

LICENSING SUB-COMMITTEE
Tuesday, 17 October 2017 at 7.30 pm
Council Chamber, Civic Centre

AGENDA

1. Appointment of Chair

To appoint a Chair for this meeting.

2. Declarations of Interest

Councillors' declarations of interest (if any) in relation to any items on the agenda.

3. Application for Renewal of Licence to Place Tables and Chairs Outside William Aylmer House

a) Procedure for the Hearing (Page 2)

b) Application for Renewal of Licence - William Aylmer House
(Pages 3 - 14)

4. Exclusion of Press and Public

The Chair will move that the following item be taken in private session on the grounds that it is likely to involve the disclosure of exempt information as specified under Paragraph 1 of Part One of Schedule 12A of the Local Government Act 1972, if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing information.

Paragraph 1: Information relating to any individual.

5. Determination of Application for Private Hire Driver Licence

a) Procedure for the Hearing (Page 15)

b) Determination of Application for a Private Hire Driver Licence
(Pages 16 - 29)

Membership of the Sub Committee

Councillor Tony Hall
Councillor Maggie Hulcoop
Councillor Bill Pryor

LICENSING SUB-COMMITTEE

Determination of Licence Application (With Representations) Determination of Licence Renewal Application

Procedure (Guidance)

1. The Chair introduces members of the Licensing Sub-Committee. All other parties, including Officers of the Council, should be identified.
2. **The Chair of the Licensing Sub-Committee will announce whether the decision of the Licensing Sub-Committee will be given at the end of the hearing with written confirmation sent to the Licence Holder/Applicant within 10 working days of the hearing, or whether it will just be given in writing within 10 working days of the hearing.**
3. Presentation of the report from Licensing Department, including the calling of any witnesses and production of any relevant documentation.
4. Members of the Sub-Committee, Applicant/Licence holder and Objectors may ask questions of Officers from Licensing Department [and witnesses] which are relevant to the proceedings in hand.
5. Applicant/Licence Holder or his/her representative to present their case, calling any witnesses and producing any relevant documentation.
6. Members of the Sub-Committee, Officers from Licensing Department and Objectors may ask questions of the Applicant/Licence Holder [and witnesses] which are relevant to the proceedings in hand.
7. Objectors or their representative to present their case calling any witnesses and producing any relevant documentation.
8. Members of the Sub-Committee, Officers from Licensing Department and Applicant may ask questions of the Objectors [and witnesses] which are relevant to the proceedings in hand.
9. Licensing Department to briefly sum up.
10. Applicant/Licence Holder or their representative to briefly sum up.
11. Objectors or their representative to briefly sum up.
12. Members of the Sub-Committee to ask any final questions.
13. Applicant/Licence Holder, Objectors and members of the public and press, Councillors not being members of the Licensing Sub-Committee, Officers of the Council not being the Sub-Committee's Committee Officer or Legal Advisor, will be requested to leave the hearing whilst members of the Licensing Sub-Committee determine the case.

REPORT TO: LICENSING SUB-COMMITTEE

DATE: 17 OCTOBER 2017

TITLE: APPLICATION FOR RENEWAL OF LICENCE
TO PLACE TABLES AND CHAIRS OUTSIDE
WILLIAM AYLMER PUBLIC HOUSE

LEAD OFFICER(S): DAVID TAYLOR, PRINCIPAL
ENVIRONMENTAL HEALTH OFFICER
(01279) 446148

**CONTRIBUTING
OFFICER(S):** DEBBIE WRIGHT, LICENSING
ADMINISTRATOR
(01279) 446005

RECOMMENDED that:

- A** Members of the Licensing Sub-Committee approve, reject or approve with amendments, a licence application (renewal) to place tables and chairs on the highway outside of the premises known as William Aylmer Public House, Kitson Way, Harlow, Essex. CM20 1DG.

BACKGROUND

1. A local authority may under the provisions of the Highways Act 1980 Section 115 (E) grant to a person permission to use objects or structures on, in or over a highway for a purpose which will result in the production of income.
2. The William Aylmer Public House is located on Kitson Way CM20 1DG within the town centre. The public entrance is from a pedestrianised area on the south side of the building. A Highways Act licence has previously been issued for the benefit of the William Aylmer to occupy a space approximately 23m long by 4m wide for 22 tables and 88 chairs.
3. J D Wetherspoon PLC, the licensee, has made an application to renew the licence. The application may be viewed in Appendix 1.
4. Following receipt of the application to renew the 'tables and chairs' permission, the Council consulted interested parties and received one representation.

ISSUES/PROPOSALS

5. The representation received by the Council makes reference to the following concerns;
 - 1) The applicant has consistently failed to enclose the allocated area with an appropriate barrier,
 - 2) The applicant has disregard for the safety of pedestrians,
 - 3) That the Council should not renew the licence unless the applicant undertakes to adhere fully to licence conditions,
 - 4) The presence of unguarded tables and chairs creates a no-go area for vulnerable persons,
 - 5) Street clutter serves to exclude vulnerable persons from fully participating in the community.

The representations may be seen in Appendix 2.

6. The Licensing Sub-Committee may,
 - 1) Grant the permission in accordance with the application,
 - 2) Refuse the application or,
 - 3) Grant permission for the use of a different number of tables and chairs or attach conditions to any permission as the Council thinks fit.
7. The Council may not unreasonably withhold consent. Any question whether consent is unreasonably withheld or is given subject to reasonable conditions shall be referred to and determined by an arbitrator to be appointed, in default of agreement, by the President of the Chartered Institute of Arbitrators in accordance with Highways Act 1980 Section 115(J).
8. The applicant and respondent have been invited to attend the meeting.

IMPLICATIONS

Regeneration (includes Sustainability)

None specific.

Author: **Graeme Bloomer, Head of Place**

Finance (Includes ICT)

None specific.

Author: **John Dyson, Principal Finance Manager, on behalf of Simon Freeman, Head of Finance**

Housing

None specific.

Author: **Andrew Murray, Head of Housing**

Community Wellbeing (includes Equalities and Social Inclusion)

As contained in the report and accompanying appendices.

Author: **Simon Pipe, Customer and Media Services Manager, on behalf of Jane Greer, Head of Community Wellbeing**

Governance (includes HR)

The Sub-Committee must have due regard to the representation received when determining the application. Additional legal advice will be provided at the meeting, as required.

Author: **Dimple Roopchand, Assistant Solicitor, on behalf of Brian Keane, Head of Governance**

Background Papers and Links

Highways Act 1980 Section 115 (E) may be found here:

<http://www.legislation.gov.uk/ukpga/1980/66/section/115E>

Licensing Subcommittee

17th October 2017

Appendix 1

Application



J D Wetherspoon plc, PO Box 616, Watford, WD24 4QU | Telephone: 01923 477777 | Fax: 01923 219810
jdwetherspoon.com

Harlow Council
Licensing Team
Civic Centre
The Water Gardens
Harlow
Essex CM20 1WG

Our ref :ef.2861



24th July 2017

Dear Sirs

**Re ; Application for renewal of Tables and Chairs Licence
William Aylmer, Kitson Way, Harlow**

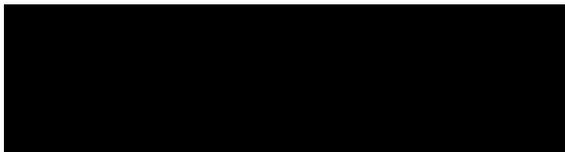
Please find enclosed the following in respect of a renewal of the Tables and Chairs licence for the William Aylmer :-

1. Completed application form.
2. Layout plan
3. Public liability Insurance Details (please note that further cover has been arranged to run concurrently from expiry but the updated paperwork is not yet to hand).
4. Cheque in the sum of £1562.00 in respect of the renewal fee due.

I look forward to hearing further in due course.

Yours sincerely

**Emma Fallon
Licensing Administrator
JD Wetherspoon Plc**



31 JUL 2017

Highways Act 1980

Application for renewal of a licence for the erection and use of facility (Tables and Chairs) under section 115(E) of the Highways Act 1980

Premises to be Licensed

Name: William Aylmer
Address: Kitson Way, Harlow
Post code: CM20 1DG
Telephone: [REDACTED] Email: [REDACTED]

Hours of operation requested

Monday: 0900 to 0000
Tuesday: 0900 to 0000
Wednesday: 0900 to 0000
Thursday: 0900 to 0000
Friday: 0900 to 0100
Saturday: 0900 to 0100
Sunday: 0900 to 0000

Justices / Premises Licence held

Yes No

(Please tick)

Applicant details

Name: J D Wetherspoon C/o Emma Fallon
Address: [REDACTED]
Post code: [REDACTED]
Telephone: [REDACTED] Email: [REDACTED]

Agent's details

Name: Emma Fallon (as above)
Address: [REDACTED]
Post code: [REDACTED]
Telephone: [REDACTED] Email: [REDACTED]

Hereby apply for renewal of the licence in respect of the following facility

22	Tables @ £19 per table	88	Chairs @ £13.00 per chair
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I / We enclose fee of

£ 1562.00

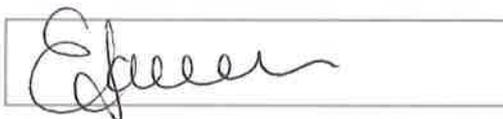
(Cheques payable to Harlow Council)

When an application is withdrawn or refused the application fee will be refunded less an administration fee

Accompanying documentation:

1. The licence holder is to provide evidence that Harlow Council is indemnified against any claim arising from the operation of The Facility by public liability insurance cover of Five Million Pounds.
2. A dimensioned plan clearly showing the area where you intend to place the tables and chairs.
3. Details of the furniture you intend to use including umbrellas, barriers and planters.
4. The required fee.

Signed:



Date:

26.07.17

How information about you will be used

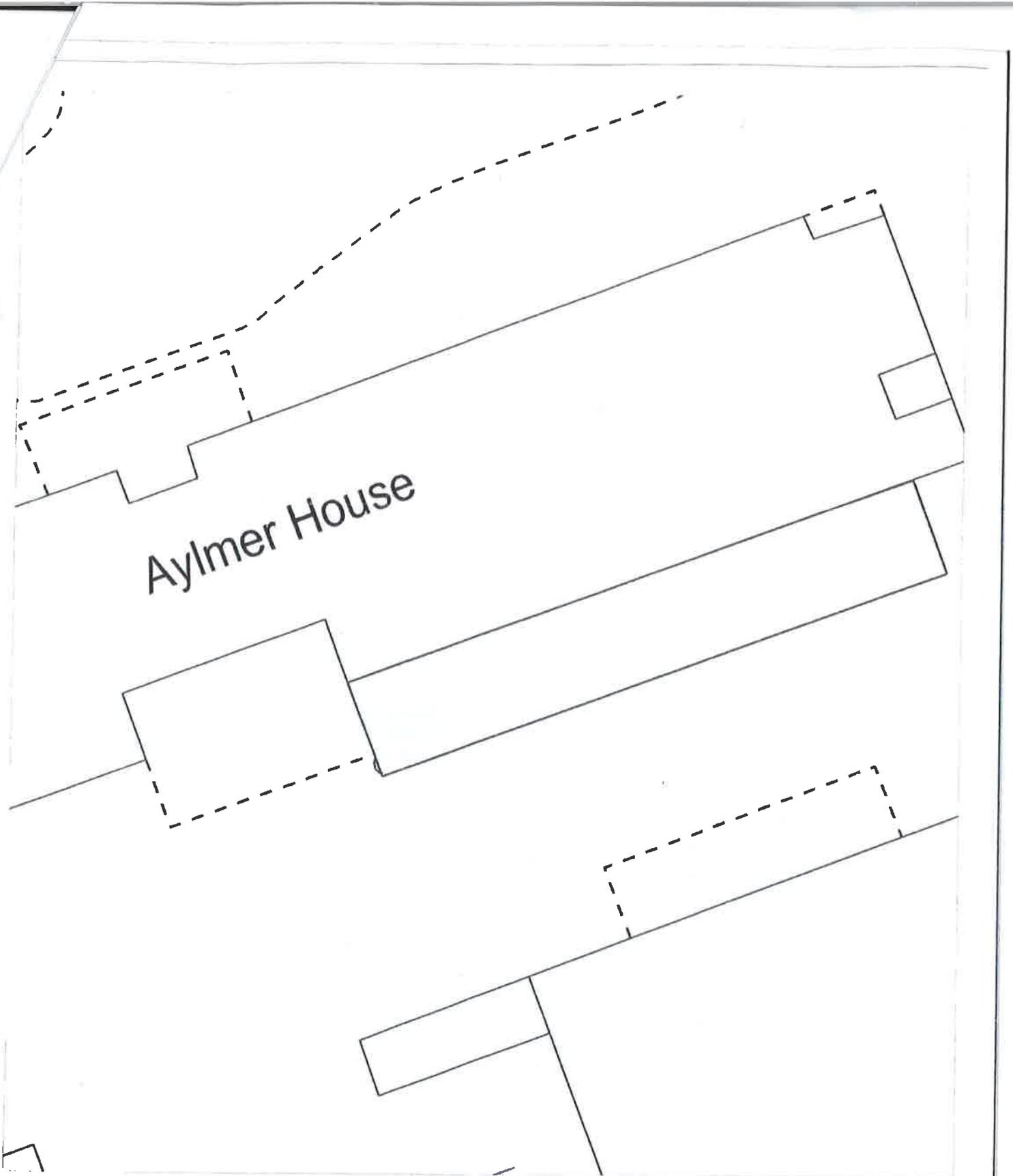
Harlow Council understands that your privacy is important to you. The information you provide on this form will be kept private and confidential and used for the purpose of processing your application.

However, Harlow Council may use the information for the purpose of performing any of its statutory enforcement duties and any disclosures required by law.

To be returned to:

Harlow Council
Licensing Team
Civic Centre
The Water Gardens
Harlow, Essex
CM20 1WG.

Tel: 01279 446005 or 01279 446009



Aylmer House

Harlow
Council

Working together for Harlow

Licensing Department

Civic Centre

The Water Gardens

Harlow

Essex CM20 1WG

Tel 01279 446005 Fax.

WILLIAM AYLMER

SCALE:
1:200

DRAWN BY:
Debbie Wright

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02/08/2016

Website

Direct Line

E-mail



TO WHOM IT MAY CONCERN

Our Reference: PP17/CRS/LP

Dear Sirs

As Insurance Brokers to J D Wetherspoon PLC we are writing to confirm that our clients hold the following policies:

Cover	Public and Products Liability
Insurer	CNA Insurance Company Limited
Policy Number	CA0003396
Period	31 July 2016 to 30 July 2017 both days inclusive
Limit of Liability	Public Liability GBP 10,000,000 any one occurrence or series of occurrences arising out of any one event unlimited in the period of Insurance Products Liability GBP 10,000,000 any one occurrence or series of occurrences arising out of any one event and in the aggregate in the period of Insurance

Subject otherwise to the terms, conditions, exceptions and exclusions of the policy.

This letter is provided as a courtesy to our client as a matter of information only and confers no rights on the holder. Our duties in relation to this insurance are to our client and we accept no duty of care or responsibility to you or any other third party and any liability to you or any third party is excluded. This letter does not amend, extend or alter the coverage afforded by the policies, nor does it purport to set out all of the policies' terms, conditions and exclusions. The policy terms, conditions, limits and exclusions may alter after the date of this document or the insurance may terminate or be cancelled, and the limits shown may be reduced by paid claims. We have no obligation to advise you of any changes which may be made to the policies or to advise you of their cancellation or termination.

Signed on behalf of WILLIS LIMITED

Authorised Signatory

Authorised Signatory

Willis Limited
51 Lime Street
London
EC3M 7DQ
A Lloyd's broker, authorised and regulated by the Financial Conduct Authority. Registered office 51 Lime St, London EC3M 7DQ. Registered number 181116 England and Wales.

Appendix 2

Representation

From: Peter Lainson
Sent: 29 August 2017 11:49
To: Debbie Wright
Subject: RE: Highways Act consultation - William Aylmer

Thank you for providing an opportunity for the Harlow Area Access Group (HAAG) to comment on JD Wetherspoon's renewal application below.

This matter has been considered by HAAG members and we would wish to register very considerable concerns about this application as the applicant has consistently failed, throughout the past licence period, to enclose the allocated street café area with an appropriate barrier, as required by HDC's standard licence conditions.

With the history of the applicants past disregard for the safety of passing pedestrians, HAAG would urge that this licence application is not renewed, at least unless, and not until, the applicant undertakes to adhere fully with HDC general licence conditions, specifically with regard to the requirement for appropriate boundary fencing at all times when tables & chairs are placed in the public domain.

We trust that these comments will enable HDC to safeguard the best interests of all vulnerable pedestrians who use Kitson Way during the coming year.

Kind regards - Peter

From: Peter Lainson
Sent: 21 September 2017 16:52
To: David Taylor
Subject: RE: Highways Act consultation - William Aylmer

Dear David - thank you for your message regarding HAAG's objection to the application for renewal of Wetherspoons Street Café licence.

HAAG is not surprised to learn that you have received no reports of accidents caused by Wetherspoon's unguarded street café, but in our view that this does not illustrate that an unguarded street café does not, in itself, present very real dangers to passing pedestrians; quite the contrary: the absence of any accidents in any such instance is largely a consequence of the unguarded street café rapidly being recognised by many blind, partially-sighted, frail-elderly and other vulnerable pedestrians' as a very significant hazard with the direct and immediate effect of creating a 'No-Go' areas into which many will not venture for fear of being tripped and injured.

The deterrent effect of unguarded street cafes', like many other forms of street clutter, is to exclude many members of our community from participating fully as they might wish to; clearly if all street cafes' were permitted to dispense with their required boundary fencing, the whole of our town centre would very quickly become a 'No-Go' area for a great many vulnerable pedestrians'.

The boundary fencing of street cafes' throughout the U.K. is primarily a matter of not allowing the uncontrolled sprawl of tables and chairs across public footways' to create 'No-Go' areas and exclude vulnerable pedestrians from community activities...

So, yes, please place this matter before the Licensing sub-committee at the next opportunity.

t.i.a. & regards - Peter

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

Agenda Item 5a

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