

Annex 7

Representation by Public Protection, 5 St Helen's Square

Public Protection are making representations against the Impossible Motel at 5 St Helen's Square on the grounds of public nuisance and the protection of children from harm.

The CIA is: the cumulative impact Area and is an area designated by City of York Council in its statement of licensing policy where evidence shows that the cumulative impact of the number and concentration of licensed premises continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives of prevention of crime and disorder and prevention of public nuisance. Within this area, when applying for licences the onus is on the premises licence holder to demonstrate that the licensing objectives will be met and that their proposed activities will not result in an escalation of crime, disorder and public nuisance in this area.

A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have led to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone.

The premises is at 5 St Helen's Square, York and is the old Lloyd TSB bank located in a prominent location in the middle of one of York's central historic squares frequented by both locals and tourists and already has a number of other licensed premises on the square itself that close between midnight and 1am. The area is a mix of restaurants, bars, business premises and residential premises at the roof top level.

The licence application

As it stands the application proposes a hotel with a license for plays, films, indoor sporting events, live music, performance of dance and supply of alcohol from 08:00 hours until 03:00 hours 7 days a week in every area of the application site inside the building with access to the public from 06:00 hours until 03:30 hours.

This means the bar, restaurant, corridors, each hotel room, if granted, could all be used for any or all of these licensable activities. The outside area could also be used for plays and the sale of alcohol during these times and late night refreshment would be allowed from up to 05:00 hours. Alcohol would also be allowed to hotel guests 24 hours a day.

The ground floor of the hotel is to be a restaurant/ bar with hotel rooms above and in the basement and there is to be a seating area to the front and side along St Helens Square and Blake Street.

There is to be direct access from the hotel to 3 St Helens Square, effectively linking the two premises into one joint premises. It should therefore be noted that it is difficult for the Local Authority to view one application separately from the other and not consider the joint cumulative impact of both premises within the CIA as there is a potential for both premises to morph into one and the applicant has not offered any condition to prevent this from taking place.

The applicant has, however, offered a condition for a noise management plan which would have to be agreed with the Local Authority before being implemented and so long as appropriate controls on noise for people entering and leaving the hotel after 11pm are included in the noise management plan this condition is welcomed by Public Protection.

The applicant has also offered a condition for a noise limiting device. On the ground floor level, so long as an acoustic lobby is proposed or already exists on the ground floor level then this would be an adequate condition to prevent noise from escaping this part of the building, however, if there is no acoustic lobby then there is a concern that noise from music after 11pm would escape and potentially result in a public nuisance.

Noise from the premises

As every room in the hotel has been included in the licensable area, each room could have a bar or DJ in them and it is not clear to what extent noise generated inside the premises from customers or licensable activities such as music or raised voices will escape these rooms through the building envelope or through opened windows.

The applicant has offered conditions for the control of noise, however, some of these are not achievable or are not fully adequate and therefore more robust and precise conditions should have been submitted with the application, especially considering the location within the CIA.

In order for Public Protection to advise on the appropriateness of the proposed conditions and the suitability of the premises, I would advise that the applicant needs to either demonstrate that noise from the different rooms above and below the ground floor restaurant will be attenuated by the building envelope or clarify exactly what activities are to be proposed in each part of the licensed area.

Noise from the roof top terrace.

There are residential flats at roof top level that are within relatively close proximity, including some along Blake Street. Noise can travel substantial distances, especially later in the evenings and during night time periods and Public Protection are receiving an increasing number of noise complaints about external areas, often which include hot tubs, in hotels and holiday homes across the city.

The use of the roof top terrace would potentially introduce noise that is currently not present closer to the height of nearby residents and include noise from customers raised voices and in terms of the adjoining hotel room, which appears to have large

openable patio doors and would be licensed to have recorded music as well as other regulated entertainment and adult entertainment, potentially result in noise that could cause a public nuisance to the local residents.

The applicant has not offered conditions to restrict access to the roof top terrace or control noise within this area and Public Protection cannot support this part of the application.

The external seating area

The application would grant use of the outside area on St Helens Square and down Blake Street until 3am and the applicant has not offered sufficient or adequate conditions to control noise from this area after 11pm or for the removal of chairs and tables when not in use.

The numbers of tables and chairs proposed outside the hotel in the supporting plan showed 12 seats along St Helens Square and 40 seats along Blake Street, which would be a large increase on the current amount allowed by planning for the previous applicants of 8 seats on St Helens Square alone and none on Blake Street.

This would introduce a lot of customer noise during the evening and night time and should be restricted. Public Protection have discussed with the applicant who intimated that he would be willing to reduce the hours of use for the street area.

To this extent whilst planning does not form part of the licensing objectives, if any hours or restrictions are to be made on the external area it is worth bringing to the applicant and committees attention that there is a restriction in planning to 8 seats on St Helens Square and a restriction to street furniture on Blake Street requiring it is removed by 5pm.

Any licensable activities in the external area on Blake Street should therefore be restricted to the following hours in line with the highways restrictions:

09:00 hours – 17:00 hours each day.

Public Protection have not had time to negotiate hours of use for the outside seating area on St Helens Square but would advise that if the application is granted this area should be restricted to 23:00 hours and have a condition requiring the removal of chairs and tables.

Protection of children from harm

Section K of the application highlights that adult entertainment can take place, although it does not specify in which area the building this would take place and could mean the bar/restaurant area or the hotel rooms and roof top terrace. A condition has been proposed by the applicant stating that a challenge 21 would be in place and that no adult entertainment would take place whilst anyone under 18 years of age are allowed in that area. This again does not specify which areas under 18's will be restricted from having access to, nor what times any such restriction would take effect. There are no set timings to restrict the hours of the adult entertainment

proposed with this application and therefore they could take place from 8am through until 3am. No concrete meaningful conditions have been proposed to protect families or ensure that children are not accidentally exposed to the areas whilst adult entertainment is taking place and in deed this could be very difficult to achieve as such entertainment could take place in any room within the hotel and as it stands Public Protection would object to the application on grounds of the protection of children from harm.

In summary

There are many variables to this application which I feel must be considered in conjunction with the application for 3 St Helens Square, which would be linked to the hotel via an internal access way.

- There is an uncertainty about the buildings ability to prevent noise breakout from the proposed licensable activities and therefore it is difficult to agree adequate conditions to internal control noise.
- There is an uncertainty to where regulated entertainment and adult entertainment will take place within the premises and in terms of the roof terrace adjoining the hotel room, Public Protection do not feel that the applicant has offered adequate times, controls or conditions to restrict its use and prevent a public nuisance.
- Conditions on controlling noise and protecting children from harm have been offered and although some of the noise conditions are welcomed, some are not robust or precise enough.

I would therefore advise the members of the committee that unless the concerns raised here can be mitigated and stringent conditions agreed with the applicant that they refuse this application on grounds of public nuisance and the protection of children from harm.

Should you have any further queries please contact me on 01904 551580.

Regards

Michael Golightly
Technical Officer