

SCARBOROUGH BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

At a meeting to be held at **10.00 am** on **Thursday, 17 November 2022**
at Council Chamber, Town Hall, Scarborough, YO11 2HG

Membership of this Sub-Committee will be:

Councillors John Casey, Jane Mortimer
and Roberta Swiers

(Substitute Member: Cllr John Nock)

AGENDA

- 1. ELECTION OF CHAIRMAN**
To elect a Chairman for this meeting.
- 2. DECLARATIONS OF INTEREST** (Pages 1 - 2)
Members are reminded of the need to consider whether they have a disclosable pecuniary, prejudicial or other (personal) interest to declare in any items on this agenda. Details of any interest must be declared at the start of the meeting or as soon as any interest becomes apparent during the meeting. The attached form must also be completed. Any advice required should ideally be sought before the day of the meeting.
- 3. EXCLUSION OF THE PUBLIC**
To consider the following motion:-
"whether under Section 100A(4) of the Local Government Act 1972, the public should be excluded from the meeting for the following item(s) of business on the ground(s) that it/they involve(s) the likely disclosure of exempt information (as defined in Part 1 of Schedule 12A of the Act). Any such decision is subject to a public interest test as provided by paragraph 10 of Schedule 12A of the Act."
- 4. APPLICATION FOR VARIATION OF EXISTING PREMISES LICENCE - DUKE OF YORK, 124 CHURCH STREET, WHITBY, YO22 4DE** (Pages 3 - 38)
To consider a report of the Environment and Regulation Manager (Reference 22/231) attached.
(This report seeks the determination by the Licensing Sub-Committee of an application for the variation of a premises licence where one or more relevant representations has been received.)

***(N.B. If you have any questions or need further information about the meeting please contact Christine Armitage, Electoral and Democratic Services Officer, Town Hall, St. Nicholas Street, Scarborough
Tel: 01723 383545 or e-mail democraticservices@scarborough.gov.uk)***

MEMBERS' DECLARATIONS OF INTERESTS

Name:	
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Meeting:	
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Date:	
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Agenda No & Item	
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Nature of Interest:	
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If you are uncertain whether you have an interest, please seek officer advice before the meeting.

Is the interest:

- a disclosable pecuniary interest?
- personal and non-prejudicial?
- personal and prejudicial?

(Please put an X against the appropriate interest and email to the Clerk for the meeting)

NOTES

SCARBOROUGH BOROUGH COUNCIL

LICENSING SUB-COMMITTEE

17 NOVEMBER 2022

LICENSING ACT 2003

REPORT OF THE ENVIRONMENT AND REGULATION MANAGER - 22/231

on

APPLICATION FOR VARIATION OF A PREMISES LICENCE DUKE OF YORK, 124 CHURCH STREET, WHITBY, YO22 4DE

1. PURPOSE OF REPORT

To seek the determination by the Licensing Sub-Committee of an application for the variation of a premises licence where one or more relevant representations has been received.

2. APPLICATION

- 2.1 An application for the variation of a premises licence has been received and is attached at **Appendix A**. A copy of the existing premises licence is attached at **Appendix B**.
- 2.2 The application to vary seeks to extend opening hours and the time for the sale of alcohol & recorded music to commence from 08:00. To allow live music on Wednesdays. To extend the provision of live and recorded music and entertainment similar to live & recorded music on New Years Eve until 02:00 and Christmas Eve until 01:00 hours. To remove conditions from the Premises Licence following consultation with the authorities and update the CCTV condition.
- 2.3 *The application seeks to extend the permitted hours for licensable activities as follows:*

Activity	Current hours	Requested hours
Live music (indoors)	Thurs to Tues – 20:00 to 00:00	Mon – Sun – 20:00 to 00:00 New Years Eve - 20:00 to 02:00 hours Christmas Eve - 20:00 to 01:00

Recorded music (indoors)	Mon to Sun – 11:00 to 00:30	Mon to Sun – 08:00 to 00:30 New Years Eve - 08:00 to 02:00 hours Christmas Eve - 08:00 to 01:00
Anything of a similar description to live/recorded music or performance of dance (indoors)	Mon to Sun – 11:00 to 00:00	Mon to Sun – 11:00 to 00:00 (no change) New Years Eve - 11:00 to 02:00 hours Christmas Eve - 11:00 to 01:00
Supply of alcohol (for consumption on & off premises)	Mon to Sun – 11:00 to 00:00 New Years Eve – 11:00 to 02:00 Christmas Eve – 11:00 to 01:00	Mon to Sun – 08:00 to 00:00 New Years Eve - 08:00 to 02:00 hours Christmas Eve - 08:00 to 01:00
Hours open to the public	Mon to Sun – 11:00 to 00:30 New Years Eve – 11:00 to 02:30 Christmas Eve – 11:00 to 01:30	Mon to Sun – 08:00 to 00:30 New Years Eve - 08:00 to 02:30 hours Christmas Eve - 08:00 to 01:30

2.4 The application to vary seeks to remove the conditions and add new conditions to the licence of Annex 2. Please see pages 8 and 9 of the application for the proposal to remove certain conditions. For clarification the amended conditions would read as follows:

General

1. There shall be a 30 minute 'wind down' period after the permitted hours for the sale of alcohol.
2. The licensee shall request taxis to be considerate when picking up fares from outside of the premises and specifically request them not to sound their horns.

CCTV

3. The following CCTV conditions shall apply to this licensing application
 - i) A colour digital CCTV system shall be operational at the premises at all times when licensable activities are being carried out and at any other times where members of the public are present on the premises.
 - ii) The CCTV equipment shall have constant time and date generation which must be checked on a daily basis.
 - iii) The CCTV system shall cover all areas of the premises occupied by the public under the terms of the licence.

- iv) The CCTV system shall be capable of providing quality images of good evidential value. The CCTV system shall have sufficient storage retention capacity for a minimum of 28 days' continuous footage.
- v) North Yorkshire Police or a responsible authority (as defined in the Licensing Act 2003) may at any time request a recording. This should be compiled with within 24 hours of the request being made.
- vi) It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority.

Security, Noise Nuisance & Children

- 4. The premises shall continue to participate in the local Pub Watch scheme, to include the use of a Pub Watch radio and adoption of the 'Banned from One, Banned from All' scheme.
- 5. Door staff shall be utilised during special events and Bank Holidays when requested by North Yorkshire Police.

2.5 Protection of Children from Harm

The applicant states that there will be no adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

- 2.6 Members are asked to note in particular paragraph 3.46 of the Council's Policy in that where an applicant states in the Operating Schedule that there is no adult entertainment or similar entertainment taking place at the premises, then the Licensing Authority shall consider this restriction to be a condition on the licence even though it may not state this on the licence itself.

2.7 Existing premises licence

When considering the amended conditions and the imposition of any additional conditions, consideration should be given to the conditions in the current premises licence which is attached at **Appendix B**.

3 REPRESENTATIONS

- 3.1 The Licensing Authority has received a representation(s) from Members of the Public which are attached at **Appendix C**.

- 3.2 The representations are in line with the following Licensing Objectives:

- *Prevention of Crime and Disorder*
- *Prevention of Public Nuisance*
- *Public Safety*
- *Protection of Children from Harm*

- 3.3 The representation received from members of the public is summarised as follows:

1. Increase of stag and hen dos to a residential area
 2. An increase drunken and aggressive behaviour
 3. Late night live music will create noise pollution and will have an adverse affect on the residents
 4. Possible increase in anti social behaviour due to entended hours
 5. Children pass the premises to get to the sands.
 6. Residents already experience anti social behaviour and this will add to the problem
- 3.4 Members should note that some of the grounds for the representations may not directly relate to the licensing objectives but have been included in the interests of openness and transparency.

4 LICENSING POLICY AND DCMS NATIONAL GUIDANCE

- 4.1 Members are referred to the Council's Licensing Policy together with the Home Office Amended Guidance issued under s182 of the Licensing Act 2003.

5 OPTIONS

- 5.1 The Licensing Sub Committee has the following options:
- a) Reject the application
 - b) Grant the licence as per the application
 - c) Grant the licence as per the application with additional conditions
 - d) Grant the licence but exclude a licensable activity from the application
 - e) Grant the licence but exclude a licensable activity from the application and include additional conditions

6 DETERMINATION OF THE APPLICATION

- 6.1 Under section 17 of the Crime and Disorder Act 1998 (CDA), the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.
- 6.2 Members must also exercise their decision making powers in accordance with the provisions of the Human Rights Act 1998, and the principles of natural justice.
- 6.3 Members are invited to determine this application following consideration of the evidence presented to them.



Environment and Regulation Manager

Author: Gill Mealor, Licensing Officer, Town Hall, Scarborough

Telephone No: 01723 232323

E-mail address: licensing.services@scarborough.gov.uk

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT THE AUTHOR.

List of Background Papers:

Council's Statement of Licensing Policy

Licensing Act 2003

National Guidance issued Under Section 182 of the Licensing Act 2003

Relevant Regulations associated with the Licensing Act 2003

SCARBOROUGH BOROUGH COUNCIL

Report no	22/231
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The following papers were unable to be included in the electronic version of this document.

Appendices A - D are only available for the applicant in this matter as per Section 185 of the Licensing Act 2003.

NOTES

APPENDIX A

Application

Scarborough Borough Council

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

We Stonegate Pub Company Limited

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number PL0431
--

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
Duke of York 124 Church Street			
Post town	Whitby	Post code	YO22 4DE

Telephone number at premises (if any)	
Non-domestic rateable value of premises	██████

Part 2 – Applicant details

Daytime contact telephone number			
E-mail address (optional)			
Current residential address if different from premises address	3 Monkspath Hall Road		
Post Town	Solihull	Postcode	B90 4SJ

Part 3 - Variation

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not, from what date do you want the variation to take effect?

Day Month Year

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Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) Yes No

Please describe briefly the nature of the proposed variation (Please read guidance note 2)

1. To extend the time for the sale of alcohol & recorded music to commence from 08:00 hours Mondays to Sundays (no change to terminal hour).
2. To extend the opening hours of the premises to commence from 08:00 hours Mondays to Sundays (no change to terminal hour).
3. To add the provision of live music Wednesdays 20:00 hours to 00:00 hours (to bring in line with those hours permitted for the rest of the week).
4. To extend the provision of live music, recorded music and entertainment similar to live & recorded music on New Years Eve until 02:00 hours the following morning and Christmas Eve until 01:00 hours the following morning.
5. To remove conditions from the Premises Licence following consultation with the authorities and update the CCTV condition.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

N/A

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment (Please read guidance note 3)

Please tick all that apply

- | | |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input checked="" type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details</u> (please read guidance note 5)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6)
Tue			
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	
Day	Start	Finish	Indoors	<input type="checkbox"/>
Mon			Outdoors	<input type="checkbox"/>
Tue			Both	<input type="checkbox"/>
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)	
Thur			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)	
Fri				
Sat				
Sun				

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5) As existing		
Mon	No change				
Tue	No change				
Wed	20:00	00:00			
Thur	No change				
Fri	No change				
Sat	No change				
Sun	No change		State any seasonal variations for the performance of live music (please read guidance note 6)		
			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)		
			New Years Eve 20:00 hours until 02:00 hours the following morning		
			Christmas Eve 20:00 hours until 01:00 hours the following morning		

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5) As existing		
Mon	08:00	No Change			
Tue	08:00	No Change			
Wed	08:00	No Change			
Thur	08:00	No Change			
Fri	08:00	No Change			
Sat	08:00	No Change			
Sun	08:00	No Change	State any seasonal variations for the playing of recorded music (please read guidance note 6)		
			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7)		
			New Years Eve 08:00 hours until 02:00 hours the following morning		
			Christmas Eve 08:00 hours until 01:00 hours the following morning		

G

Performances of dance Standard days and timings (please read guidance note 8)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 4)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)			
Mon						
Tue						
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 6)			
Thur						
Fri						
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 7)			
Sun						

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			<u>Please give a description of the type of entertainment you will be providing</u>			
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)		Indoors	<input checked="" type="checkbox"/>
Mon	No change				Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Tue	No change		<u>Please give further details here</u> (please read guidance note 5)			
Wed	No change		As existing			
Thur	No change		<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)			
Fri	No change					
Sat	No change					
Sun	No change		<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)			
			New Years Eve 11:00 hours until 02:00 hours the following morning			
			Christmas Eve 11:00 hours until 01:00 hours the following morning			

I

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish	Both <input type="checkbox"/>		
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
Day	Start	Finish	Both <input checked="" type="checkbox"/>		
Mon	08:00	No change	State any seasonal variations for the supply of alcohol (please read guidance note 6)		
Tue	08:00	No change			
Wed	08:00	No change			
Thur	08:00	No change	Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 7)		
Fri	08:00	No change	New Years Eve 08:00 hours until 02:00 hours the following morning		
Sat	08:00	No change	Christmas Eve 08:00 hours until 01:00 hours the following morning		
Sun	08:00	No change			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)
None

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			<u>State any seasonal variations</u> (please read guidance note 6)
Day	Start	Finish	
Mon	08:00	No change	
Tue	08:00	No change	
Wed	08:00	No change	
Thur	08:00	No change	<p><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 7)</p> <p>New Years Eve 08:00 hours until 02:30 hours the following morning</p> <p>Christmas Eve 08:00 hours until 01:30 hours the following morning</p>
Fri	08:00	No change	
Sat	08:00	No change	
Sun	08:00	No change	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

1. To remove Condition 1 under Annex 2 namely ***“Live music shall be no more than 2 days per week. These days shall vary. The live music shall be by way of a single person with amplified voice/instrument”***.
2. To remove Condition 2 under Annex 2 namely ***“Recorded music shall be by way of music playing unobtrusively in the background”***.
3. To remove Condition 2 under Annex 2 Conditions Agreed with North Yorkshire Police namely ***“CCTV shall stay in situ and shall be linked to a time and date recording facility”*** and replace with an updated condition as detailed below.
4. To remove Condition 1 under Conditions agreed with North Yorkshire Fire & Rescue Service namely ***“There shall be a maximum occupancy of 100 persons”***, as this is now covered by other legislation.

Please tick yes

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence
Licence not yet received following application to transfer the licence

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 11)

[The information provided in this box is solely for information only and not intended to be converted into conditions on the licence.]

Steps have been taken to ensure that the application and proposed operation will continue to promote the licensing objectives, and in particular we have been in close contact and undertaken consultation regarding the extension of hours and amendment of conditions with the Police Licensing Officer and Environmental Health Officer. Their comments have been taken into account in considering and submitting this application.

b) The prevention of crime and disorder

1. A colour digital CCTV system will be operational at the premises at all times when licensable activities are being carried out and at any other times where members of the public are present on the premises.
2. The CCTV system shall contain the correct time and date stamp information.
3. The CCTV system will cover all areas of the premises occupied by the public under the terms of the licence.
4. The CCTV system must be capable of providing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days continuous footage.
5. The CCTV footage will be controlled and kept in a secure environment to prevent tampering or unauthorised viewing.
6. The data controller who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of an authorised officer or an officer of North Yorkshire Police, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.
7. The CCTV system will be adequately maintained and be capable of transporting recorded material onto a removable media. The CCTV system replay software must allow an authorised officer or an officer of North Yorkshire Police to search the picture footage effectively and see all the information contained in the picture footage

for the purposes of detecting, investigating and preventing crime. It must be possible to replay exported files immediately e.g. no indexing of files or verification checks.

8. No device shall be permitted that could in any way adversely affect or impede the quality of the images recorded by the CCTV system, e.g. smoke or dry ice machines.

c) Public safety

See a) above

d) The prevention of public nuisance

See a) above

e) The protection of children from harm

See a) above


Please tick yes

- I have made or enclosed payment of the fee or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent (please read guidance note 13). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	28 September 2022
Capacity	Poppleston Allen – Solicitors for & on behalf of the applicant

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note14). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15) Michelle Peach Poppleston Allen Solicitors [REDACTED] [REDACTED]			
Post town	Nottingham	Post code	NG1 1LS
Telephone number (if any)	[REDACTED]		
If you would prefer us to correspond with you by e-mail your e-mail address (optional) [REDACTED]			

Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence you should make a new premises licence application under section 17 of the Licensing Act 2003.

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.

- a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
 5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 8. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

9. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
11. Please list here steps you will take to promote all four licensing objectives together.
12. The application form must be signed.
13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
14. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
15. This is the address which we shall use to correspond with you about this application.

APPENDIX B

Existing Premises Licence

Premises Licence

LOCAL AUTHORITY



SCARBOROUGH
BOROUGH COUNCIL

Scarborough Borough Council
Licensing Services
Town Hall
St Nicholas Street
Scarborough
YO11 2HG

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Duke of York

124 Church Street, Whitby, North Yorkshire, YO22 4DE.

Telephone 01947 600324

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday	8:00pm	Midnight
	Tuesday	8:00pm	Midnight
	Thursday	8:00pm	Midnight
	Friday to Sunday	8:00pm	Midnight
	F. Playing of recorded music (Indoors)	Monday to Sunday	11:00am
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Monday to Sunday	11:00am	Midnight
	J. Supply of alcohol for consumption ON and OFF the premises		
	Monday to Sunday	11:00am	Midnight
	Christmas Eve	11:00am	1:00am
	New Year's Eve	11:00am	2:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	11:00am	12:30am
Christmas Eve	11:00am	1:30am
New Year's Eve	11:00am	2:30am



WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Stonegate Pub Company

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Stonegate Pub Company

FC029833

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Lawrence BRADLEY

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA0124

Issued by Scarborough



ANNEX 1 - MANDATORY CONDITIONS**WHERE A LICENCE AUTHORISES THE SUPPLY OF ALCOHOL (Section 19 Licensing Act 2003)**

1. That no supply of alcohol may be made under the Premises Licence:
 - (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. That every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence.
- 3(1) The responsible person (as defined in Section 153(4) of the Licensing Act 2003) shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in Section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonable available.

Effective 1 October 2010

- 6(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
7. The responsible person shall ensure that:



- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
- (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

The conditions in paragraphs 3 to 5 and 7 of the above Schedule do **not** apply where the Premises Licence or Club Premises Certificate authorises the sale by retail or supply of alcohol for consumption **off** the premises only.

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

1. Live Music shall be no more than 2 days per week. These days shall vary. The live music shall be by way of a single person with amplified voice/instrument.
2. Recorded Music shall be by way of music playing unobtrusively in the background.
3. There shall be a 30 minute 'wind down' period after the permitted hours for the sale of alcohol.
4. The licensee shall request taxis to be considerate when picking up fares from outside of the premises and specifically request them not to sound their horns.

Conditions agreed in mediation with North Yorkshire Police

1. The premises shall continue to participate in the local Pub Watch scheme, to include the use of a Pub Watch radio and adoption of the 'Banned from One, Banned from All' scheme.
2. CCTV shall stay in situ and shall be linked to a time and date recording facility.
3. Door staff shall be utilised during special events and Bank Holidays when requested by North Yorkshire Police.

Conditions agreed in mediation with North Yorkshire Fire & Rescue Service

1. There shall be a maximum occupancy of 100 persons.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

None

ANNEX 4 - PLANS

Attached



NOTES

APPENDIX C

Representation(s)

The Licensing Authority
Scarborough Borough Council
Town Hall
St. Nicholas Street
Scarborough
YO11 2HG



Sandside
Whitby
North Yorkshire
YO22 4DN

17 October 2022

Dear Sir/Madam

Letter of Objection to the Notice of application to vary a Premises-Licence under Section 34 of the Licensing Act 2003

I am writing this letter with reference to the above application to change the license to the Duke of York in Whitby.

I must object most strongly and profoundly to this application due to being situated next door to the said property and it being surrounded on three sides by residential homes and access being by a narrow street that has residential homes on either side that would have to suffer the influx of drunken people on hen and stag dos.

I see no justification to allow loud, live music being played all day everyday until midnight with the inclusion of providing alcohol from 8 o'clock in a morning. I have already had the experience of having my business front door kicked in by a drunken fireman on a stag do and it was one of the most frightening experiences myself and my staff have to had to endure.

In my opinion this a dangerous president that will only increase drunken, aggressive behaviour. These antics can be seen on a regular bases during summer and on weekends from the Dolphin Hotel on Bridge Street and all the rowdy, obnoxious, screaming, foul language coming men and women in an inebriated state and being a damn nuisance.

Whitby is a small quaint town that gets very busy with families that have young children wanting a day out by the sea and on the beach and it does not deserve to be spoilt by drunken hooligans that are giving this town a bad name.

I therefore wish to make my strong objection noted against the said change to the Duke of Yorks.licensing application.

Yours faithfully


L. Anderson



A great place to live, work & play

NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE/CLUB PREMISES CERTIFICATE (Review/Variation/New) UNDER THE LICENSING ACT 2003

We:

North Yorkshire Police Name:

Fire Authority Name:

Environmental Health Name:

Health & Safety Name:

Planning Authority Name:

Social Services Name:

Trading Standards Name:

Any Other Person Name: TIM KRAT JULIE HORTON

Maritime Authority Name:

Hereby give notice of objection to the Premises Licence / Club Premises Certificate as listed below:

Postal Address of premises or club premises: <u>LANE OF YORK</u> <u>12A CHURCH STREET</u>	
Post town <u>WHITBY</u>	Post code (if known) <u>YO21 4DE</u>

This Notice of Objection relates to the following licensing objective:

(Please tick one or more boxes)

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) prevention of Public Nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

GROUNDS FOR RELEVANT REPRESENTATION

We hereby give notice that we object to the application for a Premises Licence / Club Premises Certificate on the following grounds:

We live opposite the Dof 7 and before this application were not aware of the licencing hours that it already holds. The pub is surrounded by residential properties and we object strongly against any increase in opening hours and especially late night live music. This will only increase the bad behaviour that we see the other side, coming to the East side which we do not want.

Please provide as much information as possible to support this relevant representation: (e.g. please list any additional information, e.g. dates of problems which are included in the grounds for review)




There are already cases of numerous fights, drunken behaviour within Whitby for years we have been lucky with the 2 pubs here as they have shown respect to their neighbours with no live music or extended hours that are magnets to the unruly visitors that sadly come to our lovely town. Should these new and existing Licensing hours have an adverse effect to our lives we should be compensated as our property values will be reduced substantially

Suggested Conditions that could be attached to the Licence to address these issues:

Whitby has become another Blackpool and publicans do not care for the people who live here. We already have Abbey Wharf that has late music and alcohol licences. The East side does not need any further deterioration in the behaviour caused by alcohol and the resulting public nuisance.

Signature: 

Date: 26/10/22

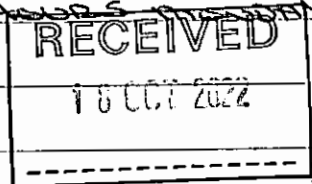
Contact Name and address for correspondence: TIM GRAY  CHURCH STREET	
Post town: WHITBY	Post code: YO22 4AE
Telephone number (if any)	
Email address:	

PLEASE NOTE :

1. THE GROUNDS FOR ANY RELEVANT REPRESENTATIONS MUST BE BASED ON ONE OR MORE OF THE LICENSING OBJECTIVES ONLY.
2. YOUR NAME AND ADDRESS MUST BE SUPPLIED.
3. FINALLY, PLEASE NOTE THAT ALL REPRESENTATIONS ARE MADE PUBLIC ON THE COUNCIL'S WEBSITE AND THIS WILL INCLUDE YOUR NAME AND ADDRESS.

To STONEGATE PUB COMPANY LTD
IN REGARD TO THE DUKE OF YORK
124, CHURCH STREET WHITBY YO22 4DE

1. I OBJECT TO THE LONGER PERIOD
PERIOD OF OPENING HOURS FOR THE
SALE OF ALCOHOL AND RECORDED
MUSIC FROM 8.00 HOURS ~~MONDAY~~
TO ~~FRIDAY~~ SUNDAY



2. TO OBJECT TO THE EXTENDED OPENING
HOURS

3. TO OBJECT TO LIVE MUSIC

4. TO OBJECT ON NEW YEARS EVE
OPENING AND MUSIC UNTIL 2AM
AND CHRISTMAS EVE UNTIL 1AM.

THE DUKE OF YORK HAS IN THE
PAST CATERED FOR FAMILIES AND
FOR PEOPLE TO ENJOY THE SORT

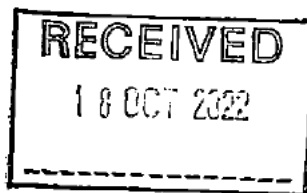
BACKGROUND MUSIC AND THE
LOVELY SEA VIEW. I FEEL THE
CHANGES IN THE PROPOSALS WILL
PROMOTE

- NOISE POLLUTION
- LARGER GATHERINGS OUTSIDE THE
PUB
- POSSIBLE ANTI-SOCIAL BEHAVIOUR
DUE TO THE LONGER OPENING
AND CLOSING HOURS.

PLEASE DO NOT REVEAL MY NAME
OR ADDRESS IN ANY MEDIA OR
PRESS COVERAGE

miss

■ Fate Hill
Whitby
North Yorkshire
YO22 4BG



17 October 2022

Dear Sir,

I would like to object very strongly about the new proposed change to the Duke of York. My objection is due to the fact that I literally live 3 feet away from it, my front room looking across to what was the kitchen.

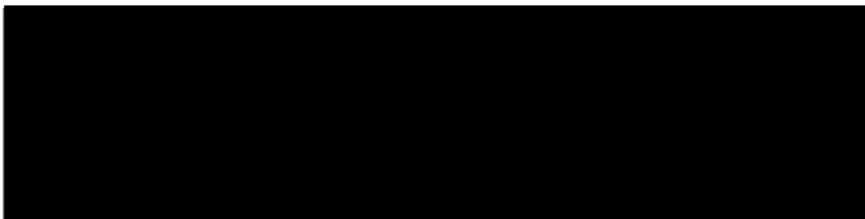
I have lived at this property for 41 years and have had to put up with drunks, skinny dippers, and people screaming at their children that are on the sand. I have had people open my door and ask if these are the toilets and when they are told no ask if it is possible to use my toilet. People vomit and everyday dogs pee regularly outside my front door, why do I have to put up with this and it is only going to get worse should this be passed?

Opening from 8 o'clock in the morning for breakfasts and wanting to play loud music until midnight seven days a week is just not acceptable.

From the end of the street to the top of Henrietta Street it is part of our history and it is known as the Old part of Whitby and I think that it should be kept like that.

Yours faithfully

Jean Locker



NOTES