

PREMISES MANAGEMENT

25. Please state the name of the person who will be in day to day control of the premises (the manager).

a. Will the manager be based at the premises

b. Will the management of the premises be the manager's sole occupation

YES NO
 YES NO

26. Who will be in control of the premises in the manager's absence (relief manager)?

a. Will the relief manager be based at the premises in the absence of the manager?

YES NO

If you have ticked no to any of the above please provide details.

EXTERNAL APPEARANCE AND ADVERTISING – DO NOT COMPLETE FOR RENEWAL APPLICATION

27. Please describe the proposed exterior signage and advertising. Please include nature, content and size of each sign and any images to be used:

Please note that a drawing of the front elevation is required to be submitted with this application.

28. Please describe how the interior of the premises is obscured to passersby:

29. Please describe any proposed window displays:

30. Please describe how the business is to be advertised, ie business cards, billboard advertising, personal solicitation, advertising on motor vehicles, radio or television advertising:

APPLICATIONS FOR SEXUAL ENTERTAINMENT VENUES ONLY

31. Is the proposal for full nudity?

YES / NO

32. Describe the nature of the entertainment eg lap-dancing, pole dancing, stage strip tease:

Lap dancing & Pole dancing.

33. State measures to ensure employees age and right to work in the UK:

Pre-employment Id. check list.

34. Describe training and welfare policies:

Please enclose a copy of the welfare policy for performers (or equivalent document).

35. Please set out any further information you wish the authority to take into account.

36. Is there any information on this form you do not wish to be seen by members of the public?
If so state which information and the reasons why you do not wish it to be seen.

CHECKLIST & ENCLOSURES

Enclosures

- I have made or enclosed payment of the fee
- I have enclosed three sets of plans of the premises
- I have enclosed a drawing of the street elevation of the premises
- In the case of an application to transfer the licence, include the completed Consent to Transfer form



DECLARATION

I declare that I have served notice of this application on North Yorkshire Police.

I declare that a public notice advertising this application has today been displayed upon the proposed premises where it may be conveniently read by the public and will remain thereon for a period of 21 days. A copy of the notice and the standard declaration is enclosed.

I declare that within seven days of the date of this application a public notice advertising this application will be publicised in the legal notices column of the local press.

A copy of the relevant press edition will be forwarded to the City of York Council Licensing Section.

I understand that if I do not comply with the above requirements my application will be rejected.

Any person who, in connection with an application for a grant, renewal or transfer of a sex establishment licence, makes a false statement which he knows to be false in any material respect of which he does not believe to be true is guilty of an offence and liable on summary conviction to a fine not exceeding £20,000.

SIGNATURES

Signature or other duly authorised agent, If signing on behalf of the applicant

Signature Signature

Name (print) Andrew G. Whitney Name (print)

Date 27.11.2014 Date

Capacity Director Capacity

Contact name (where not previously given) and address for correspondence associated with this application:

Andrew G. Whitney

Post town Post code

Telephone number (if any)

If you would prefer us to correspond with you by email, please give your email address (optional)



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”.

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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	1 & 2
5.0 USES	3
6.0 GOODS AVAILABLE IN SEX ESTABLISHMENTS	3
7.0 APPEARANCE, CONDITION AND LAYOUT OF THE PREMISES	3 & 4
8.0 ADDITIONAL CONDITIONS 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.

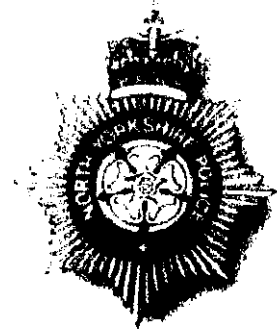
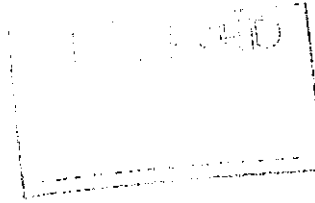
ANNEX 2

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.

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**Police Representation – Renewal of a Sexual Entertainment Venue (SEV) Licence
Upstairs VIP, Mansion, 53 – 55 Micklegate, York.**

On the 6th 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.

The City of York council adopted the provisions of the legislation and on the 7th October 2010 the resolution was approved by full council.

Paragraph 8 of Schedule 3 gives appropriate authorities the power to grant or renew SEV licences and draws no distinction between fresh applications and renewal applications.

Upstairs VIP, is not only applying to renew the Sexual Entertainment Venue licence but is also seeking to increase the hours in which licensable activities can be conducted from 3 am (as on the previous SEV licence) until 5 am on the new application, with no non standard timings applied for.

North Yorkshire Police do not support this application for the reasons outlined below :

The Home Office Guidance on Sexual Entertainment Venues published in March 2010 states (at para. 3.36) that "the relevant locality" does not have to be a clearly pre-defined area and that local authorities are free to conclude that it simply refers to the area which surrounds the premises.

The property is a Grade II listed building situated on one of the busiest streets within the heart of York .Upstairs VIP (SEV) occupies the first floor of the premises and the ground floor and basement area is used as a nightclub (Mansion) with a potential capacity of up to 500 customers (Capacity under the previous Premises Licence) Within the vicinity are an array of shops and cafes, not to mention the popular tourist attractions which ensure that the city has a successful day time economy. York is also a popular location for customers wanting to enjoy the night time economy due to the high number of licensed premises and restaurants which are situated within close proximity to each other. It is due to this concentration of licensed premises and potentially the detrimental impact that this has on the town that the City of York Council adopted a Cumulative Impact Area which came into effect on the 27th March 2014.

Upstairs VIP is located within the Cumulative Impact Area.

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This area is therefore already a concern to agencies and statutory authorities as this part of York already has the highest levels of alcohol related violent crime and anti social behaviour and if licensed premises are granted even more hours to undertake licensable activities it would not only impact on the police but also on other service providers such as the ambulance service and the councils cleansing services.

The premises are seeking to vary their operating hours until 5am. A spreadsheet is attached which shows the calls and nature of calls requesting police service between the hours of 3am and 6am. The areas where the figures were collated are Guildhall Inner, Micklegate Inner and The Groves. It shows that between the hours of 3 and 6am there is still a significant number of violent crimes and anti social behaviour reported in this area. **(Appendix D)**

To allow licensable activities to be increased by 2 hours 7 nights a week would only add to the Cumulative Impact which is already experienced within this area and in turn would have a detrimental impact on the City.

On Friday 24th October 2014 North Yorkshire Police conducted a joint compliance visit at the premises in conjunction with a member of York City Council's Licensing Enforcement Team where deficiencies were found with the CCTV system. When visiting the private dance area and booths it was noted that not all of these areas were covered by CCTV. The manager, Mr Trolle, was made aware of this and he informed us that improvements were being made and the area would be covered by CCTV. Officers were shown the monitor upon which the CCTV could be viewed throughout the venue only to discover that this was also deficient at that time and any recordings were not accessible on site and would have to be requested from a central office.

Failure to Comply with CCTV Standard Condition 8.7

Standard Condition 8.7 stipulates that, "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 all 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.

Not all the private booths where dancing takes place were covered by CCTV which officers found unusual for this type of establishment.

The provision of CCTV within every booth is required as it provides:-

- i) performers with a degree of protection should customers breach "Customer Conduct" rules (if monitored in real-time by staff as stipulated by a number of Licensing Authorities).
- ii) evidential quality material for use by the police for subsequent criminal investigations / prosecutions
- iii) enables Licensing Authority / Police Licensing staff to ensure that "Conduct on the Premises" Standard Conditions are being adhered to.

It is imperative that licensed Sexual Entertainment Venues adhere to the strict rules (Standard Conditions) which apply to them. North Yorkshire Police was disappointed to discover that the basic condition in relation to the CCTV was not being adhered to at this premises during its compliance inspection on 24th October 2014.

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Sc 1770 2014

PC 1770 Deborah Cooper – North Yorkshire Police Licensing Officer
Force portfolio holder for Sexual Entertainment Venues (SEV's)

Scarborough Police Station
Northway
Scarborough
YO12 7AD

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APPENDIX D

Count of Occurrence_Id_Converted	Reported Month											
	2013		2014		2015		2016		2017		2018	
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Occ Type Desc	12	1	2	3	4	5	6	7	8	9	10	11
ASB Environmental	0	1	2	1	0	1	0	3	8	1	0	1
ASB Nuisance	19	15	22	15	19	24	17	26	27	17	24	24
ASB Personal	0	3	0	1	0	0	0	0	0	0	1	0
Complaints Against Police/Dissatisfaction w	0	0	0	0	0	0	2	0	0	0	0	0
Crime Arson	0	0	0	0	0	0	0	0	0	0	0	0
Crime Autocrime	1	0	0	0	0	0	0	0	0	0	0	2
Crime Burglary Commercial Premises	0	1	1	1	0	0	0	0	0	0	0	0
Crime Burglary Dwelling	0	0	0	0	0	0	0	1	0	0	0	0
Crime Crime related Incident	4	3	7	8	2	9	1	6	2	5	1	3
Crime Criminal Damage	2	3	4	0	3	0	3	1	1	0	1	2
Crime Domestic Violence	0	0	0	0	0	0	0	0	1	0	0	0
Crime Drugs	2	1	1	0	1	2	0	0	0	0	1	0
Crime Other Offences	1	1	1	0	0	0	0	0	0	0	1	0
Crime Robbery	0	0	0	0	0	0	0	1	0	0	0	0
Crime Sexual Offence	0	0	0	0	0	0	2	1	3	2	0	0
Crime Theft General	7	7	5	0	3	4	2	4	3	3	2	2
Crime Violence	19	10	10	11	5	9	4	12	7	11	8	9
Highway Disruption	1	0	1	0	0	0	1	0	0	0	0	0
PSW Abandoned Call	2	6	0	0	1	0	2	0	0	3	2	2
PSW Absconder/AW/OL/Wanted Persons/P	1	0	0	2	0	0	0	0	0	0	0	0
PSW Alarm	3	2	2	4	2	3	4	0	2	1	2	0
PSW Civil Dispute	0	0	0	1	0	0	0	0	0	0	0	0
PSW Concern for Safety/Collapse/Injury/Illn	12	9	9	5	7	11	11	0	12	11	13	16
PSW Domestic Incident	0	2	0	0	1	2	1	0	3	1	1	1
PSW Hoax Calls	3	1	0	2	1	0	0	2	1	3	1	5
PSW Missing Person	0	1	0	0	0	0	0	0	0	0	0	0
PSW Sudden Death	0	0	0	0	0	0	0	0	0	0	1	0
PSW Suspicious Circumstances/Insecure P	6	2	3	2	1	7	5	8	5	5	8	9
Road Related Offence	3	0	2	4	2	2	4	1	2	2	5	1
RTC - Damage Only	0	0	0	0	0	0	0	0	0	2	0	0
Grand Total	86	68	71	55	48	67	57	81	76	68	75	83

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ANNEX 5



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Mansion, 53-55 Micklegate

Map Notes:
Date: 15/01/2015 Author:



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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.

ANNEX 7**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 3.27 – 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 in 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.

	
Meeting of Gambling, Licensing & Regulatory Committee	23 February 2015
Report of the Assistant Director – Housing & Community Safety	

**Local Government (Miscellaneous Provisions) Act 1982
Schedule 3 as amended by Policing and Crime Act 2009
Variation of Sex Establishment Licence for
Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ**

Summary

1. This report seeks Members determination of an application for the variation 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 Upstairs (Mansion), 53-55 Micklegate, York, YO1 6LJ.
2. Name of applicant: Upstairs VIP Limited
3. Summary of Application to Vary the Sex Establishment Licence: A copy of this application is attached at Annex 1 of this report and is summarised as follows: This is a variation of a pre-existing Sex Establishment Licence which allows the premises to operate as a Sexual Entertainment Venue (SEV). The licence authorises the standard hours of opening Monday to Sunday 21:00hrs to 03:00hrs, and non-standard hours of opening to be extended on York Racecourse Race Days only 18:00hrs to 04:30hrs. A copy of this licence is attached at Annex 2.
4. The variation seeks:-
 - To amend the hours for the provision of sexual entertainment such that sexual entertainment is permitted until 05:00hrs Monday to Sunday inclusive.
 - To permit sexual entertainment on the ground floor bar area and front room on race days only.

5. This proposal would involve installing temporary booths in the ground floor areas when these areas are used for sexual entertainment. A copy of the plan of the proposed layout of the premises is attached at Annex 3.

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 4 (attached as Annex 2 of the renewal report).
9. Standard conditions for the licensed sex shops were amended to include sexual entertainment venues and were approved by full Council. A copy of the conditions is attached at Annex 5 (attached as Annex 3 of the renewal report).

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.

11. As a result of the consultation an objection has been received from North Yorkshire Police. This is attached at Annex 6 and the main points in relation to this application are summarised as follows:-
12. North Yorkshire Police oppose the application to vary the licence in respect of both extending the existing hours and the proposal to use the ground floor of the premises for SEV activities on race days. The police question how a number of the standard conditions can be adhered to if the variation were to be granted. During a licensing compliance visit at the premises on 24 October 2014, it was noted by the police that not all the areas used for the provision of SEV dancing were covered by CCTV as stipulated in Condition 8.7.
13. Also at the time of the visit the CCTV was unable to be viewed and it was unknown which cameras, if any, were recording or working in compliance with Condition 8.7. Condition 8.7 states "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".
14. The police consider the provision of CCTV within every booth necessary to protect the dancers should the customers breach the "customer code" rules and to ensure the no contact rules are enforced. CCTV footage also provides evidential quality material for use during criminal investigations and prosecutions. The police question if the applicant is unable to comply with the standard CCTV conditions within the controlled area where SEV licensable activities take place on a daily basis, how will they provide the necessary coverage in the temporary setting on race days.
15. Condition 8.10 states "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". The applicant makes no reference to additional door supervisors, which would be required if extra booths and areas are to be made available on race days on the ground floor bar and front room area, in order to comply with this condition.

16. Also it is not clear from the application whether SEV dancers from the licensed first floor parts of the premises would have to walk through public area of the venue (none SEV) to use the proposed ground floor area or whether additional changing / bathroom facilities would be provided on the ground floor. It is imperative whenever sexual entertainment takes place on the premises there is clear separation between those using the SEV areas of the premises and the general public using other parts of the establishment. The police believe it would be difficult to provide the necessary separation when using both the ground and first floor for SEV activities intertwined with nightclub activities all using the same off street entrance.
17. In relation to the proposed extension to existing hours to allow it to operate until 05:00 daily, the police include a spreadsheet to support their objection which highlights the calls for police services in the Guildhall Inner, Micklegate Inner and the Groves areas between the hours of 03:00 and 06:00. Between these hours the police state that there are still a significant number of violent crimes and reports of anti-social behaviour.
18. The premises are located within the City of York Council's Cumulative Impact Zone which was identified and established under the Licensing Act 2003. The police believe to allow an increase of licensable activities by 2 hours per night, 7 nights a week would add to the existing cumulative impact experienced in this area and would have a detrimental impact on the city.
19. Members should note that whilst the concerns of the police are capable of being a relevant factor to take into account when determining the application under the Local Government (Miscellaneous Provisions) Act 1982, the 2003 Act Licensing Policy is not directly applicable to an application under the 1982 Act.
20. Further objections have been received from five local residents and a joint objection from the Micklegate Ward Councillors. The list of objectors is attached at Annex 7 (Confidential). A copy of the objections is attached at Annex 8. These objections are summarised as follows:-

- The premises are situated within a residential area which is already subject to late night noise disturbance and anti-social behaviour.
 - It is believed these problems will be exacerbated by an extension to the operating hours.
21. 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.
22. Schedule 3, paragraph 10(17) of the 1982 Act (as amended) states that “The appropriate authority shall not without the consent of the person making the objection reveal his name or address to the applicant.”
23. A map showing the location of Upstairs, 53-55 Micklegate is attached at Annex 9 (attached as Annex 5 of the renewal report).

Other Relevant Information

24. Licensing Officers have concerns that the proposal to use the ground floor front room as part of the SEV on racedays will contravene the following conditions:-
- 7.6 - (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.
 - 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.
25. The premises has a front door leading directly from the street into the hall, there is no lobby. The front door to the premises must remain open when the premises are open to the public in order to comply with the Regulatory Reform Fire Order 2005. Therefore there is nothing to screen SEV dancers moving from the changing rooms on the second floor to the ground floor front room from the view of the public outside the premises.

Options

16. 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:

Application to vary the Sex Establishment Licence

17. Option 1: Vary the licence as applied for.
18. Option 2: Vary the licence with modified/additional conditions imposed by the licensing committee.
19. Option 3: Refuse the requested variations.

Analysis

20. The following could be the result of any decision made by this Committee:

Option 2 & 3: These decisions could be appealed to the Magistrates Court by the Applicant.

Council Plan

21. 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

22. The direct implications arising from this report are:
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A
 - **Equalities** – N/A
 - **Legal** – A decision to refuse the application or impose additional conditions could be appealed at the 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

23. 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.
24. The report details the options available to the panel in determining the application and recommends that a decision be reached. Provided the decision complies with paragraph 23 above there are no known risks associated with the recommendation.

Recommendations

25. Members determine the application for the variation 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 consider 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	13 th Feb 15
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Wards Affected: Micklegate

Annexes

- Annex 1** - Copy of application
- Annex 2** - Copy of current Sexual Entertainment Licence
- Annex 3** – Copy of plans of premise
- Annex 4** - Copy of CYC Policy (attached as Annex 2 of the renewal report on this Agenda)
- Annex 5** - Copy of Standard Conditions (attached as Annex 3 of the renewal report on this Agenda)
- Annex 6** - Copy of police objection
- Annex 7 (Confidential)** - List of objectors
- Annex 8** - Copy of other objections
- Annex 9** - Map showing location of premises (attached as Annex 5 of the renewal report on this Agenda)
- Annex 10** - Legislation and Policy Considerations



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 3 - CONTROL OF SEX ESTABLISHMENTS

Application for the Variation of a Sex Establishment Licence

Please complete this application form in ink and block capitals.

Licence Holders Details:

Full Name	Andrew G. Whitney.
Permanent Address	
Contact Number / Email	

Premise Details:

Licence Number	CYC-019257-12.
Name	Upstairs-VIP Limited
Address	53-55 Micklegate
	York YO1 6LJ

Hereby make application for the variation of the following term(s), condition(s) or restriction(s), of the said licence:

- To amend the hours for the provision of Sexual Entertainment such that Sexual Entertainment is permitted with 05:00, Monday to Sunday inclusive.
- To permit Sexual Entertainment on the ground floor bar area and front room on raze days only.

I declare that:

- (a) The fee is enclosed.
- (b) 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.
- (c) 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.
- (d) Notice of the application has been served on North Yorkshire Police, Licensing Section, Fulford Road, York, YO10 4BY

Please provide contact details for correspondence associated with this application:

Name	
Address	"As Above"
Contact Number / Email	

Signed _____

Date

26.11.2014

Please return the completed form to:

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

No: CYC019257/13



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
SCHEDULE 3 AS AMENDED BY POLICING AND CRIME ACT 2009

SEX ESTABLISHMENT LICENCE

The City of York Council hereby grant renewal of a Sex Establishment Licence to:

Upstairs VIP Ltd
53-55 Micklegate
York
YO1 6LJ

to use the premises known as:

**Upstairs
(1st Floor Mansion Nightclub)
53-55 Micklegate
York
YO1 6LJ**

for the purposes of a sex establishment comprising a sexual entertainment venue as defined in Schedule 3 to the above Act.

This Licence is granted subject to the City of York Council Standard Conditions Applicable to Licences Issued to Sex Establishments and to the additional conditions set out in the schedule below.

A fee of £4000.00 (583273) has been paid for this licence.

This licence shall continue in force from the date hereof until 30 November 2014 unless previously revoked.

Granted on 1 December 2013

Signed
For and on behalf of the Director of Communities &
Neighbourhoods

SCHEDULE

1. A copy of this Licence and any Regulations prescribing standard conditions made by the authority must be kept exhibited in a position visible to customers.
2. Any external indication of the nature of the business is prohibited.
3. The creation of any new windows or other openings in the external structure of the building is prohibited.
4. This licence only covers the first floor of 53-55 Micklegate, York, YO1 6LJ.
5. That the standard hours of opening be limited to Monday to Sunday 21:00 hours to 03:00 hours. Non-standard hours of opening to be extended on York Racecourse Race Days only 18:00 hours to 04:30 hours.

Extract from the Local Government (Miscellaneous Provisions) Act 1982

APPEALS (*Sched. 3, para. 27*)

27. - (1) Subject to sub-paragraphs (2) and (3) below, any of the following persons, that is to say -
- (a) an applicant for the grant, renewal or transfer of a licence under this Schedule whose application is refused;
 - (b) an applicant for the variation of terms, conditions or restrictions on or subject to which any such licence is held whose application is refused;
 - (c) a holder of any such licence who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - (d) a holder of any such licence whose licence is revoked.

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the relevant area.

(2) An applicant whose application for the grant or renewal of a licence is refused, or whose licence is revoked, on any ground specified in paragraph 12(1) above shall not have a right to appeal under this paragraph unless the applicant seeks to show that the ground did not apply to him.

(3) An applicant whose application for the grant or renewal of a licence is refused on either ground specified in paragraph 12(3) or (d) above shall not have the right to appeal under the paragraph.

(4) In this paragraph -

'the relevant area' means-

- (a) in relation to premises, the petty sessions area in which they are situated; and
 - (b) in relation to a vehicle, vessel or stall, the petty sessions area in which it is used or, as the case may be, desired to be used as a sex establishment;
- and

'the relevant date' means the date on which the person in question is notified of the refusal of his application, the imposition of the term, condition or restriction by which he is aggrieved or the revocation of his licence, as the case may be.

(5) An appeal against the decision of a magistrates' court under this paragraph may be brought to the Crown Court.

(6) Where an appeal is brought to the Crown Court under sub-paragraph (5) above, the decision of the Crown Court shall be final; and accordingly in section 28(2)(b) of the Supreme Court Act 1981 for the words 'or the Gaming Act 1968' there shall be substituted the words 'the Gaming Act 1968 or the Local Government (Miscellaneous Provisions) Act 1982'.

(7) On an appeal to the magistrates' court or the Crown Court under this paragraph the court may make such order as it thinks fit.

(8) Subject to sub-paragraph (9) to (12) below, it shall be the duty of the appropriate authority to give effect to an order of the magistrates' court or the Crown Court.

(9) The appropriate authority need not give effect to the order of the magistrates' court until the time for bringing an appeal under sub-paragraph (5) above has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

(10) Where a licence is revoked or an application for the renewal of a licence is refused, the licence shall be deemed to remain in force -

- (a) until the time of bringing an appeal under this paragraph has expired and, if such an appeal is brought, until the determination or abandonment of the appeal; and
- (b) where as appeal relating to the refusal of an application for such a renewal is successful and no further appeal is available, until the licence is renewed by the appropriate authority.

(11) Where -

- (a) the holder of a licence makes an application under paragraph 18 above; and
- (b) the appropriate authority impose any term, condition or restriction other than one specified in the application, the licence shall be deemed to be free of it until the time for bringing an appeal under this paragraph has expired.

(12) Where an appeal is brought under this paragraph against the imposition of any such term, condition or restriction, the licence shall be deemed to be free of it until the determination or abandonment of the appeal.

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THE DESIGN HAS BEEN ASSESSED BY THE LHL GROUP DESIGN TEAM. SIGNIFICANT RISKS OR UNUSUAL HAZARDS ARE AS IDENTIFIED BELOW.

Rev: NONE

KEY

Red Items Relate to Fire, including Fire Evacuation Routes, Call Points, and Emergency Exits.

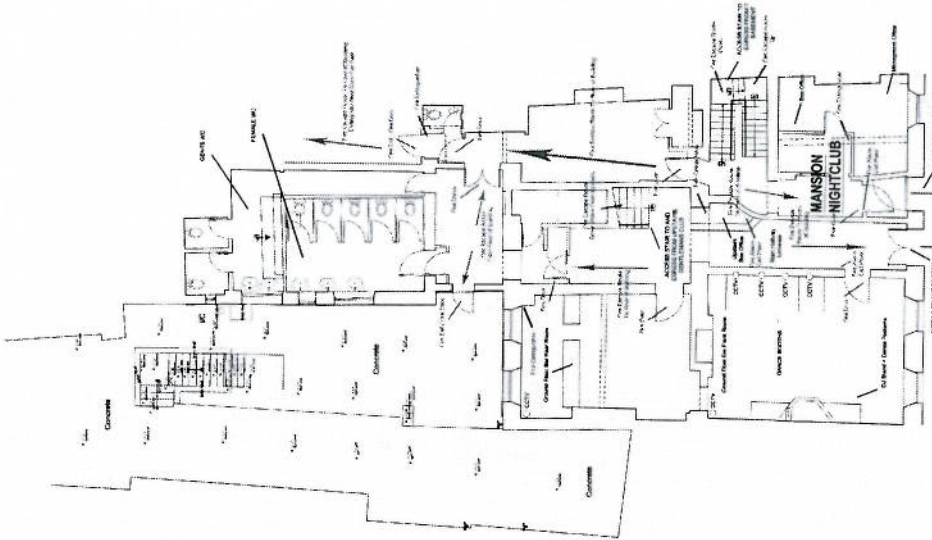
LHL GROUP
PROPERTY AND CONSTRUCTION CONSULTANTS

17, Westgate Road, E. Weybridge, Surrey, Middlesex, UK
Tel: 0181 8333333 | Fax: 0181 8333334
Website: www.lhlgroup.co.uk

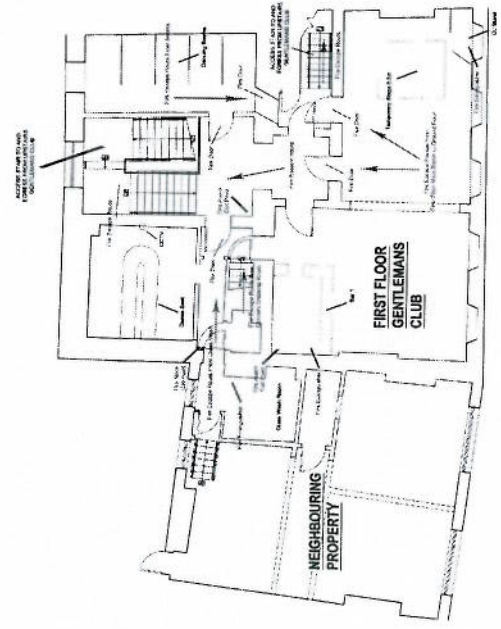
Client: Mr A G Whitney

Project: The Mansion
55 Micklegate
York, YO1 6LJ

Scale: A1: 1:100, A2: 1:200
Drawn: DC
Checked: JS
Date: 11/2014
Drawing No: Y-BSP-3422-13-100



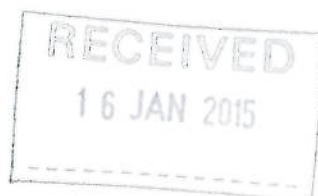
GROUND FLOOR LAYOUT



FIRST FLOOR LAYOUT

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**Police Representation – Variation of a Sexual Entertainment Venue (SEV) Licence
Upstairs VIP, Mansion, 53 – 55 Micklegate, York.**

53 – 55 Micklegate, York is a substantially sized Grade II listed building, where the ground floor and basement are currently used as a nightclub and the first floor is used as a Sexual Entertainment Venue.

On the 1 December 2014 North Yorkshire Police received an application to renew the Sexual Entertainment Licence for Upstairs VIP. This was followed by a full variation of the Mansion Nightclub and Upstairs VIP premises on 11 December 2014. On 8 January 2015 North Yorkshire Police became aware that the Licensing Authority had also received an application to vary the Sexual Entertainment Licence however this had not been received by North Yorkshire Police. If granted the variation would allow the premises to:-

- amend the hours for the provision of sexual entertainment such that sexual entertainment would be permitted until 05:00, Monday to Sunday inclusive.
- permit Sexual Entertainment on the ground floor bar area and front room on race days.

North Yorkshire Police do not support this application for the reasons outlined below :-

The City of York Council adopted the Local Government (Miscellaneous provisions) Act 1982 on the 7 October 2010 which affords the council the ability to regulate lap dancing clubs and similar venues under the same regime as sex shops. The standard conditions applicable to licenses issued to sex establishments were agreed by the council and it is these conditions that govern the way the establishment is run. (Doc Ref 1)

North Yorkshire Police cannot see how a number of the standard conditions can be adhered to if the variation were to be granted, namely:-

Condition 8.7 states, '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.'

During a recent licensing compliance check on the 24 October 2014 it was noted that not all the areas used for the provision of SEV dancing were covered by CCTV.

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

This is the only Sex Entertainment Venue within North Yorkshire and the City of York not to have the individual private dance areas (booths) covered by CCTV. The provision of CCTV within every booth is necessary to protect the dancers should customers breach the "customer conduct" rules and to ensure that the no contact rules are enforced. The footage also provides evidential quality material for use by the police during criminal investigations / prosecutions.

Also, at the time of the visit the CCTV was unable to be viewed and it was unknown which cameras, if any, were recording or working as stipulated by condition 8.7 of the standard conditions.

The deficiencies with the CCTV system were brought to the attention of the management and reassurance was given that these shortfalls would be rectified immediately so that the premises was compliant with the conditions on its licence.

If the premises is unable to comply with the standard CCTV conditions within the controlled area where SEV licensable activities take place on a daily basis then how would the premises be able to provide the necessary coverage, as required by the standards conditions, in the temporary setting on race days in the 'front room' of the nightclub. An area not specifically designed for the purpose of providing sexual entertainment. Could the provision of temporary booths within this area comply with the standard conditions?

Condition 8.10 refers to the door supervisors and states, '*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.*'

The applicant makes no reference to additional door supervisors, and if extra booths and dance areas are to be made available on race days on the ground floor bar and front room area then extra SIA staff would be required in order to comply with the condition.

It is imperative that sufficient Door Supervisors are employed at the premises whenever Sexual Entertainment Venue takes place to ensure that there is clear separation between those using the SEV areas of the premises and the general public using other parts of the establishment. The police believe that it would be difficult to provide the necessary separation when using both the ground and first floor for SEV activities intertwined with nightclub activities all using the same off-street entrance. Compliance with no under 18's SEV clauses may prove problematical under the two floor arrangement.

It is not clear from the application whether SEV dancers from the established first floor parts of the premises would have to walk through public areas of the building (none SEV) to use the proposed ground floor temporary booths or whether additional changing / bathroom facilities would be provided on the ground floor.

At present customers for both SEV and non SEV activities are separated and have their own facilities e.g. toilets. From a policing perspective, mixing both customer types on the same floor using the same facilities could potentially increase the risk to none SEV customers due to the activities one section of the customer base had recently been engaged in.

The premises also seek to vary their operating hours until 5am daily. The attached spreadsheet highlights the calls for police services in the Guildhall Inner, Micklegate Inner and The Groves areas between the hours of 3am to 6am and the nature of those calls. It is worthy of note that between the hours of 3 and 6am there are still a significant number of violent crimes and reports of anti-social behaviour. (**Appendix D**)

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Upstairs VIP is situated within City of York's Cumulative Impact Area. To allow an increase of licensable activities by 2 hours per night, 7 nights a week would add to the existing cumulative impact already being experienced within this area which in turn would have a detrimental impact on the City.

North Yorkshire Police has already made a representation in respect of the renewal of Upstairs VIP's Sexual Entertainment Licence based upon the breaches it has witnessed during recent compliance visits. The police do not support the extra 2 hours being requested, neither do we support the use of the ground floor at the premises for temporary SEV licensable activities on race days.

PC 1770

PC 1770 Deborah Cooper – North Yorkshire Police Licensing Officer
Force portfolio holder for Sexual Entertainment Venues (SEV's)

Scarborough Police Station
Northway
Scarborough
YO12 7AD

NOT PROTECTIVELY MARKED

APPENDIX D

NOT PROTECTIVELY MARKED

Count of Occurrence_Id_Converted	Reported - Reported Month											
	2013						2014					
Occ_Type_Desc	1	2	3	4	5	6	7	8	9	10	11	
ASB Environmental	0	0	1	0	1	0	3	6	1	0	11	
ASB Nuisance	19	22	15	19	24	17	26	27	17	24	0	
ASB Personal	0	0	1	0	0	0	0	1	0	24	0	
Complaints Against Police/Dissatisfaction w	0	0	0	0	0	0	0	0	0	0	0	
Crime Arson	0	0	0	0	0	0	0	0	0	0	0	
Crime Autocrime	1	0	0	0	0	0	0	0	0	0	0	
Crime Burglary Commercial Premises	0	1	1	0	0	0	0	0	0	0	0	
Crime Burglary Dwelling	0	0	0	0	0	1	0	0	0	0	0	
Crime Crime related Incident	4	7	6	2	0	0	1	0	0	0	0	
Crime Criminal Damage	2	4	0	3	0	1	6	2	5	1	3	
Crime Domestic Violence	0	0	0	0	0	3	1	1	0	1	2	
Crime Drugs	2	1	0	0	0	0	0	1	0	0	0	
Crime Other Offences	1	1	0	1	2	0	1	0	1	0	1	
Crime Robbery	1	1	0	0	0	0	0	0	0	1	0	
Crime Sexual Offence	0	0	0	0	0	0	0	0	0	0	0	
Crime Theft General	7	5	0	0	1	2	1	3	2	0	0	
Crime Violence	19	10	11	3	4	2	4	3	3	2	3	
Highway Disruption	1	1	0	5	10	4	12	7	11	8	9	
PSW Abandoned Call	2	1	0	0	0	1	0	0	0	0	0	
PSW Absconder/AWOL/Wanted Persons/P	1	0	0	1	0	2	1	0	3	2	2	
PSW Alarm	3	2	2	0	0	0	0	0	0	2	2	
PSW Civil Dispute	0	1	4	2	3	1	1	2	1	2	0	
PSW Concern for Safety/Collapse/Injury/Illin	12	9	5	7	0	0	1	0	0	0	0	
PSW Domestic Incident	0	2	0	0	11	11	11	12	11	13	18	
PSW Hoax Calls	3	0	0	1	2	1	0	3	1	1	1	
PSW Missing Person	0	0	2	1	0	0	2	1	3	1	5	
PSW Sudden Death	0	0	0	0	0	0	0	0	0	0	0	
PSW Suspicious Circumstances/Insecure P	6	3	0	0	0	0	0	0	0	0	0	
Road Related Offence	3	2	2	1	7	5	8	5	5	8	9	
RTC - Damage Only	0	2	4	2	2	4	1	2	2	5	1	
Grand Total	86	71	55	48	67	57	81	76	68	75	83	

NOT PROTECTIVELY MARKED

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

Document is Restricted

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Cockerill, Janice

From: Cooke, Lesley
Sent: 31 December 2014 08:19
To: Welsh, Mike; Cockerill, Janice
Subject: FW: Mansion Night Club Hours extension Objection

From: Cllr. D. Merrett
Sent: 30 December 2014 18:31
To: Cooke, Lesley
Cc: Cllr. S. Fraser; Cllr. J. Gunnell
Subject: RE: Mansion Night Club Hours extension Objection

Lesley,

Can I support Julie's objection to this application on similar terms please. There are also nearby residential premises backing on to the nightclub rear in St. Martin's lane, and only slightly further afield in Trinity Lane.

Thanks – Dave Merrett
Micklegate ward Councillor

From: Cllr. J. Gunnell
Sent: 30 December 2014 13:12
To: Cooke, Lesley
Cc: Cllr. D. Merrett; Cllr. S. Fraser
Subject: Mansion Night Club Hours extension Objection
Importance: High

Hi Lesley

I would like to formerly object to the licensing request by the Mansion Night Club.

Firstly in terms of the variation of the Sexual entertainment License.

- My objection is the detrimental impact to local residents and visitors/shoppers to the area.
 - Micklegate is a growing residential and family area.
 - Micklegate already suffers from groups of people using Micklegate for hen and stag events and I feel this would only add to the situation causing more disruption for local residents.
 - The hours would be clearly when we have families/children in the area.

Secondly I would like to object in general to their request of variation of extended hours. Once again this is a residential area and the proposed extension does not enhance the local area for residents and will in fact add and extend to the

disturbances, noise levels and potentially anti-social behaviour which the street already suffers from.

I would like to request that I speak at the meeting/s

Thank you and best wishes

Julie

Julie Gunnell
Micklegate Ward Councillor
City of York Council

Email: Cllr.igunnell@york.gov.uk

Mobile: -

Cockerill, Janice

From: Cooke, Lesley
Sent: 30 December 2014 13:33
To: Welsh, Mike; Cockerill, Janice
Cc: Woodhead, Nigel
Subject: FW: Mansion Night Club Hours extension Objection

Importance: High

From: Cllr. J. Gunnell
Sent: 30 December 2014 13:12
To: Cooke, Lesley
Cc: Cllr. D. Merrett; Cllr. S. Fraser
Subject: Mansion Night Club Hours extension Objection
Importance: High

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I would like to request that I speak at the meeting/s

Thank you and best wishes

Julie

Julie Gunnell

Cockerill, Janice

From: Cooke, Lesley
Sent: 07 January 2015 07:48
To: Welsh, Mike; Cockerill, Janice
Subject: FW: Mansion Night Club Hours extension Objection

From: Cllr. S. Fraser
Sent: 02 January 2015 14:19
To: Cllr. D. Merrett; Cooke, Lesley
Cc: Cllr. J. Gunnell
Subject: RE: Mansion Night Club Hours extension Objection

Lesley,
I would also add my objection to the proposed extension of hours.

Sandy Fraser
Micklegate Ward Councillor

From: Cllr. D. Merrett
Sent: 30 December 2014 18:31
To: Cooke, Lesley
Cc: Cllr. S. Fraser; Cllr. J. Gunnell
Subject: RE: Mansion Night Club Hours extension Objection

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Micklegate ward Councillor

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Sent: 30 December 2014 13:12
To: Cooke, Lesley
Cc: Cllr. D. Merrett; Cllr. S. Fraser
Subject: Mansion Night Club Hours extension Objection
Importance: High

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I would like to request that I speak at the meeting/s

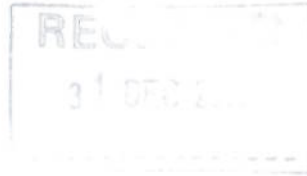
Thank you and best wishes

Julie

Julie Gunnell
Micklegate Ward Councillor
City of York Council

Email: Cllr.jgunnell@york.gov.uk

Mobile:



00 10 17

Re: Application for the renewal and variation of sex
establishment licence.

Upstairs VIP Wd 53-55, Micklegate, York YO1 6LJ

Dear Sir/Madame,

I would like to object to any increase of
opening hours on the grounds of public nuisance,
especially on race days when the street already
suffers from anti-social behaviour.

We already suffer from noise from the front
entrance when the manager is off the premises
and I do not like the idea of lap dancing
being visible from the road because doors
have been left open. School children may still
be walking past at 5pm.

I hope York City Council will turn down this
application.

Yours sincerely,



30 December 2014

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

Application for the renewal & variation of sex establishment licence

Upstairs VIP Ltd 53-55 Micklegate York YO1 6LJ

I have no objection to the renewal of the existing licence, but would oppose the extension of opening hours to 5 am on the grounds of excessive noise and public nuisance.

Any large increase in operating times such as is proposed is likely to result in additional noise nuisance to neighbours from patrons leaving the premises even later than at present. There could also be noise problems with the use of the ground floor on race days as this part of the Mansion has very little sound proofing.

Yours sincerely,



23/12/14

Your Ref:Extension of licence Mansion House Micklegate

Dear Sirs

I wish to object to the extension of the licencing hours at the Mansion House night club on Micklegate.

This is in close proximity to a residential area. Since the establishment has been under the new management there have been ongoing noise issues after 3.00am. We have to call EPU out of hours and as they don't work every night it is impossible to monitor the noise.

This 5 am extension to their licence with addition another lap dancing area will not be accepted in view of these current ongoing anti-social behaviour and disruptive e problems. We often see customers struggling to leave the establishment in the small hours of the morning, they sit on our doorsteps waiting for taxis to remove them from the area and make too much noise at this time of day. My husband starts work early in the morning and some theme nights at the Mansion House have made it impossible for us to sleep.

Yours sincerely



23/12/14

Your Ref:Extension of licence Mansion House Micklegate

Dear Sirs

I wish to object to the extension of the licencing hours at the Mansion House night club on Micklegate.

This is in close proximity to a residential area. Since the establishment has been under the new management there have been ongoing noise problem until 3 am. We have often had to call EPU out of hours and as they don't work every night it is impossible to monitor the noise.

This 5 am extension and in additions the lap dancing area will not be accepted in view of these current ongoing anti-social behaviour and disruptive noise problems. We often see customers struggling to leave the establishment in the small hours of the morning, they sit on our doorsteps while waiting for taxis to remove them from the area and make too much noise while doing so. There are often broken bottles and large amounts of cigarette ends or worse left behind.

Yours sincerely

13th April 2014

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

Dear Sir/Madam,

Re: Objection to extend the hours of the current license application, and to allow the lap dancing area to be moved downstairs: The Mansion (previously known as Ziggy's) nightclub, 53-55, Micklegate

Ref. No.: CYC 009397

I am writing to register my objection to the application for an extended license by The Mansion night club, situated on Micklegate, York. The basis for this opposition is that granting a license for these premises will not promote the licensing objectives, particularly the prevention of crime, disorder and antisocial behavior.

The application proposes that alcohol will be sold for consumption until 4.30am, and the nightclub will remain open until 5am. Granting the extended hours to the current license would only escalate the problems of crime, disorder, and public nuisance that have already reached problem levels for the local police.

Residents in this area, including ourselves, already suffer noise nuisance and antisocial behavior in the evenings and early hours of the morning, largely from intoxicated people. What state would the nightclub goers be when emerging at 5am, having consumed alcohol until 4.30am?? A further noise problem also arises from the clients who smoke. It is necessary for them to leave the club and stand outside on the pavement, in front of the club, in order to smoke. As the evening goes on the noise from these people gets louder and louder. To have this noise until 5am, and possibly later, would be intolerable for all residents in this vicinity. These people can also be loud and abusive to other members of the public simply walking past the club. Again, to have this continue until nearly daybreak cannot be good for the City of York.

Also, under no circumstances should the lap dancing be allowed to move to ground level within the building. As we live opposite The Mansion club, this is already becoming a problem for our family, and our two impressionable young sons. Although, the girls cannot be seen from street level, they can most certainly be seen from the windows to the front elevation of our house on the upper floors. On the top floor only transparent net curtains are present, and although I have put several notes through the door asking for black out curtains, nothing has been done. At night when the lights are on the naked girls can clearly be seen. This is simply not acceptable - there are several residents, including another family with 3 boys, that live on our side of Micklegate who must have a similar view. Having already shown a lack of respect for the local residents, we do not believe that the necessary precautions will be taken to ensure the girls cannot be seen from outside the building once they are located in a far more accessible location. The very obvious sign board for 'Upstairs' that remains covered during the day, is also on show at much earlier times than it was previously displayed, which we also find offensive to the residents with children that live on Micklegate, and to the tourists that come to York for the copious family-friendly attractions.

This area of York has a large number of tourist attractions, including the Grade 1 listed buildings opposite, the railway buildings, Micklegate itself, The bar Convent and others, and the nightclub has a profound effect on the character of the area. As mentioned above, there are already problems caused by intoxicated people, and extending the hours and allowing the lap dancing to move downstairs, we feel can only lower the tone, and further exacerbate these problems, and therefore we strongly object to all of the conditions applied for on the application.

In view of the above, I would urge the Licensing Authority to refuse the application.

Yours faithfully,

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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 (Variation of licences)
2. The following provisions of the Home Office Guidance apply to this application:
 - 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 3.39 – 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.
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.

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.