

Licensing Act 2003 Sub Committee

29 April 2021

Report from the Director – Environment, Transport & Planning

Section 18(3) (a) Application for a premises licence for 16 Barbican Road, York, YO10 5AA

Summary

1. This report seeks Members determination of an application for the grant of a premises licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC 068154
3. Name of applicant: Mr Kheng Chooi Koay
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

The proposal is to allow for the provision of the following activities at a restaurant, takeaway and karaoke bar spread over 3 floors.

Proposed Activity	Timings
Live Music (indoors)	1000 to 0330 everyday
Recorded Music (indoors)	1000 to 0330 everyday
Performance of Dance (indoors)	1000 to 0330 everyday
Other Entertainment - Karaoke (indoors)	1000 to 0330 everyday
Late Night Refreshment (indoors)	2300 to 0330 everyday
Supply of Alcohol (on & off the premises)	1000 to 0330 everyday
Opening hours	1000 to 0400

All licensable activity/opening hours	From the end of permitted hours on new year's eve to the start of permitted hours on New Year's Day. An additional hour on the day that British Summertime starts
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Background

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. The premises is described in the application as a three story property operating as a restaurant, takeaway and karaoke bar.
8. This site previously had the benefit of a premises licence which was granted in 2005. That licence (CYC 09221) was revoked following a review hearing in June 2020, a copy of the revoked licence can be found at **Annex 2**.
9. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 3**.

Promotion of Licensing Objectives

10. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:

11. General

- a. The applicant accepts that there have been problems with regard to the management / running of these premises in the past but he was not involved with those practises and wishes to start afresh now.
- b. This will be a family friendly restaurant that offers takeaway facilities and entertainment in the form of Karaoke and the applicant wants to make sure that all four licensing objectives are considered at all times so that there is no repetition of some of the past problems.
- c. The applicant is putting in place proper structures to make the business work successfully going forward – including proper training and management, with a wholly new management team in place.

- d. The applicant has engaged Peninsula to ensure that all HR matters are dealt with properly and that risks are identified, the law is complied with and appropriate training programmes are put in place.
- e. The applicant will also ensure that the property is Covid compliant at all times and in all respects and training will be given to ensure this.

12. The Prevention of Crime and Disorder

- a. The applicant is happy to have full modern CCTV coverage and to accept reasonable conditions for the storage, copying and easy viewing of it. It will include all areas to which the public have access for licensed activities and where the public can consume alcohol and will display the correct time and date of the recording.
- b. The applicant has always operated a zero tolerance approach in relation to any kind of crime and disorder in the premises that he has been responsible for but realises that this goes much further and that he would have a responsibility to help to keep the whole of central York free of trouble. He would refuse to serve someone who is intoxicated and would be prepared to involve the police and other legal avenues, if required.
- c. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the Premises Licence and the opening/operating hours of the venue and such training will be refreshed and documented every six months. Training records will be kept for at least three years and will be accessible for inspection upon request by any responsible authority.
- d. Rigorous steps will also be taken to check employees and ensure that everyone involved in any aspect of running the business has proper immigration clearance and the right to work in the UK and no criminal activity of any kind will be tolerated.
- e. Full written employment records will be kept and will be available for inspection.
- f. Neither Miss Tina Feng nor Mr Zhongle Chen will have anything to do with the running of the business and will not be the DPS at any time.

13. Public Safety

- a. The applicant is happy for a capacity limit to be put in place for the property and for door supervisors to be in place at applicable times, particularly after midnight.
- b. Where the karaoke rooms are being used there shall be at least one member of staff permanently situated on each floor of the venue on which the room is being used and the member of staff will monitor the rooms that are in use and will enter each room that is occupied no less than every 30 minutes.
- c. The members of staff situated on the first and second floor shall be in direct radio link with the door staff and will ensure that all alcohol consumed in the karaoke rooms is served by way of waiter/ waitress service. All users of the karaoke rooms will have evidence of their room hire on their food bill as suitable evidence of food purchase and use of the karaoke rooms will be limited to customers who have consumed a meal in the restaurant, excluding snacks. No dancing is to take place on the ground floor of the building at any time.
- d. There have been previous issues with hygiene and food safety standards/breaches but these have been addressed and the applicant will maintain standards going forward. Advice is being taken to ensure that these standards continue going forward (including putting in place a staff management plan and a waste bin management plan). Means of escape will not be locked. Fire systems are being updated and no staff will live/ sleep in cramped conditions.

14. The Prevention of Public Nuisance

- a. The applicant is happy to agree that after midnight the only door used by members of the public to enter the premises will be the main door onto Barbican Road and that the last entry to the premises shall be at midnight. He will also agree that after midnight customers who have left the venue to smoke shall be monitored by a door supervisor in a clearly demarked area at the front of the venue, which will not block the footpath.
- b. Drinking glasses of any type will not be allowed to enter or leave the premises whilst under the customers care.
- c. A refusals register and an incident report register will be kept and prominent, clear and legible notices will be displayed at all exits

requesting the public to respect the needs of local residents and to leave the premises and area quietly.

- d. A direct contact number for the duty manager shall be available to residents living in the vicinity of the premises, on request, and all doors and windows shall be closed during regulated entertainment or, when entertainment is not provided after 11pm each night – except for ingress and egress.

15. The Protection of Children from Harm

- a. There will be a challenge 21 policy in operation at the premises requiring any individual who appears to be under the age of 21 to produce identification to prove that they are over the age of 18, the sale of alcohol being refused where they are able to do so.
- b. The following forms of identification will be acceptable – photocard driving licence, valid passport, PASS accredited proof of age card and any other form of identification previously agreed with representatives of North Yorkshire Police.
- c. The applicant very much wishes this to be a family friendly property and will do everything that he can to make sure that this happens and that children are not exposed to any risk of crime, disorder, lack of safety or public nuisance.
- d. Steps will be taken to ensure that knives are not sold to children.

Special Policy Consideration

- 16. This premises is not located within the cumulative impact area.

Consultation

- 17. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act 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 paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.

18. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

19. City of York Council Public Protection (Environmental Protection) have made representation on the objective of the prevention of public nuisance. Their representation can be found at **Annex 4**.
20. North Yorkshire Police made representation on the prevention of crime and disorder, however they have mediated with the applicant who has agreed to amend their operating schedule and have added several conditions. The agreed conditions can be found at **Annex 5**. Therefore North Yorkshire Police have withdrawn their representation.

Summary of Representations made by Other Parties

21. There have been 13 relevant representations received from other persons. The list of representors is attached at **Annex 6**.
22. The representations are predominantly based on the grounds of the prevention of public nuisance objective. They state that this objective will be undermined if the application is granted.
23. A copy of all the representations are attached at **Annex 7**.
24. A map showing the general area around the venue is attached at **Annex 8**.
25. The mandatory conditions that will be attached to this licence if granted can be found at **Annex 9**. The Legislation and Policy considerations can be found at **Annex 10**.

Options

26. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
27. Option 1: Grant the licence in the terms applied for.
28. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
29. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.

30. Option 4: Refuse to specify a person on the licence as premises supervisor.
31. Option 5: Reject the application.

Analysis

32. The following could be the result of any decision made this Sub Committee:-
33. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
34. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
36. Option 4: This decision could be appealed at Magistrates Court by the applicant.
37. Option 5: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

38. The Licensing Act 2003 has four objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
39. By taking the statutory requirements of the Licensing Act into consideration, as well as the four licensing objectives when determining licensing applications the Council are supporting the new and existing licence trade, as well as local residents and businesses. The functions support the Council's Plan of safe communities and culture for all, and a good quality of life for everyone.

Implications

40.
 - **Financial** - N/A
 - **Human Resources (HR)** – N/A

- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The 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 co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

41. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
42. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

43. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

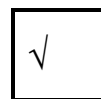
Chief Officer Responsible for the report:

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Director Environment, Transport & Planning

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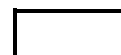
**Report
Approved**



14 April 21

Specialist Implications Officer(s)
Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Fishergate



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form/plans
- Annex 2** - Previous (revoked) licence CYC 09221
- Annex 3** - Overview of circumstances in which entertainment activities are not licensable
- Annex 4** - Representation Public Protection
- Annex 5** - Agreed conditions with North Yorkshire Police
- Annex 6** - List of other persons **CONFIDENTIAL**
- Annex 7** - Other persons representations
- Annex 8** - Map of area
- Annex 9** - Mandatory Conditions
- Annex 10** - Legislation & Policy