

Licensing Authority Representation

Application for variation of premises licence, 5 Whip ma Whop ma Gate, York

I write to make representation on behalf of the Licensing Authority in relation to the variation of a premises licence for the above premises.

This application relates to a variation of a premises licence for a restaurant at 5 Whip ma Whop ma Gate. The premises currently trades as a café/restaurant over two floors. The variation seeks the following:

- a, The extension of hours for the supply of alcohol from 23:00 to 01:00
- b, The extension of the licensed area covered by the premises licence to include the area edged in red on the plan, which is the front pavement area outside 3 Whip ma Whop ma Gate.
- c, To delete conditions 2, 3 and 8 of annex 3 on the licence which restrict the use of the roof terrace area to 21:00, restrict the use of the doors to the roof terrace and restrict the opening hours of the premises to 23:30 every day.

The licensed areas are located over two floors, from the plans the kitchen, toilets and external roof terrace are on the first floor, the bar, seating areas, disabled toilet, and external pavement café area are on the ground floor. After making a site visit in company of the Police Licensing Officer I do not believe the current plan attached to the licence at Annex 4 accurately reflects the layout of the ground floor internal area. As the internal plan is not subject to this variation application this matter may need to be regularised by way of another variation application.

This premises is located in York City Centre in close proximity to a number of licensed premises (bars, restaurants, cafes, shops and takeaways), residential premises, a taxi rank and churches. The premises is also located within York's Cumulative Impact Assessment (CIA) area, this area has been identified by the Council within the Statement of Licensing Policy (the Policy) as being under the most stress from crime and disorder and public nuisance related issues due to the high concentration of licensed premises.

The Policy came into effect in March 2019, it states:

9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:

- prevention of crime and disorder
- prevention of public nuisance

9.13 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:

- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
- entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
- late night refreshment premises – takeaways; and
- off licence premises – supermarkets and convenience stores.

The Policy also states:

9.9 Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.

9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

The Policy and CIA can be found at: <https://www.york.gov.uk/LicensingPolicy>

Within the proposed operating schedule the applicant has not offered any extra conditions but has stated the premises will not be run as a 'bar' and that table service of food and drinks will continue. They have also stated the external area at the ground floor (pavement café area) will be cordoned off from the public highway.

As detailed above this premises is located in an area identified by the Council as being under stress due to crime and disorder and public nuisance, already having a high level of licensed premises. I do not believe that the applicant has demonstrated through the hours applied for and the operating schedule how the granting of this variation for this restaurant will not impact this area.

The Licensing Authority do not believe the applicant has fully considered the Policy and CIA, and therefore has not demonstrated through the application and proposed operating schedule how the granting of this variation to the premises licence will not add to the cumulative impact already being experienced.

The Licensing Authority cannot support this application as it is within the CIA.

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