



# Agenda

Meeting: **LICENSING HEARING**  
Date: **MONDAY 28 APRIL 2014**  
Time: **1:00PM**  
Venue: **COMMITTEE ROOM**  
To: **Councillors Mrs P Mackay, R Sayner and R Sweeting**

- 1. Apologies for absence**
- 2. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

- 3. Guidance on procedure for hearing licensing applications** (pages 1 attached)
- 4. Application for a Premises Licence for a Mobile Unit in James Street, Selby at the Junction with Gowthorpe, Selby**

To receive the report of the Senior Enforcement Officer (pages 2 to 50 attached)

**Jonathan Lund**  
**Deputy Chief Executive**

Licensing Hearing  
28 April 2014

Enquiries relating to this agenda, please contact Palbinder Mann on:  
Tel: 01757 292207 Email: [pmann@selby.gov.uk](mailto:pmann@selby.gov.uk)

**The Chair** introduces him/herself, the other members of the panel, the Clerk to the panel and any officers present

**The Chair** will ask the parties to introduce themselves, and provide details of any witnesses they will be calling. If more than one interested party, the Chair will ask whether a representative can be appointed to speak on their behalf.

**The Solicitor** summarises the hearings procedure, any time limits for speakers and any additional information to be produced by the parties.

**The Licensing Officer** gives a summary of his report and any representations received.

**The Chair** asks for questions for the licensing officer from members, and then the Applicant, responsible authorities, interested parties and officers.

**The Applicant** or their representative makes a brief opening statement and may call witnesses relevant to the application.

**The Chair** asks for questions for the applicant from members, and then responsible authorities, interested parties and officers.

**Responsible Authorities** or their representative makes a brief opening statement and may call witnesses relevant to the application.

**The Chair** asks for questions for the responsible authorities from members, and then the applicant, interested parties and officers.

**The Interested Parties** or their representative makes a brief opening statement and may call witnesses relevant to the application.

**The Chair** asks for questions for the interested parties from members, and then the Applicant, responsible authorities and officers.

**The Chair** asks the responsible authorities or their representative if they wish to sum up their case, without adding any new evidence.

**The Chair** asks the interested parties or their representative if they wish to sum up their case, without adding any new evidence.

**The Chair** asks the applicant or their representative if they wish to sum up their case, without adding any new evidence.

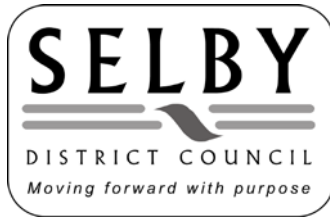
**The Chair** confirms with all parties that they have had an opportunity to say all they wanted to say in relation to the application.

**The Solicitor** advises the meeting that the panel will retire to deliberate and reach a decision.

Meeting reconvenes

**The Chair** announces the decision of the committee

Meeting Closes



**Agenda Item No: 4**

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**Title:** Section 35(3)(a) Application for a Premises Licence for a mobile unit in James Street, Selby at the junction with Gowthorpe, Selby.

**To:** Licensing Act 2003 Sub Committee

**Date:** 28 April 2014

**Service Area:** Customers and Business Support

**Author:** Tim Grogan

**Presented by:** Tim Grogan

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## **1. Summary**

- 1.1 To seek the determination by the Licensing Sub Committee of an application for a Premises Licence where relevant representations have been received.
- 1.2 Application reference: LN/6458
- 1.3 Name of Applicant: Christopher Bugg
- 1.4 Type of authorisation applied for: Premises Licence
- 1.5 Summary of application: The nature of the application is to grant a premises licence for a mobile unit to be situated in James Street at the junction with Gowthorpe, Selby. The applicant requests that the licence be granted for the provision of late night refreshment from Thursday to Saturday (inclusive) and Bank Holidays between 23:00 – 04:00.

## **2. Background**

- 2.1 A copy of the application for a Premises Licence is attached at **Annex 1**

## **3. Promotion of Licensing Objectives**

- 3.1 The applicant proposes to operate as a responsible and effective manager of the premises in order to promote the licensing objectives and this detail is contained in section M of the Premises Licence Application at **Annex 1**.

## **4. Consultation**

- 4.1 Consultation was carried out by the applicant in accordance with section 13, and section 17(5) of the Licensing Act 2003 and Regulation 42, parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local newsletter giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements.

## **5. Summary of representations made by Responsible Authorities**

- 5.1 A representation has been received from a Responsible Authority listed at **Annex 2**. The representations are in the form of North Yorkshire Police. The Representation is attached at **Annex 3**. Essentially, the representation is in line with the Licensing objectives regarding the prevention of crime and disorder and the public safety.

## **6. Summary of representations made by interested parties**

- 6.1 A representation has been received from an interested party listed at **Annex 4**. The representation is attached at **Annex 5**. Essentially the representation is in line with the Licensing objectives regarding the prevention of crime and disorder, public safety and prevention of public nuisance.
- 6.2 A map of the area showing the various locations is attached at **Annex 6**. An interested party is defined at section 13(3) of the Act as being a body representing both people that live and are involved in businesses in that vicinity of the premises and the interested party is therefore duly qualified.
- 6.3 Councillors are reminded that Representations are only “relevant” if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

## **7. Senior Enforcement Officer Observations**

- 7.1 The history of this matter is that 16 July 2012 the Council received an application from Christopher Bugg for a street trading consent to trade in the sale of hot food between 8pm and 4am on Thursday, Friday, Saturday and Bank Holiday Sundays.
- 7.2 On 21 August 2012 the Council contacted Highways and the Police. From Highways the Council received a letter showing NO OBJECTIONS and from the Police they received no response.
- 7.3 On 13 May 2013 Mr Bugg contacted the Council to report that he was now in a position to proceed with his intention to trade and registered as a food business establishment. However, his finances did not allow him to begin

operating at that time and was in November 2013 that he formally requested permission to trade. The Street Trading Consent was granted on 13 December 2013 until 12 December 2014 in accordance with the Local Government (Miscellaneous Provisions) Act 1976 Annex 7.

- 7.4 It became apparent that in order to provide late night refreshment Mr Bugg was required to be granted a Premises Licence and he was given the necessary advice.
- 7.5 This application is a response to that advice and in connection with which representations have been received from the Police and the Town Council. These are in line with the licensing objectives of crime and disorder, public safety and public nuisance
- 7.6 In terms of the Police representation it is alleged that the siting of the van contravenes parking regulations. The Council would challenge this assertion by reporting that under the Local Government (Miscellaneous Provisions) Act 1982 they have authority to grant Street trading consents in James Street. In addition, as shown above Highways offered no objections. Indeed, a licence to sell ice cream has been at this location since 1985 without issue.
- 7.7 Regarding the representation, in terms of the close proximity to the taxi rank, the Council would report that a burger van was sited in Gowthorpe, over the road and within feet of the taxi rank for several years without issue. In terms of public safety it should be noted that there is a specific condition 10 attached to the Street Trading Consent at Annex 7 which deals with public safety.
- 7.8 In connection with the Town Council's representations the Council would report that the concerns regarding public safety are dealt with above and concerning litter, this issue is dealt with in condition 12 attached to the Street Trading Consent at Annex 7.

## **8. Options**

- 7.1 By virtue of section 18(4) of the Act, the Sub Committee have the following options available to them in making their decision:-  
Option 1: Grant the licence in the terms applied for.  
Option 2: Grant the licence with modified/additional conditions imposed by the Licensing Sub Committee.  
Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.  
Option 4: Reject the application.

## **9. Analysis**

- 8.1 The following could be the result of any decision made by this Sub

Committee:

Option 1: This decision could be appealed at Magistrates Court by the representor.

Option 2: This decision could be appealed at Magistrates Court by the applicant or the representor.

Option 3: This decision could be appealed at Magistrates Court by the applicant or the representor.

Option 4: This decision could be appealed at magistrates Court by the applicant

## **10. Licensing Objectives**

10.1 The Licensing Act 2003 has 4 objectives:

- prevention of crime and disorder,
- public safety,
- prevention of public nuisance
- protection of children from harm.

## **11. Implications**

11. Community safety and crime: The Sub 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 cooperate in the reduction of crime and disorder in the town.

## **12. Risk Management**

12.1 This decision could be appealed at Magistrates Court by the applicant or the representor. In addition any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.

## **13. Recommendations**

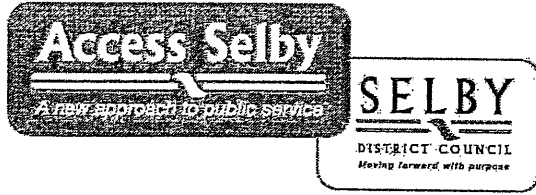
13.1 Councillors determine the application having regard to the guidance shown at **Annex 8**

# **ANNEX 1**

Copy of the application of the Premises Licence for James Street junction with Gowthorpe, Selby (mobile unit).



Senior Enforcement Officer  
 Selby District Council  
 Civic Centre  
 Doncaster Road  
 Selby  
 YO8 9FT



**Application for a premises licence to be granted  
 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.

*I/we* ML Bugg  
 (Insert name(s) of applicant)

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description			
JAMES STREET AT JUNCTION OF GOWTHORPE			
Post town	SELBY	Postcode	YO8

Telephone number at premises (if any)	[REDACTED]
Non-domestic rateable value of premises	£

**Part 2 - Applicant Details**

Please state whether you are applying for a premises licence as  
 Please tick as appropriate

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
  - i. as a limited company  please complete section (B)

- ii. as a partnership  please complete section (B)
- iii. as an unincorporated association or  please complete section (B)
- iv. other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a  
 statutory function or   
 a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname <b>BUGG</b>			First names <b>CHRISTOPHER</b>		
I am 18 years old or over				<input checked="" type="checkbox"/> Please tick yes	
Current postal address if different from premises address		[REDACTED]			
Post town	<b>SEBURN</b>		Postcode	[REDACTED]	
Daytime contact telephone number		[REDACTED]			
E-mail address (optional)					

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
I am 18 years old or over					<input type="checkbox"/> Please tick yes
Current postal address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD	MM	YYYY
06	03	2014

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

A PARKED CATERING VAN OPERATING  
 THUR, FRI, SAT & BANK HOLIDAYS  
 8.00PM - 04.00AM

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

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

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

**Supply 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 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 3)		
Tue					
Wed			<b>State any seasonal variations for performing plays</b> (please read guidance note 4)		
Thur					
Fri			<b>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</b> (please read guidance note 5)		
Sat					
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 6)			<b><u>Will the exhibition of films take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 4)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)	
Day	Start	Finish		
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)	
Tue				
Wed				<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 5)
Thur				
Fri				
Sat				
Sun				

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<b>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3)		
Mon					
Tue					
Wed			<b>State any seasonal variations for boxing or wrestling entertainment</b> (please read guidance note 4)		
Thur					
Fri			<b>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</b> (please read guidance note 5)		
Sat					
Sun					



**E**

<b>Live music</b> Standard days and timings (please read guidance note 6)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon					
Tue					
			<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 4)		
Wed					
Thur					
			<b><u>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</u></b> (please read guidance note 5)		
Fri					
Sat					
Sun					

**F**

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue			<u>Please give further details here</u> (please read guidance note 3)		
Wed			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur			<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Fri			<u>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</u> (please read guidance note 5)		
Sat					
Sun					

**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 6)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon					
			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 4)		
Tue					
			<b><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></b> (please read guidance note 5)		
Wed					
Thur					
Fri					
Sat					
Sun					

# H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b>Please give further details here</b> (please read guidance note 3)		
Wed					
Thur					
Fri			<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 4)		
Sat					
Sun			<b>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</b> (please read guidance note 5)		

1

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3)		
Mon					
Tue			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 4)		
Wed					
Thur			<b>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</b> (please read guidance note 5)		
Fri					
Sat					
Sun					

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 7)	On the premises	<input type="checkbox"/>			
				Off the premises	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)					
Mon								
Tue								
Wed								
Thur								
Fri								
Sat								
Sun								
						<b>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</b> (please read guidance note 5)		

**State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor:**

Name	
Address	
Postcode	
Personal licence number (if known)	
Issuing licensing authority (if known)	

**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).

**L**

<p><b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)</p>			<p><u>State any seasonal variations</u> (please read guidance note 4)</p>
Day	Start	Finish	
Mon			<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 5)</p>
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

**M** Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

The Premises will be responsibly & effectively managed

b) The prevention of crime and disorder

The premises will be responsibly & effectively managed

c) Public safety

All Equipment Checked regularly  
Fire extinguisher & Blanket to hand

d) The prevention of public nuisance

All litter will be cleaned up

e) The protection of children from harm



**Checklist:**


Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 4 – Signatures** (please read guidance note 10)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (see guidance note 11). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	06/03/14
Capacity	Owner

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

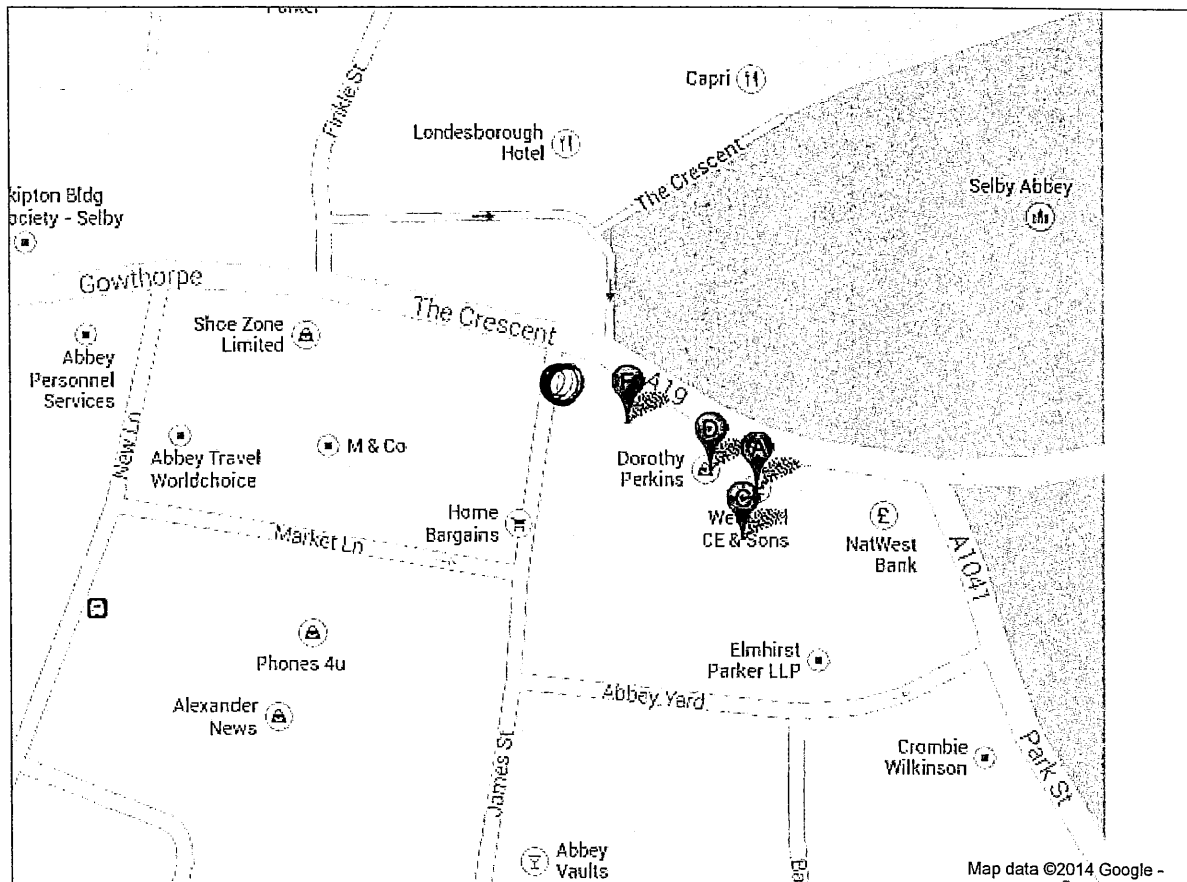
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

## Notes for Guidance

1. 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.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example the 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.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. 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.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. 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.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicant or their respective agent must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

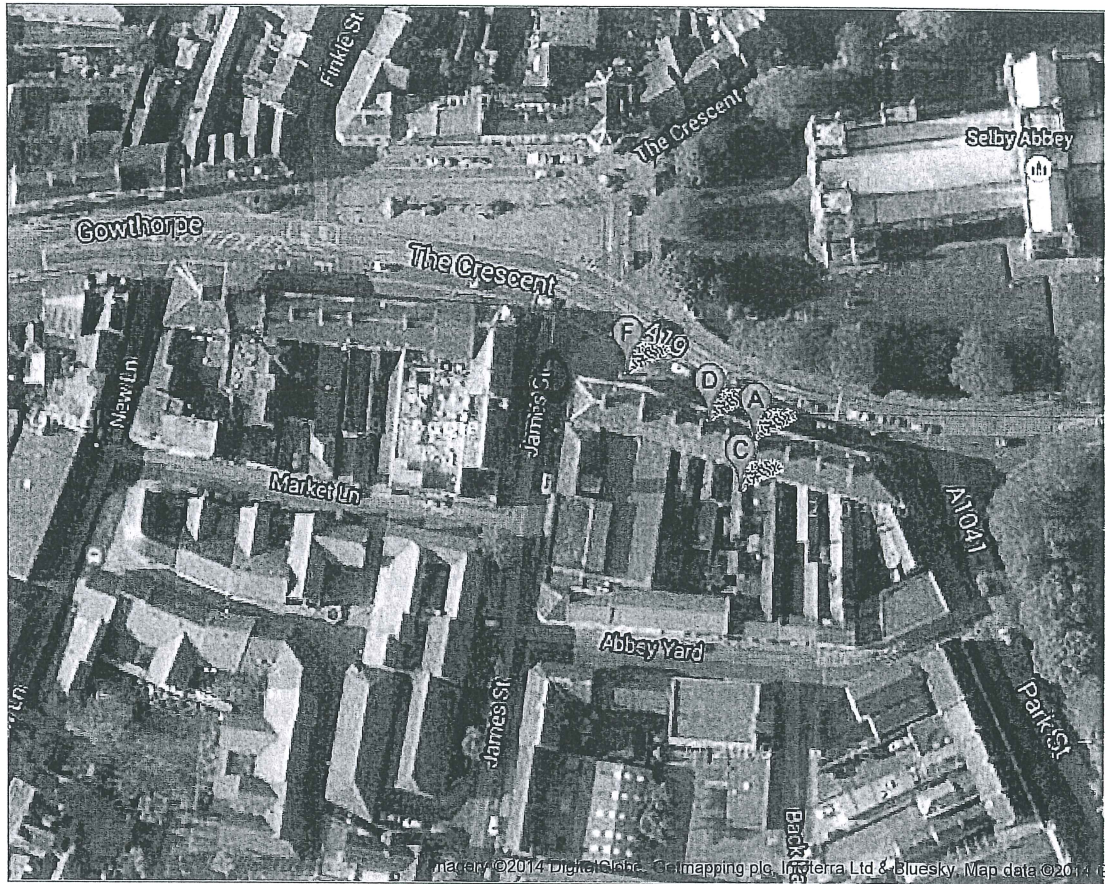


To see all the details that are visible on the screen, use the "Print" link next to the map.



Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



# **ANNEX 2**

## **Responsible Authority**

North Yorkshire Police

# **ANNEX 3**

**Representation made by Responsible Authority (North Yorkshire Police)**

NOT PROTECTIVELY MARKED

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

We:

- North Yorkshire Police Licensing Officer**        **Name: PC1503 Jackie Allen**
- Fire Authority        Name: .....
- Environmental Health        Name: .....
- Health & Safety        Name: .....
- Planning Authority        Name: .....
- Social Services        Name: .....
- Trading Standards        Name: .....
- Interested Party        I am: .....

- a) a person living in the vicinity of the premises:
- b) a body representing persons living in the vicinity of the premises:
- c) a person involved in business in the vicinity of the premises:
- d) a body representing persons involved in business in the vicinity of the premises:

Maritime Authority        Name: .....

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

**Postal Address of premises or club premises:**

**(No Trading Name)  
James Street (mobile unit)  
Junction of Gowthorpe  
Selby YO8**

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Post town Selby	Post code (if known) YO8 6QL
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This Notice of Objection relates to the following licensing objective:

*(Please tick one or more boxes)*

- 1) the prevention of crime and disorder
- 2) public safety
- 3) prevention of Public Nuisance
- 4) the protection of children from harm

**GROUNDS FOR RELEVANT REPRESENTATION**

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

This premises licence relates to siting and operation of a mobile catering van for the sale of late night refreshment between 8pm and 4am every Thursday, Friday, Saturday and Bank Holidays on the junction of James Street and Gowthorpe, Selby.

**Public Safety**

The proposed location for the mobile catering van – on the nearside of James Street as you enter from Gowthorpe directly adjacent to the main entrance to Wetheralls Department Store is of concern to the police. Being sighted at this location poses a risk to both road users and pedestrians. Firstly, the vehicle would be parked partly on a double yellow and partly on a single yellow line, which in itself is an offence. Secondly I would adduce from this fact that Highways have deemed it necessary to place double / single yellow lines at this location as it was either deemed not safe to park there or to maintain the free flow of traffic. Parking a vehicle of this size at this location would affect site lines for vehicles travelling into James Street from Gowthorpe, vehicles travelling along James Street and pedestrians crossing the road.

The catering vans location is also directly opposite the main taxi rank in Selby town centre. It's operation between 8pm and 4am aligns to the busiest times within the night-time economy, an area of significant footfall and where taxis are constantly entering and exiting the rank collecting and dropping of customers. Siting a catering van at this location will only serve to increase the public safety risk for which the applicant has failed to mitigate against within the operating schedule of his application.

NOT PROTECTIVELY MARKED



NOT PROTECTIVELY MARKED

**Crime & Disorder**

The applicant has failed to outline within his operating schedule how he intends to mitigate the crime and disorder risk posed by selling late night refreshment within the late night-economy at this location.

The vehicle would be in very close proximity (approximately 2 metres) of the substantial glass frontage of Wetheralls Department Store. Attracting customers, in various states of intoxication, to this location will only increase the risk of criminal damage the Wetheralls business premises.


Whilst Selby District Council has a town centre CCTV camera on Finkle Street it only covers the mouth of the James Street junction therefore any activity in and around the catering van would be obscured by the bank so coverage would be limited. There is a CCTV camera on the corner of James Street directly above where the applicants catering van would be located however this is a fixed position camera permanently pointing in the opposite direction towards the junction of The Crescent / Park Street and it would be of little use to this operator.

Whilst the police object to this application outright as we believe that it is the wrong location to site a new mobile catering van within the town centre, if an application was submitted to site the vehicle elsewhere then as a minimum the police would expect the applicant to mitigate the following licensing objective risks:-

1. consider the type of type of packaging that the applicants late night refreshment offering will be sold in to mitigate crime and disorder concerns e.g. use of plastic instead of glass / metal soft drinks containers.
2. consider whether the food packaging can easily be disposed of in waste receptacles provided by the council e.g. pizza boxes cannot be deposited into the letterbox style openings of many refuse bins (public nuisance objective)
3. the applicant must provide a number of waste receptacles within the immediate vicinity of his catering van which he has the responsibility for disposing of the waste at the end of the trading period. They could also be made to clear discarded litter within the immediate vicinity at the end of the trading period prior to leaving the site. (public nuisance).
4. any external generator (typically the petrol driven mobile generators) used when the catering van is trading must not emit a sound above a specific decibel level in order to prevent public nuisance to neighboring residents principally due to hours of operation (until 4am).
5. consider the installation of a CCTV system both on and with views around the unit when the catering van is operating at a busy night-time economy location not covered by the council's own system.

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

Signature: 	PC 1503 Jackie Allen (Police Licensing Officer for Selby)
Date: Tuesday 8 <sup>th</sup> April 2014	PC1503

<b>Contact Name and address for correspondence: <i>Please use block letters</i></b>	
York Police Station Fulford Road York North Yorkshire	
Post town: York	Post code: YO10 4BY
Telephone number (if any) '101' (speak name or collar number after initial announcement)	
If you would prefer us to correspond with you using an e mail address your e mail 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 AND WILL BE MADE PUBLIC.**

NOT PROTECTIVELY MARKED

# **ANNEX 4**

## **Interested Party**

Selby Town Council

# **ANNEX 5**

## **Representation made by Interested Party (Selby Town Council)**

**Town Clerk  
Ms K Mann**

Direct Dial No: 01757 708449  
E-Mail: [k.mann@selbytowncouncil.co.uk](mailto:k.mann@selbytowncouncil.co.uk)

13 March 2014

Tim Grogan  
Senior Enforcement Officer  
Selby District Council  
Civic Centre  
Doncaster Road  
Selby  
YO8 9FT

Dear Mr Grogan

Premises Licence Application – James Street

Selby Town Council wish to raise their concerns as follows to the application for a Premises Licence from Mr Bugg:

- Due to the proximity to the taxi rank there would be risk to pedestrians in and around James Street should the premises licence be approved and the applicant be allowed to sell hot food after 11.00pm in an evening;
- There would be additional footfall across Gowthorpe to the food outlet, when there could be potentially people under the influence of alcohol which would be a risk to vehicles on Gowthorpe and vehicles entering and exiting James Street and indeed pedestrians walking along James Street;
- There would be additional litter from the food outlet which would have a detrimental impact on the local streetscene;
- The Town Council would ask that if the premises licence is approved that the food outlet is repositioned away from the taxi rank and Wetherells Store glass windows which are a risk to people should they become broken if any disturbance in the vicinity takes place.

In view of these concerns the Town Council would ask that this premises licence is considered by the Licensing Committee.

Yours sincerely

  
Karen Mann  
Town Clerk



Selby Town Council,  
The Town Hall,  
York Street,  
Selby. YO8 4AJ

Tel: 01757 708449  
Fax: 01757 213761  
[hello@selbytowncouncil.co.uk](mailto:hello@selbytowncouncil.co.uk)  
[www.selbytowncouncil.gov.uk](http://www.selbytowncouncil.gov.uk)



# **ANNEX 6**

**Map of area showing location of proposed Premises Licence**



Map of the location of proposed Premises Licence

# **ANNEX 7**

**Street Trading Consent issued to Christopher Bugg**



LN/000006458

## **SELBY DISTRICT COUNCIL**

**LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982**

### **STREET TRADING CONSENT**

**The Selby District Council being the Licensing Authority under section 3 of the  
above Act HEREBY GRANT CONSENT to**

**Mr Christopher Bugg of**

**48 Westbourne Road, Selby, YO8 9DA**

**to trade at**

**Perfect Pizzas, James Street, Selby, North Yorkshire, YO8 6QL**

**on**

**Thursday, Friday, Saturday, Bank Holidays, Christmas Eve, and New Years Eve  
between the hours of  
8 pm and 4 am**

**in articles of the following description  
Pizza, Chips and Drinks**

**his CONSENT is granted subject to the conditions set out in the Schedule(s) attached.**

**A fee of £1,378.00 will be paid for this licence in  
Monthly Instalments (1 x £115.20 & 11 £114.80)**

**This consent shall remain in force from 13th December 2013  
until and including 12th December 2014 unless previously revoked or surrendered.**

**Granted at the office of the said Council at**

**The Civic Centre, Portholme Road, Selby, YO8 4SB  
On 13th December 2013**

**Solicitor To The Council**

## **STREET TRADING CONSENT CONDITIONS**

### **GENERAL CONDITIONS**

1. This Consent enables the holder to trade in Selby from the area and between those times detailed in this consent only (if any).
2. The Consent Holder will only employ persons that are suitably qualified in food hygiene to assist him (unless trading in non food articles/goods).
3. The Consent Holder shall not permit any person under the age of 17 to engage in Street Trading.
4. The Consent Holder shall at all times have available for inspection an up to date and valid Certificate of insurance (vehicle and Public Liability) the level of Public Liability Cover shall be a minimum of £2.000.000. (or such sum specified by the Council). If food sold, the insurance shall specifically include cover against food poisoning to the same amount. The insurance certificate shall be produced to the Council before the trading consent is issued.
5. The Consent Holder shall notify the Solicitor to the Council immediately of any convictions or proceedings arising out of the use of enjoyment of the Consent.
6. The Consent Holder shall not assign, underlet or part with his interest or possession under this Consent or any part thereof, but may surrender it to the Council at any time.
7. The Consent Holder shall not use of permit anyone to use this consent to trade from anywhere other than the site detailed within this consent.
8. The Consent Holder shall observe and comply with any directions in relation to the use of the street or public place by a duly authorised officer of the Council.
9. The Council may vary the Conditions attached to this Consent at any time.

### **SITE CONDITIONS**

10. The Consent Holder shall take all reasonable steps to ensure public safety; in particular, any vehicle or trailer used to assist in street trading shall be maintained in a safe condition and be tested/serviced annually.
11. The Consent Holder shall ensure that no waste liquids (including grease) of any description are deposited onto the site, highway or into rainwater gullies/drains serving the site. All liquids must be removed from the site and disposed of in a proper manner, and in particular shall leave the site clear of such refuse at the completion of trading.
12. The Consent Holder shall take all reasonable steps to:
  - Prevent accumulation of litter and dirt in or close to the site;
  - Remove and properly dispose of any such litter, etc which does accumulate.
13. The Consent Holder shall ensure that the surface of the public highway or any area of the consent street to which the public has access is not damaged in any way as a result of their undertaking. In the event there is damage the Consent Holder shall be responsible for and shall reimburse/make good any damage caused.

14. The Consent Holder shall ensure that a current price list of articles sold is always prominently displayed on the vehicle or stall.
15. The Consent Holder shall not use or permit to be used any electrical or electronic equipment (for example, televisions or radio receivers) in such a manner as to cause a disturbance or nuisance.
16. The Consent Holder shall not obstruct the highway/footpath in which the site is situated or cause danger to persons using the highway/footpath.
17. The Consent Holder shall not trade in such a way as to cause a nuisance or annoyance to persons using the street or public place, or occupiers of premises in the vicinity.
18. At least one container shall be provided by the consent holder and placed on the pavement near to his/her stall/vehicle and be available for use by his/her customers. A notice shall also be displayed requesting customers to deposit litter in a waste container
19. Advertisements or other notices must not be placed outside of the immediate area of the street trading site without approval of the Council. The Consent Holder shall not make any excavations or alterations of any description in the surface of the street, or land in the ownership of the Council adjoining a street or place, or fix equipment of any description in the said surface, except with the previous consent of the Council in writing.

#### **TRADING CONDITIONS**

20. The Consent Holder shall only trade from the size and type of vehicle, stall/trailer as approved in writing by the Solicitor to the Council.
21. There shall be no alteration in the design/construction/appearance of the vehicle or stall without the written permission of the Council having been obtained.
22. Adequate precautions shall be taken by the Consent Holder to prevent the risk of an outbreak of fire at his/her stall or vehicle. Where a power source or heating appliance is present, eg a generator or bottled gas container, then a suitable fire extinguisher shall be provided. In addition a fire blanket shall be provided in a vehicle selling hot food.
23. A copy of this Consent shall be kept on site by the holder and available for inspection by an authorized officer of the Council, or a Police Officer.
24. Each Consent Holder shall ensure that disabled persons and wheelchair users can be adequately served. This may involve such customers being served from outside the vehicle/stall.
25. Static street trading units, vehicles or other equipment associated with the street trading activity shall be removed from the site at the cessation of trading each day.

## LEGAL PROVISIONS

26. At all times the Consent Holder shall comply with all statutes, statutory instruments and byelaws currently in force.
27. The Council will not accept liability for any accident or damage to any person, property or other thing whatsoever arising out of or in connection with the activities of the matters relating to the street trading consent.
28. The issue of this Consent shall in no way affect the duties and powers of the District Council as Planning Authority.
29. All applications for a street trading consent shall be accompanied by a certificate signed by an approved gas installer to the effect that all gas appliances installed in or on the vehicle or trailer, and all cylinders, pipes and other fittings used for supplying gas to that appliance have been examined and found to be fitted in a safe and satisfactory manner and are suitable for their intended use. (At the present time such certificate can only be issued by a person approved by the council for Registered Gas installers- CORGI).
30. All Consent Holders must comply with all aspects of the Food Safety, and Health and Safety Legislation in respect of themselves and their vehicles.
31. The Consent Holder shall at all times obey all road traffic regulations in force in the consent area.

## REVOCACTION

32. If a Consent Holder fails to comply with any of the conditions attached to this consent he/she will risk having the consent revoked and risk prosecution.
33. The Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.
34. The Council may at any time vary the conditions or revoke the Consent.
35. The Consent Holder may at any time surrender his consent to the Council.

## THIS CONSENT DOES NOT:

1. **Permit trading outside the terms of the consent.**
2. **Indicate that planning permission is not required.**

Please note:

- (a) **That the requirement to obtain planning permission applies to all streets, whether they have been designated Consent Streets or not.**
- (b) **That the grant of one or more street trading consents does not give the trader immunity from planning control**
- (c) **The Council has discretion whether or not to enforce planning laws in relation to street trading.**
3. **Indicate that the unit is exempt from business rates**
4. **Over ride parking restrictions or any other traffic regulations**
5. **Imply approval from the Highway Authority or any other person or authority.**

# **ANNEX 8**

## **Guidance notes regarding determining applications**

# 9. Determining applications

## General

- 9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

## Where no representations are made

- 9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions.

## Where representations are made

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

## Relevant, vexatious and frivolous representations

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to

the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

## **The role of responsible authorities**

- 9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

## **Representations from the police**

- 9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local

area<sup>4</sup>. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

## **Licensing authorities acting as responsible authorities**

- 9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.
- 9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.
- 9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee

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4 Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) took place on 15th November 2012. PCCs are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.



comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

- 9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.
- 9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

## **Health Bodies Acting As Responsible Authorities**

- 9.20 Where a local authority's Director of Public Health in England (DPH)<sup>5</sup> or Local Health Board (LHB) (in Wales) acts as a responsible authority, they should have sufficient knowledge of the licensing policy and health issues in order to be able to fulfil this function. If they wish to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies exercising health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information would be relevant to the public safety objective and in some cases the crime and disorder objective. In making representations, DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at

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<sup>5</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

## **Disclosure of personal details of persons making representations**

- 9.22 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.23 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 9.24 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.25 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.26 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

## **Hearings**

- 9.27 Regulations governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.28 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.29 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

- 9.30 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.31 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.32 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.33 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.34 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
  - the representations (including supporting information) presented by all the parties;
  - this Guidance;
  - its own statement of licensing policy.
- 9.35 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.
- 9.36 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

- 9.37 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

### **Determining actions that are appropriate for the promotion of the licensing objectives**

- 9.38 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.39 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.40 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

### **Considering cases where licensing and planning applications are made simultaneously**

- 9.41 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.