

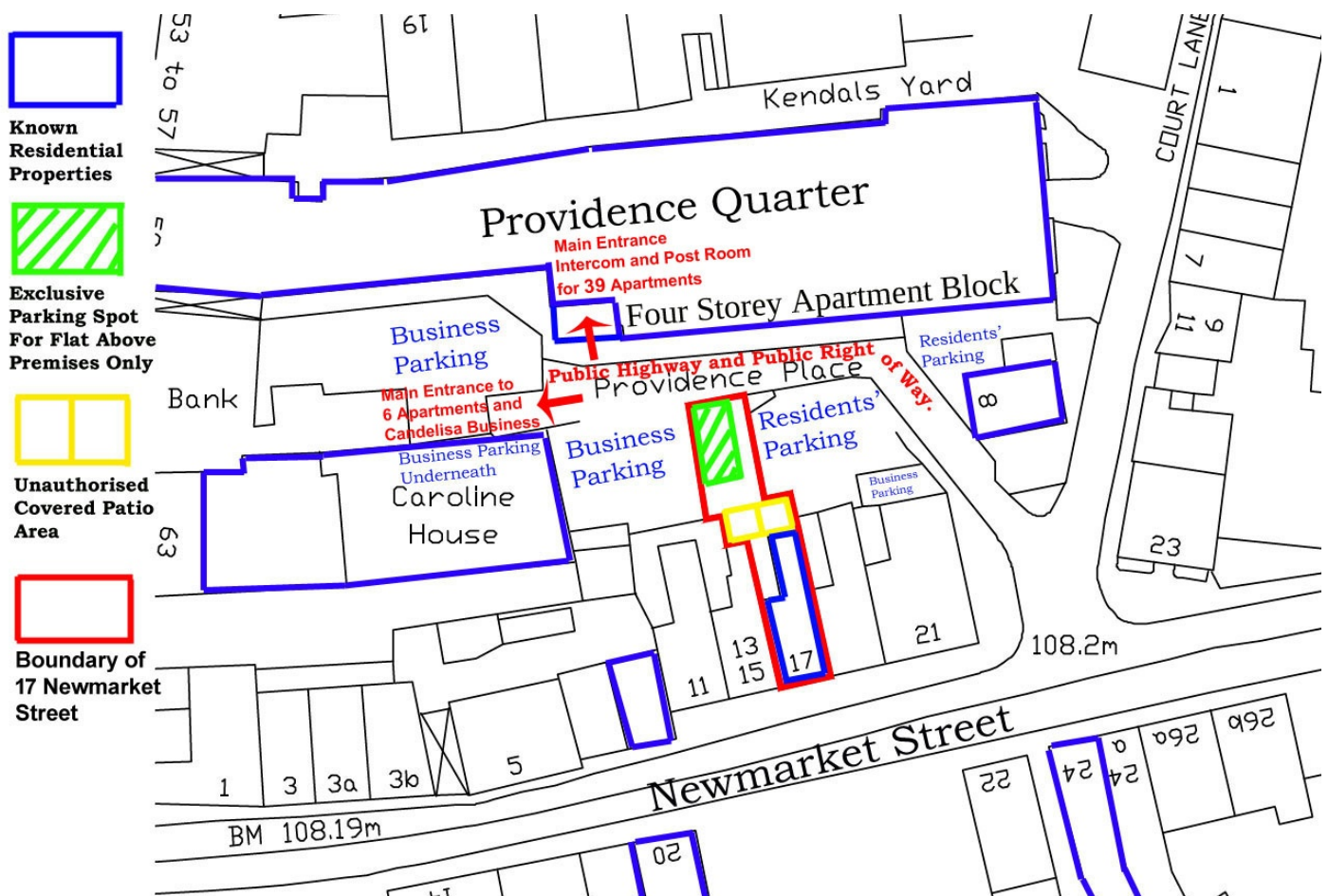
Licensing Act 2003 – Joint Representation from 31 Residents of Providence Place, Skipton.

Submitted By: REDACTED (see Annex One for other contacts)

Application Number: Not Known **Licensee:** Jane Louise Abruzzese And Catherine Boland **Premises Details:** Sfizio, Amity Place, 17 Newmarket Street, Skipton BD23 2HX

Reasons for Representation: Whilst residents of Providence Place do not object to the granting of an alcohol licence to these premises at 17 Newmarket Street, Skipton, we do have a number of ongoing concerns regarding the use of the rear of the premises, which is closely surrounded by residential properties, as detailed in the plan below. **These concerns are all related to The Prevention of Public Nuisance Licensing Objective.**

Providence Place Residential Area that closely surrounds the rear of the proposed premises.



Providence Place is a narrow, single-track road and is the main access to 48 residential properties, Candelisa offices and a number of residential and business parking areas along its length. Sixteen Providence Quarter and four Caroline House apartments face out onto Providence Place at the rear of the proposed premises.



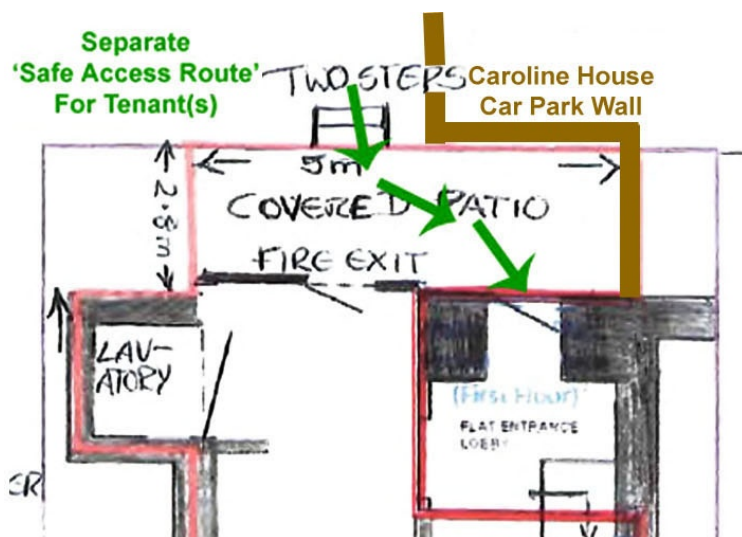
This licensing application includes a recently added, external 'covered patio' area to the rear of the Class E premises.

This structure has been the subject of a NYC Planning Enforcement case since September 2023, as it was erected in this Conservation Area without any Planning Consent.

The plastic roofing sheets have only just been removed in the last week and we are now left with an open structure.



The now open patio area, that is to be included in the licence, is a 'shared access' area that is shared between the Class E premise and a Class C residential flat above. It was originally proposed that this patio area would cater for 20 covers. We have been informed that this has recently been reduced to 15 covers.



Residents are aware that the applicants did engage with Responsible Authorities prior to submitting the application but they chose not to engage with local residents. This was disappointing.

Residents did initiate dialogue with the applicants after the application's submission. We did suggest a face to face meeting to discuss the application and our concerns. However, the applicants again chose not to take up this offer, which, again, was disappointing.

Residents are aware that the applicants are proposing to submit a planning application for a new extension. This may address a number of residents' concerns but there is nothing in place presently and there is no guarantee that approval will be granted for an extension in this Conservation Area. This Representation, therefore, can only take into account what exists presently.

Whilst some progress via email was made over residents' concerns and 'Conditions In Lieu Of Representations' were put forward by the applicants, it has been a slow and frustrating process, and there is still too much ambiguity in the conditions and proposals to be confident that the concerns have been addressed or may actually have been made worse.

As time has now run out, whilst still awaiting responses from the applicants on clarifications, and we have no choice but to submit a Representation, we can only presume the 'Conditions In Lieu Of Representations' have been lost and we may have to start again from scratch. Again, disappointing for residents.

Concerns relating to The Prevention of Public Nuisance Licensing Objective:

Concerns raised and present position:

Opening Hours: Concerns were raised regarding opening hours until 00:30 on Bank Holiday weekends.

Agreed Mitigation: Opening hours on Bank Holiday weekends have been reduced to a more acceptable 22:30. **This condition may have been rescinded due to this Representation being submitted.**

Deliveries: Concerns were raised regarding noise and other nuisance being caused by delivery vehicles using Providence Place immediately outside residents' properties.

The applicants did agree that large delivery vehicles would use Newmarket Street, however, they also stated that 'appropriately sized' delivery vehicles will use Providence Place.

This is ambiguous and does not address the issues.

Mitigation proposed by residents: Deliveries to be made from Newmarket Street.

Reasoning for deliveries to be made from Newmarket Street:

- **The Premise has no off street parking on Providence Place, as clearly detailed and justified in Planning Permission 2021/23193/FUL (see Annex B page 7).**
- **Providence Place is a narrow single track road, with no passing places, and is well used by residents, businesses and the public and can quickly get congested.**
- **Deliveries from Providence Place will cause noise nuisance immediately outside residents' windows and will cause further nuisance to residents, businesses and the public trying to use Providence Place.**
- **The premise does have the alternative option to use Newmarket Street, which is their registered address. Deliveries for residents (48 residential properties in Providence Place) and other businesses do not.**
- **There is precedence for deliveries to Licenced Premises being made from Newmarket Street, e.g. Wetherspoons (The Devonshire) and The Devonshire Vaults. Wetherspoons often has very lengthy deliveries from Newmarket Street.**
- **The retail area, cafe counter and the kitchen are all if the front section of the premise, making it logical to deliver via the front of the premise.**
- **Emergency vehicles (ambulances) have been greatly delayed in the past due to inconsiderate parking in Providence Place, e.g. a 20 minute delay for a resident with a broken hip.**
- **If large delivery vehicles can use Newmarket Street then there are no reasons why smaller delivery vehicles can't use this.**

Using Newmarket Street for deliveries will have minimal to no effect on the operation of the business, but it would help mitigate noise nuisance and potential disruption to the 48 residential properties on Providence Place, as well as to other businesses that have to use Providence Place.

Designated Smoking Area to rear parking area: Concerns were raised regarding potential noise and other nuisance due to smokers gathering in the rear parking area closely surrounded by residential properties.

The applicants did agree for customer smokers to use Newmarket Street but staff smokers would still use the rear. This does introduce some ambiguity and makes the condition regarding customer smokers difficult to enforce because:

- It may be difficult to distinguish between customers and staff.
- Staff using the rear door may give the impression to customers that this is a valid exit
- Staff smoking at the rear may give the impression to customers that this is a valid smoking area.

Mitigation proposed by residents: Designated Smoking Area to be restricted to Newmarket Street frontage only, for customers and staff.

Reasoning: To mitigate potential noise nuisance at rear of premise which is closely surrounded by many residential properties.

- A smoking area on Newmarket Street can be very closely monitored by staff at the Restaurant/Cafe counter that is located by the Newmarket Street entrance.
- It would be problematic to monitor the rear of the premise. There are no plans for CCTV at the premise and CCTV would not provide monitoring of noise levels anyway.
- There is already precedence for smokers on Newmarket Street in the immediate vicinity of the premise – e.g. Wetherspoons (The Devonshire), The Devonshire Vaults, 25 Below.
- Both customers and staff using the front of the premises for their smoking area would have minimal to no effect on the running of the business but would help mitigate potential noise nuisance from this activity for residents.

For the reasons stated above, residents cannot see why a separate ‘staff smoking’ area is necessary to the rear of the premise.

Residents are very concerned regarding the comments made by the applicants in their email of 16:08 on 3 February 2024: ‘In order for us to allow safe access and egress from the flat, the proposed extension will not take up the whole of the rear yard, which thereby *necessitates the erection of a gate to deter smokers from exiting.*’

This contradicts the agreement the applicants made in their email of 22:28 on 17 January 2024 where they stated that smokers would not use the rear of the premise.

Covered (now open) Patio Area: Concerns were raised regarding noise breakout from the covered patio area, which is closely surrounded by residential properties.

This is the area of most concern and confusion with residents.

In its present state, with the plastic roofing sheets removed, the patio area has little to no sound proofing qualities and ‘noise breakout’ could be significant at times.

If licensing is approved for this part of the premise there are concerns it can be used for licensable activities without Planning Approval.

The applicants have stated '*we confirm that the outside area will not be used until appropriate planning permission is obtained*'. This is ambiguous and not acceptable because:

- **Residents do not believe this statement is binding so the open area could be used for licensable activities in its present state if the applicants fail to gain planning approval for the new extension.**
- **If the applicants do gain planning approval then the patio area could then be used immediately after approval for up to three years in its present state without commencing the construction of the extension.**

The applicants have stated '*Concerning the rear of the property, we regard the proposal of a gate to be a reasonable adjustment based on the concerns raised in relation to patrons leaving via the parking area and also to smokers using this parking area to smoke.*' This is very ambiguous and not acceptable because:

- **The rear of the premise has an existing Fire Exit door that could be used for this purpose until the new extension is built. There is no requirement for a gate.**
- **The proposal for a gate at the other side of the patio area suggests that the applicants are planning to use the open patio area before Planning Approval for the extension is gained.**
- **The statement that the gate is required to prevent smokers using the parking area suggests that smokers would be using the patio area.**

Mitigation proposed by residents: Existing rear Fire-Exit door to premise to be Emergency Exit/Disabled Access only during trading hours, at least until the new extension is approved and actually constructed.

Reasoning: To mitigate potential noise nuisance from the 'open' yard at rear of premise which is closely surrounded by many residential properties.

This proposed mitigation only mirrors what the applicants stated in their email to residents of 19:46 on 9th January 2024 :- *Concerning the prevention of noise nuisance on the yard area at the rear of property we have consciously opted for a latest closing time of 21:30 (22:30 in Summer) **with no exit to the rear of the property other than for the Disabled, for the residents of the onsite flat, or in the case of fire.***

The present Licensing Application includes the whole of the 'Covered Rear Yard/Patio' area. However, in an email to residents of 16:08 on 3 Feb 2024, the applicants confirmed, '***In order for us to allow safe access and egress from the flat, the proposed extension will not take up the whole of the rear yard.***'

This means that the present Licensing Application will be exceeding the boundaries of the proposed extension. The Licence would need to be changed to reflect this.

Alternative/Additional mitigation: The rear yard area to be removed from the present Licensing Application until the size and shape of the proposed extension is known, approved by Planning and constructed.

Reasoning: The present Licensing Application does not match the proposed floor area of the extension and will require a change in the Licence anyway.

We have been made aware that there is a difference in costs between a minor and a full variation to a Licence. However, we feel that the Licensing application should have waited until the premise had been properly designed and planned.

Waste Management Noise: Concerns were raised regarding noise nuisance due to the proposal for the disposal of used bottles to be between the hours of 07:00 and 22:00

The applicants did agree to '*restrict the disposal of used bottles to between the hours of 09:00 and 20:00*' (email to residents of 09:38 on Fri, 19 Jan). However, **this condition may be rescinded due to the submission of this Representation.**

Ongoing concerns: There are still lots of concern from some residents regarding the very intrusive noise that will be generated early in the morning (around 7am) when the premise's bottle bins are emptied into the refuse wagon right outside residents' bedroom windows.

This will be an unprecedented noise nuisance generated within Providence Place, especially when compared to the Christian Book Shop that previously occupied the premise.

The residential properties pre-date the proposed Bistro by 9 years and this is a significant additional noise that the new business is bringing to this largely residential area.

However, it is difficult to see how this can be avoided without causing nuisance to others, e.g. It is difficult to mitigate this with a later collection time, as proposed by NYC Environmental Health, without causing potential disruption to other residents and businesses on Providence Place, and elsewhere on the route of the refuse wagon.

This may have to be a 'see how we go' issue, to gauge if this early morning, very intrusive noise can be tolerated. NYC Environmental Health have been sympathetic on this issue so it could be discussed with them if this proves to be particularly problematic.

This Representation is not an attempt to deprive the applicants of their licence it is merely residents trying to understand how these proposals will affect them and to find a fair balance between the needs of the licence holder and the risks of disturbance to local residents. These risks can be easily mitigated when the applicants have alternative options that have minimal impact on the running of their business. We have tried to highlight these options where possible.

Residents do feel that the ambiguity in some of the responses from the applicants may be the main issue that is preventing things from progressing for us. It is a shame that the applicants did not engage with residents prior to submitting their application, as recommended in 8.46 of the Section 182 Guidance, and also when we suggested a face to face meeting to discuss the proposals and our concerns, as this problem could have been easily avoided by talking to us.

Residents are still open to discussing these issues in person, so mediation may be a better way than a Committee Hearing in the first instance.

The Noise Policy Statement for England (NPSE) does recognise the impact that noise can have on health and well-being; accordingly, good health and a good quality of life can be promoted through the effective management of noise. It recognises residential areas to be the most sensitive to increases in noise and recommends to mitigate where possible.

Annex One – Address Details, indicating those that face Providence Place:

Providence Quarter, Providence Place, Skipton BD23 1FA:

Facing Providence Place:

12 names and 9 addresses redacted

Directors of Residents Management Committee:

5 names and 3 addresses redacted

Caroline House, Providence Place, Skipton BD23 1FB:

Facing Providence Place:

8 names and 4 addresses redacted

3 names and two addresses redacted

Annex Two – Related Information:

Planning Application Number: 2021/23193/FUL

Planning Officer's Final Report

9.9 Assessment of proposal

9.10 The proposed first-floor residential flat would not have any significant adverse impact on the character of the surrounding area which has a variety of residential and commercial uses.

9.11 The proposed first-floor residential flat would have its own separate rear access

that would consist of a composite door that would match the design of existing door within the front elevation. Moreover, whilst it would contain a canopy over, this would not have a significant adverse impact on visual amenity.

9.12 The application also proposes replacing all of the existing rear paned timber windows with new timber framed units to match existing. This would ensure that the positive contribution they make to the Conservation Area is preserved.

9.13 Conclusion

9.14 In summary, the application site makes a positive contribution to the Skipton Conservation Area and nearby listed buildings. Nonetheless, the proposed development would be of a good design so would preserve the aforementioned designated heritage assets.

Amenity

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9.18 Future occupants

9.19 The proposed first-floor residential flat would have an acceptable amount of internal area

Moreover, the proposed flat would not be significantly overlooked, overshadowed or obstructed nor suffer any uncharacteristic disturbance. Therefore, the proposed development would secure an acceptable standard of amenity for future occupants.

9.20 The ground floor Class E use to be retained would not have any off-street parking provision. However, this would not have a significant adverse impact on amenity given the sustainable location of the application site providing opportunities to travel by sustainable transport modes. Therefore, the proposed development would secure an acceptable standard of amenity for future business occupiers.

9.21 *Existing residents*

9.22 The proposed development only proposes minor alterations and there would not be any additional windows. Whilst there would be a change in the character of the use of the first floor, this would not have a significant adverse impact on the amenity of existing residents or business occupiers.

Parking provision, sustainable transport and highways

9.24 The submitted proposed plans show that the existing rear parking area which provides off-street parking provision for approximately 1 vehicle would serve the proposed first-floor residential flat. Resultingly, **the ground floor Class E use to be retained would not have any off-street parking provision.**

9.25 Nonetheless, the application site is located within the town centre boundary as defined by the inset policies map of the Local Plan, which is identified as the principal town service centre by the settlement hierarchy at Local Plan Policy SP4. Therefore, there are opportunities to travel by sustainable transport modes.

9.26 On this basis, given the sustainable location of the application site, **the lack of off-street parking for the ground floor Class E use to be retained is acceptable** and would not have an unacceptable or severe residual cumulative impact on highway safety.

9.27 In conclusion, the proposed development would be located within a sustainable location providing opportunities to travel by sustainable transport modes so would not have an unacceptable or severe residual cumulative impact on highway safety. Therefore, the proposed development complies with Local Plan Policies INF4 and **INF7.**

Ongoing Conditions:

4 Unless alternative details have first been submitted to and been approved in writing by the Local Planning Authority, **the parking area shown on the approved proposed plan and drawing shall be maintained and retained for its intended purpose at all times. Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development** and in accordance with Craven Local Plan 2012 to 2032 Policies INF4 and INF7 and the National Planning Policy Framework.