Licensing/Gambling Hearing

To: Councillors D'Agorne, Norman and Wells

Date: Thursday, 29 April 2021

Time: 10.00 am

Venue: Remote Meeting

A G E N D A

1. Chair

To elect a Member to act as Chair of the meeting.

2. Introductions

3. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

4. Exclusion of Press and Public

To consider excluding the Press and Public during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

5. Minutes (Pages 7-29)

To approve the minutes of the Licensing Hearings held on 22 February 2021 and 1 March 2021.

6. The Determination of a Section 18(3)(a) Application by Mr Kheng Chooi Koay for a premises licence in respect of 16 Barbican Road, York, YO10 5AA (CYC-068154) (pages 31-147)

Democracy Officer:
Name: Angela Bielby
Contact Details:

- Telephone – (01904) 552599
- Email - a.bielby@york.gov.uk

For more information about any of the following, please contact the Democracy Officer responsible for servicing this meeting:

- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats.

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 **(Cantonese)**

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। **(Bengali)**

Ta informacja może być dostarczona w twoim własnym języku. **(Polish)**

Bu bilgiyi kendi dilinizde almanız mümkündür. **(Turkish)**

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ **(Urdu)**

☎ **(01904) 551550**

LICENSING ACT 2003 SUB – COMMITTEES
PROCEDURE FOR REMOTE LICENSING HEARINGS

Introduction

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.

2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.

3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.

4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

Preparation for the Remote Licensing Hearing

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's

website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.

7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.

8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.

9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

The Remote Licensing Hearing

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.

13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.

14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.

15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.

16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

ORDER OF PROCEEDINGS AT THE REMOTE HEARING

Chair's introduction and opening comments

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their representatives), and establish the identity of all who will be taking part.

18. The Chair will outline the procedure to be followed.

19. The Chair will proceed with the order of business on the agenda.

Licensing Manager

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

The Application

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time *[maximum 15 minutes].*

22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:

    - Police;
    - Other Responsible Authorities;
    - Ward Councillors;
    - Public representation
    - Members of the Sub-Committee;
    - The Sub-Committee's legal adviser.

The Representations

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation *[maximum 15 minutes each party]:*

- Police
- Other Responsible Authorities
- Ward Councillors
- Public representation
- Members of the Sub-Committee

24. The Chair will invite the Applicant and each other party to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.

25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Summaries

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case *[maximum 5 minutes each party]*

    - Police
    - Other Responsible Authorities
    - Ward Councillors
    - Public representation

27. The Chair will invite the Applicant (or their representative) to summarise their case *[maximum 5 minutes].*

28. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

Determination

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

30. If the decision is made following the conclusion of the hearing, the Sub-Committee will return to the public online meeting to announce an outline of the decision to those present. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not)

usually within 5 working days of the hearing. There can be no further questions or statements.

31. If the Sub-Committee does not make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democratic Services Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 5 working days of the decision being made.

    The notification will include information about the rights of appeal against the determination made.

City of York Council	Committee Minutes
Meeting	Licensing/Gambling Hearing
Date	22 February 2021
Present	Councillors D'Agorne, Galvin and Mason

39. Chair

Resolved: That Cllr Mason be elected to act as Chair of the meeting.

40. Introductions

The Chair introduced those participating in the hearing: the Sub-Committee Members, the Applicant, the Applicant's witness, the Police Representor and her three witnesses, and the Licensing Manager presenting the report. Also present were the Legal Adviser, the Democracy Officer, and the Senior Solicitor who was shadowing the Legal Adviser.

41. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, which they might have in the business on the agenda. No interests were declared.

42. Minutes

Resolved: That the minutes of the Licensing Hearings held on 25 January 2021 and 1 February 2021 be approved as a correct record in each case, to be signed by the Chair at a later date.

43. Exclusion of the Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14

of the Licensing Act 2003 (Hearings) Regulations 2005.

44. The Determination of a Section 18(3) Application by Mr Wing Lun Man for a premises licence in respect of Regency Restaurant and Supermarket, 2 -4 George Hudson Street, York, YO1 6LP (CYC-067691)

Members considered an application by Wing Lun Man for a premises licence in respect of Regency Restaurant and Supermarket, 2-4 George Hudson Street, York YO1 6LP.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.

2. The papers before it.

3. The Licensing Manager's report and her comments at the Hearing.

   The Licensing Manager outlined the report and the annexes, highlighting the location of the premises in the cumulative impact assessment area (CIA) and confirming that the Applicant had carried out the consultation process correctly. She drew attention to the representations received from North Yorkshire Police, including the additional papers published in the Agenda Supplement. Finally, she advised the Sub Committee of the options open to them in determining the application, confirming that there was a right of appeal in respect of Option 5 (reject the application); this had been omitted in error from the report.

4. The representations made by the Applicant.

The Applicant outlined his previous experience in the restaurant trade, stating that he had worked for more than a year as a head waiter at Maxi's, a restaurant in Leeds that had been trading for over 30 years. Since 2019 he had worked at several restaurants and was currently working at a fish shop in Leeds. He had also carried out personal licence training in 2019. He therefore disagreed with the assertion by the police that he was not a suitable person to be the designated premises supervisor (DPS) at the Regency. He went on to say that, after a visit from the licensing authority had identified that the CCTV and HR practices at the premises were not up to standard, an HR consultancy service (Peninsula) had been engaged to identify the risks and advise on how to comply with the law and provide the best training programme. This process had begun on 5 February 2021.

The Applicant then responded to questions from the Sub-Committee Members and the Police representative, stating that:

- Off-sales would be operated from the supermarket, he would manage the restaurant, front of house and improvements, while Tina (Yan Tong Feng) would manage the supermarket, the admin and paperwork;
- Hiring of staff will go through him first, then paperwork passed to Tina for record keeping
- He did not have a personal licence when he worked at Maxi's and he had not carried out the role of DPS before;
- He had been present at a meeting between Tina and Peninsula Consultancy when a contract was decided on, but had not signed the contract himself;
- As DPS for the premises, the paperwork would come to him first and he would then pass it on to Tina to record.

5. The representations made by PS Jackie Booth on behalf of North Yorkshire Police, in writing and at the hearing.

PS Booth drew attention to the additional papers published in the Agenda Supplement, comprising witness statements, exhibits and further information for the hearing, and to the grounds of the police objections set out in Annex 7 to the Licensing Manager's report.

PS Booth highlighted that the previous licence for the premises had been revoked and that an application to transfer the licence, made by Tina Feng, had been refused at a hearing on 8 June 2020. She pointed to the 'serious failings' identified in the decision letter from the 8 June hearing and the panel's view at that hearing that Tina Feng would not be a responsible licensee (page 27 of the additional papers). She said this was an important consideration in the current application, as the police believed Tina Feng had employed Mr Man, as a person with no criminal record, to be a 'front' to enable her to obtain a licence. Ms Feng had been part of the problems at the premises and had been issued with a further Section 19 notice in October 2020. She had failed to appoint an experienced DPS or adhere to previous conditions; there was no evidence of an HR system being implemented, copies of documents for staff employed at the premises, or checks on the Home Office website to ensure they had a right to work in this country.

PS Booth said the police had highlighted their concerns about illegal working and the lack of any conditions to mitigate this in the current application. She had contacted the Applicant but he did not wish to discuss these matters. He had not signed a contract with Peninsula nor offered any conditions to mitigate previous failings, and this raised questions as to why – did he not have authority, as an employee of Ms Feng? The Applicant had stated that he had been approached by Tina Feng due to his experience of working in the business. On the Operating Schedule he stated that he had worked in licensed premises for over 10 years; today he admitted this was not in the role of DPS. The fish shop where he currently worked was not licensed. The only evidence that he had worked at licensed premises had come from his statements to the hearing today. He had stated that he would be working alongside Tina Feng; she had signed the contract with Peninsula and would be the person truly responsible for the premises. The Applicant had said he would be responsible for front of house and Tina Feng for the administration. There were exceptional circumstances against the Applicant also being the DPS as he would be working alongside, and be employed by Ms Feng. The Applicant was not considered suitable to hold the

premises licence, as there was no evidence to show how he would mitigate these concerns. The police were of the view that Tina Feng was the person likely to have direct control and be running the business under this licence, which would undermine the licensing objective of crime and disorder which involves the avoidance of harm in the future, and therefore requested that the application be refused, given Ms Feng's previous serious failings.

Glynn Jones, Immigration Officer, was called as a witness to clarify information in his statement at page 45 of the additional papers. He confirmed that:

- when he visited the premises on 6 September 2019 Ms Feng had been present and had indicated that she was the boss;
- when he visited on 6 April 2017 Ms Feng had granted consent for him to enter the premises;
- there was no evidence that Ms Feng was present when he visited on 8 September 2018, but the notice had been served on her, she was recorded as the manager of the business, and the two people present had referred to the manager as 'Tina'.

In response to a question from the Applicant as to whether an application could ever succeed by Ms Feng due to previous history, PS Booth stated that no evidence had been put forward to indicate that any measures had been taken to address the previous failings, and DPS was a new role to him. She said she could not comment on future applications, but the Applicant had been given every opportunity to provide evidence of where he had worked previously, including references, and had not done so.

The Representors and the Applicant were each then given the opportunity to sum up.

PS Booth summed up, stating that nothing had been put forward by the Applicant to mitigate the concerns highlighted by the police. The Prevention of Crime and Disorder objective for licensing applications included illegal working, and illegal workers had been found on the premises on three previous visits. Ms Feng was still the person in control of the premises and therefore concerns about illegal working remained.

The Applicant summed up, stating that he had already taken steps to address the previous problems since taking over the management role and had made improvements. He had been employed by Tina Feng to point the business in the right direction. He was looking to the future, not the past, and asked the Sub-Committee to grant the application.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was rejected.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was rejected.

Option 4: Refuse to specify a person in the licence as a premises supervisor. This option was rejected.

Option 5: Reject the application. This option was approved.

Resolved: That the application for a premises licence be rejected.

Reasons: (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the

Licensing Act 2003 and the Council's own Statement of Licensing Policy.

(ii) The premises are located within an area where a Cumulative Impact Policy applies. It is within the red zone of this area. The Statement of Licensing Policy sets out that this special policy will create a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused following receipt of representations, unless the applicant can demonstrate why the operation of the premises involved will not add to the impact of premises with this zone. The policy is not absolute and the Sub-Committee is required to consider the circumstances of each application on its merits.

(iii) The Sub-Committee noted in particular the concern of the Police that granting the application would add to the cumulative effect in the CIA, specifically the crime and disorder licensing objective. They further noted the Police concern that the Applicant was not a suitable DPS due to the exceptional reasons of his link to and employment by Ms Feng, and her link to the incidents which led to the review and revocation of the premises licence in June 2020, and the closure notice served on her by the Police on 21 October 2020, that Ms Feng was to be the employer of Mr Man, with Mr Man in the role of DPS, that Ms Feng had engaged and signed the contract with Peninsua, that the Applicant had no experience in the role of DPS, he had not provided any evidence of nor references from his past employment, and had not engaged with the Police nor offered any additional measures or conditions to address the previous failings.

(iv) The Sub-Committee considered the submissions made by the Applicant, including the operating schedule and additional

information submitted by him. The Sub-Committee noted that the Applicant accepted he did not have any experience of the role of DPS, had not provided any evidence of nor references from his past employment, accepted that Ms Feng was to continue in both a management and administrative role within the business, and did not offer any additional measures or conditions to mitigate the concerns highlighted by the Police.

(v) The Sub-Committee considered that the evidence of the Police carried great weight in accordance with paragraph 9.12 of the statutory Guidance.

(vi) The Sub-Committee had to be confident that the Applicant would comply with any licensing conditions imposed and was concerned that without good standards of management the licensing objectives would not be upheld. The Sub-Committee concluded that it was not so satisfied, due to the following factors:-

a) the Applicant would be likely to undermine the crime and disorder objective given the history of these premises and Ms Feng's role;
b) the Applicant had no experience as a DPS;
c) the Applicant had not provided any evidence of nor references from his past employment;
d) the Applicant had not offered sufficient measures or conditions to mitigate the previous failings highlighted by the Police;
e) the Applicant was not a suitable person to be the DPS for the exceptional reasons of the continued role of Ms Feng in both the day-to-day management of the business and as the employer of the Applicant and proposed DPS, Mr Man, due to Ms Feng's record of involvement at the premises, both prior to and subsequent to the review and

revocation of the premises licence on 8 June 2020.

(vii) The Sub-Committee was not satisfied from the evidence before it that the Applicant had rebutted the presumption against granting a licence for a new premises situated in the CIA and concluded on the evidence that granting the licence would undermine the licensing objective of preventing crime and disorder.

(viii) Even if the Committee had reached a view that the Cumulative Impact Policy did not bite, it would still have refused this application on its merits. This was for the reasons set out in point (vi) above.

Cllr A Mason, Chair
[The meeting started at 10.04 am and finished at 11.10 am].

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City of York Council	Committee Minutes
Meeting	Licensing/Gambling Hearing
Date	1 March 2021
Present	Councillors Galvin, Hook and Melly

45. Chair

Resolved: That Cllr Galvin be elected to act as Chair of the meeting.

46. Introductions

The Chair introduced the members of the Sub-Committee. Others participating in the hearing were Richard Craig from Jimmy's Group (the Applicant), the Applicant's Solicitor, the Applicant's witness, the Police Representor the Licensing Authority Representor, three public Representors, the Ward Councillor acting as a witness for a public Representor, and the Senior Licensing Officer presenting the report. Also present were the Legal Adviser and the Democracy Officer.

47. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, and any prejudicial or disclosable pecuniary interests, which they might have in the business on the agenda. No interests were declared.

48. Exclusion of Press and Public

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision-making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

49. The Determination of a Section 18(3) Application by Jimmy's York Limited for a premises licence in respect of Jimmy's, 52 Low Petergate, York, YO1 7HZ (CYC-67685)

Members considered an application by Jimmy's York Limited for a premises licence in respect of Jimmy's, 52 Low Petergate, York YO1 7HZ.

In considering the application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to the Hearing:

1. The Prevention of Crime and Disorder
2. The Prevention of Public Nuisance

In coming to their decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objectives, including:

1. The application form.

2. The papers before it.

3. The Senior Licensing Officer's report and her comments at the Hearing.

   The Senior Licensing Officer outlined the report and the annexes, noting the location of the premises in the cumulative impact assessment area (CIA) but not in the Red Zone and confirming that the Applicant had carried out the consultation process correctly. She confirmed that this was an application for a new licence, with the existing licence to be surrendered on the grant of the new one. She drew attention to the further negotiations that had taken place between the Applicant and the Representors and the amendments made to the original application, as published in the Agenda Supplement. These included:
   - removal of the request for live and recorded music;
   - changes to the hours of opening, supply of alcohol and provision of late night refreshment (page 3 of the Supplement);
   - the revised conditions at pages 4-6 of the Supplement;
   - the Al Fresco Dining Policy at page 7 of the Supplement and

- the Dispersal Policy at page 9 of the Supplement.

The Senior Licensing Officer also highlighted the agreements submitted by Public Protection, at pages 13-15 of the Agenda Supplement, confirming that the Public Protection representations at pages 95-96 of the main agenda had been withdrawn.

4. The representations made by Felicity Tulloch, Solicitor, on behalf of the Applicant.

Ms Tulloch stated that this would be the fourth premises to be opened by the Applicant and that all were very different in style. The original premises in Manchester was a live music venue; the second premises in Manchester was a restaurant, and they had a 'hybrid' music venue / restaurant in Liverpool. The Manchester restaurant was subject to a special hours policy similar to the current application. The Applicant was an experienced operator used to working in city centres in close proximity to local residents. Jimmy's was a family company that was fortunately continuing to trade in the current circumstances and looking to expand. The existing Café Rouge licence had been transferred to the Applicant when the site was acquired.

Ms Tulloch explained that the Applicant was applying for a new licence because this was a 'cleaner' way of seeking the changes required - increasing the operating hours, replacing the operating schedule and changing the layout – than applying for changes to the existing licence, which was very dated. It included obsolete references, 24-hour opening, few modern conditions, and was unclear. She confirmed that the existing licence would be surrendered if the application for a new licence was successful. She noted that there was a residential property above the premises but most of the neighbouring properties were in retail use. She submitted that the revised application was not out of step with the way in which the previous occupant of the premises, Café Rouge, had operated there for many years, and apologised for any alarm caused by the inclusion of live and recorded music in the original application.

Ms Tulloch went on to state that she and the Applicant had had extensive dialogue with all parties and had hosted a Zoom meeting the previous Monday to which all residents objecting to the application had been invited. This had resulted in one resident withdrawing their objections, and the issues had been narrowed. The Responsible Authorities had all withdrawn their objections. Two main issues remained; the use of the rear courtyard and the weekend operating hours. All the residents wanted to bring the site back into use and the Applicant was grateful for the support they had shown. The additional papers, which had been circulated to all parties, included a comprehensive suite of conditions to ensure that the premises could trade only as a restaurant, with a small bar on each floor. The basement was not included in the application and was for ancillary use. Use of the external courtyard would be seasonal, weather dependent and covered by the al-fresco dining policy. It would be an extension of the restaurant, with seated customers only and no smoking. The Applicant had agreed to start closing the courtyard from 9pm, with complete closure at 10pm.

Ms Tulloch explained that the Applicant differed from the Representors in respect of opening hours. The Representors wanted uniformity of hours throughout the week, while the Applicant wished to trade for an hour later at weekends. It was submitted that this was not excessive; it was no later than the existing licence and conditions would still apply, including closure of the courtyard at 10pm on any day of the week. Other restaurants in the area had later weekend closing hours (Côte) and / or live or recorded music (Via Vecchia). Tables were normally allocated to diners for a period of 2 hours, with last orders for food at 10pm and a 30 minute dispersal period. The application included late night refreshments to enable a quick meal to be served to customers arriving later in the evening. The revised operating schedule also allowed for the service of alcohol without a meal to a limited number of customers. This was to give them flexibility to accommodate a mixed group, for example, a party of 4 of whom only 3 wanted a meal. Most customers would be seated, with a few allowed to stand at the bar, usually while waiting for their table or after their meal.

Ms Tulloch drew attention to the fact that the premises, although in the CIA, was not in the Red Zone, stating that the application related not to an additional licensed venue but to an existing one and a new licence would be an preferable due to the Licensing Authority's engagement and the conditions.

Finally, she stated that there was always a balance to be struck but that channels of communication had been opened with the Representors, and the Applicant wanted to be a good neighbour.

In response to questions from Members of the Sub-Committee, Ms Tulloch confirmed that:

- The Dispersal Policy would be in place at all times;
- The reference to 'all bottles' in paragraph 4 of the Dispersal Policy should be amended to 'all open bottles' to be consistent with the Conditions.

5. The confirmation given at the hearing by PC Kim Hollis that North Yorkshire Police had withdrawn their objections following the additional conditions and changes made to the application.

6. The confirmation given at the hearing by Lesley Cooke, Licensing Manager, that the Licensing Authority had withdrawn their objections following the additional conditions and changes made to the application.

7. The representations made by Christine Potter, a local resident. Ms Potter acknowledged and welcomed the changes made to the application, in particular with regard to live and recorded music and no smoking, but said she still had concerns and would like all activity on the premises to be finished by 11pm. Due to her location in relation to the premises, there were also issues in respect of the effects on noise levels and security of the fire doors and the shared entrance and exit to the rear courtyard. She hoped that through further discussions she could be assured of a resolution to these concerns.

8. The representations made by Rebecca Hill. Ms Hill said that she ran Galtres Lodge Hotel with her partner. While she appreciated the Applicant's attempts to negotiate, she had concerns that the operation would negatively affect

her own business. She suggested that, had lockdown not been in effect, there may also have been representations from York Minster. She stated that she and her partner had developed the business after taking over two years ago and that having a bar as a neighbour could have a serious impact, especially if there were bouncers. Some of the hotel rooms shared a wall with the premises and any extra noise would affect the guests, meaning that charges for those rooms would have to be reduced. They had made the decision to close one bedroom previously due to the noise, which created a loss of income. The noise from the extractor fans on the premises was already excessive, as evidenced by a recording made on 15 February. Café Rouge had agreed not to use the fans on full power and to turn them off by 10pm; if they were not turned off until 11:30pm this would cause problems. The new operation would have 138 covers across 2 floors and a courtyard, which was more than twice that of Café Rouge, hence the likely use of the extractor fan at a higher level and for a longer period.

Ms Hill stated that her main fear was the intent of the Applicant. The phrase ‘Rock and Roll bar’ used in their publicity led to doubts as to the nature of the operation, and the licence had no expiry date. She asked for further conditions to ensure that the boundaries would not be pushed and that the premises would not become like the Applicant’s venues in Manchester and Liverpool. Otherwise, she said, its impact would be devastating. The latest booking should be at 9pm, with all guests to depart before ‘last orders’ time, as in the restaurant at Galtres Lodge. In a bar, guests stayed on until the last minute. Her concerns about intent, she said, were based on the fact that there was an existing licence in place; that the other properties in the Jimmy’s group were bars; and the promotion of cocktails, beers, and a rock and roll barbeque, all of which had more the feel of a bar than a restaurant. Likewise the information given to the press, even when this had been amended, and the information on social media. Jimmy’s already had 20,000 followers on Instagram and their clientele might not respect the new restaurant style. At the Zoom meeting, the Applicant had confirmed that there would be recorded music using the existing system at the premises. She would like to work

with the Applicant in the same collaborative way she had worked with Café Rouge.

Cllr Fitzpatrick, Member for Guildhall Ward, was called as a witness. She said that she was fully supportive of music venues, and as a city centre resident herself did not expect peace and quiet in that area. She had regularly visited Galtres Lodge, which was a quiet hotel with a restaurant. She stated that she did not oppose the application but that the Applicant should consider the neighbours and the nature of the nearby businesses, and that it was in a heritage area. She would welcome additional conditions to clarify the position in respect of dispersal and the noise from the fans. She had also spoken to other neighbours who were concerned about a potential change in the ambience of the street. The Applicant needed to be fully conversant with the situation and compliant with neighbours' requirements. She suggested that a different venue may have been more suitable for this application, but considered it could be made to work, as long as there was consideration for the neighbours.

In response to questions from Members of the Sub-Committee, Ms Hill confirmed that:

- she had not had any conversations with the Applicant to establish how they would ensure that no noise was transmitted through the structure of the premises;
- she had wanted to ask the Public Protection officer why the condition on the original operating schedule relating to the transmission of noise (page 44 of the Agenda papers) had been removed as 'unachievable' but he was not present at the hearing; and
- she did not consider the requirement to submit a noise management plan (condition 23 on the new schedule, at page 5 of the Agenda Supplement) to be a suitable replacement for this condition.

9. The representations made by Steven Bruce, on behalf of 25 owners and residents of Talbot Court. Mr Bruce stated that the Applicant had engaged in constructive dialogue with residents over the past two weeks and agreement had been reached on some important points. However,

the opening hours on Fridays and Saturdays were too late when there was no condition requiring the service of alcohol to be ancillary to food. There was nothing to prevent groups of drinkers from being on the premises when the service of food stopped at 10pm. He had been told that nobody would be allowed to enter the premises after 10pm and that this would be policed by door staff. He was concerned that, if there was no link between the service of alcohol and the service of food, the premises would be a go-to place for late night drinking.

Mr Bruce noted that the advertisements in the window promoted a 'rock and roll barbeque' and that there had been contradictions and mixed messages in the publicity; for example, York Mix had quoted that 'it will be a pub'. He considered that what the Applicant wanted to achieve would be at the expense of the prevention of crime and disorder and would compromise public safety. Residential properties are only metres away from the premises. If the service of food ceased at 10pm, the premises did not need to stay open until midnight. He said that he wanted to ensure that the venue would operate only as a restaurant. If alcohol were served only with food he would withdraw his objection. Initial correspondence from the Applicant's Solicitor had sought to provide reassurance that they were committed to being a good neighbour. If they were to accept a condition to serve alcohol only with food, or withdraw the request to be open until midnight, he would have that reassurance.

The Representors and the Applicant were each then given the opportunity to sum up.

Mr Bruce summed up, confirming that his chief remaining objection related to the prevention of crime and disorder, as stated. He was concerned that a venue permitting late night drinking would attract late night drinkers to the street from elsewhere.

Ms Tulloch summed up on behalf of the Applicant. She drew attention to the appreciation voiced by Representors for the efforts made by the Applicant to engage with them and confirmed that these conversations would continue should the application be granted. She asked Members to disregard the suggestion that further representations may have been made

had it not been for the lockdown. She stated that the application was consistent with the licence held by Ms Hill for Galtres Lodge. She confirmed that there was no intention to change or upgrade the existing speaker system on the premises and that any music played would be background music only; there was no room for live music, as could be seen from the plan. The Applicant would be happy to re-instate the noise condition that had been removed at the request of the Public Protection officer. The publicity for the venue had not been intended to cause alarm and the Press had apologised to Mr Craig for jumping to conclusions based on the nature of Jimmy's other operations. She submitted that, although there would be some flexibility, the venue could not become a place for late night drinking as this would be in direct breach of the conditions. The concept of service of alcohol ancillary to a meal was an old-fashioned one, preceding the 2003 Licensing Act. The Applicant intended to operate the venue responsibly and in communication with neighbouring residents. She asked Members to grant the application as amended, in line with the operating schedule accepted by the Police.

Members of the Sub-Committee sought and received points of clarification as follows from the parties indicated:

- Ms Tulloch confirmed that the reason for making a new application was to obtain a better and more restrictive licence with clear, standardised conditions, setting out exactly how the premises would trade, primarily as a restaurant. It was an attempt to modernise the existing licence, which was very broad and a hangover from previous legislation.
- Ms Tulloch confirmed that the basement was not included in the licensable area; it was on the plan to show its ancillary use;
- Mr Craig stated that the basement had been included on the plan to demonstrate that it was to be used as a kitchen area and not for live music and that he would be happy for it to be excluded from the licensable area.
- Ms Tulloch stated that the Applicant would not be willing to accept a condition to serve alcohol only with food; it had been considered but would not be practicable from a commercial point of view.
- Mr Craig clarified, in respect of noise, that the restaurant would be operating in exactly the same way as Café Rouge, with music at the same level, and it would not be a music venue.

- Ms Potter stated that Café Rouge did not utilise their licence to the extent that they could have; they operated the first floor as a function room to accommodate events such as office parties and any overspill from the restaurant and did not close as late as the licence allowed.
- Ms Hill agreed with the above comments of Ms Potter.
- Mr Craig stated that when Jimmy's took over the property the first floor was set up with chairs and tables as if in use.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for. This option was rejected.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee. This option was approved.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly. This option was rejected.

Option 4: Reject the application. This option was rejected.

The Sub-Committee concluded that the application was acceptable with the mandatory, modified and additional conditions attached which addressed the representations made both in writing and at the hearing, as it met all of the Licensing Objectives.

Resolved: That Option 2 be approved and the licence be granted with the following conditions and modified/additional conditions added to the licence:

a) The basement is removed from the licensable area; an amended plan to be provided by the Applicant.

b) Paragraph 4 of the dispersal policy is modified as follows: “We will ensure the removal of all open bottles and drinking receptacles from any patron before exiting the premises.”

c) The following condition is added:
“No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to nuisance.”

d) The revised Operating Schedule, al fresco dining policy and dispersal policy offered by the Applicant, and the agreements made with Public Protection, each contained in the Agenda Supplement published on 24 February 2021, shall be included in the licence, unless contradictory to the above conditions.

Reasons: (i) The Sub-Committee must promote the licensing objectives and must have regard to the Guidance issued under section 182 of the Licensing Act 2003 and the Council’s own Statement of Licensing Policy.

(ii) The Sub-Committee noted that the premises is located within the Council’s the cumulative impact assessment area (CIA), (not in the Red Zone), that the Applicant had amended their application, had reached an agreement with the Public Protection Officer, and the Police, Licensing Authority and Public Protection had withdrawn their representations on the basis of the additional information contained in the Agenda Supplement published on 24 February 2021.

(iii) The Sub-Committee considered very carefully the representations of the Applicant and the witness evidence. The Sub-Committee noted that during the hearing, Ms Tulloch, on behalf of the Applicant, confirmed that the basement was not included in the licensable area, agreed that paragraph 4 of the dispersal policy in the Agenda Supplement be

amended to state ‘all open bottles and drinking receptacles’, and would accept the addition of Condition 2 at Section C on Page 44 of the Agenda. The Sub-Committee noted that the Applicant had considered the addition of a condition regards service of alcohol being only ancillary to a meal, and that it was determined to be impracticable for the business. The Sub-Committee noted that the Applicant had obtained a transfer of the existing licence, which would be surrendered on being granted this new licence. The Sub-Committee were reassured by the engagement and dialogue which had taken place by the Applicant with the Representors, and the Applicant’s assurance that they would continue their engagement and dialogue and with their neighbours.

(iv) The Sub-Committee considered very carefully the representations of Ms Potter, Ms Hill, Mr Bruce, Mr Bennett, Mr MacDonald and Ms Douglas, the witness evidence, and the proximity of each to the premises. The Sub-Committee had careful regard to their individual and shared concerns.

(v) The Sub-Committee concluded that if the application were to be granted in the terms applied for there would be the likelihood of the residents being subjected to public nuisance in terms of noise nuisance from licensable activity in the premises. The Sub-Committee considered that the additional information contained in the Agenda Supplement which had been agreed by the Police, Licensing Authority and Public Protection was sufficient to ensure that the Applicant would only trade as a restaurant. The Sub-Committee were satisfied that with the additional information contained in the Agenda Supplement, the modified and additional conditions set out above the premises would operate without undermining the licensing objectives. It also considered that a licence in the terms granted would not lead to an increase in the cumulative impact of premises in this area.

The Sub-Committee therefore agreed to grant the licence with the modified, additional and mandatory

conditions referred to above which were appropriate and proportionate in the circumstances to promote the licensing objectives.

Cllr J Galvin, Chair
[The meeting started at 11.04 am and finished at 1.14 pm].

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Agenda Item 6

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

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 an 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:**

Lesley Cooke
Licensing Manager

James Gilchrist
Director Environment, Transport & Planning

Tel No. 01904 551515

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

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Annex 1.

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 **MR KHENG CHOOI KOAY**
(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 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			
16 BARBICAN ROAD			
Post town	**York**	Postcode	**YO10 5AA**

Telephone number at premises (if any)	**01904 466785**
Non-domestic rateable value of premises	**£39,250**

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 (other than limited liability)	☐	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)

Date of birth	I am 18 years old or over	☐	Please tick yes
Nationality			
Current residential address if different from premises address			
Post town		Postcode	
Daytime contact telephone number			
E-mail address (optional)			

(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			
A	S	A	P				

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 (by ticking yes to one box below):

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 ✓	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname KOAY			**First names KHENG CHOOI**		
Date of birth	I am 18 years old or over		☒	Please tick yes	
Nationality MALAYSIAN					
Current residential address if different from premises address	**28 ST PHILIPS GROVE**				
Post town	**YORK**		Postcode	**YO30 6JP**	
Daytime contact telephone number					
E-mail address (optional)	-				

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr ☐	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname			**First names**		

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)

THREE STOREY PROPERTY AT 16 BARBICAN ROAD, YORK, YO10 5AA (OPERATING AS A RESTAURANT, TAKEAWAY AND KARAOKE BAR)

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 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)	Please tick all 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 7)			**Will the performance of a play take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 4)		
Tue					
Wed			**State any seasonal variations for performing plays** (please read guidance note 5)		
Thur					
Fri			**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** (please read guidance note 6)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 7)			**Will the exhibition of films take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 4)		
Tue					
Wed			**State any seasonal variations for the exhibition of films** (please read guidance note 5)		
Thur					
Fri			**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** (please read guidance note 6)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			**Please give further details** (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			**State any seasonal variations for indoor sporting events** (please read guidance note 5)
Wed			
Thur			**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** (please read guidance note 6)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			**Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 4)		
Tue					
Wed			**State any seasonal variations for boxing or wrestling entertainment** (please read guidance note 5)		
Thur					
Fri			**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** (please read guidance note 6)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 7)			**Will the performance of live music take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	10.00	03.30	**Please give further details here** (please read guidance note 4) No more information available at present – unamplified.		
Tue	10.00	03.30			
Wed	10.00	03.30	**State any seasonal variations for the performance of live music** (please read guidance note 5) -		
Thur	10.00	03.30			
Fri	10.00	03.30	**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** (please read guidance note 6) **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.**		
Sat	10.00	03.30			
Sun	10.00	03.30			

F

Recorded music Standard days and timings (please read guidance note 7)			**Will the playing of recorded music take place indoors or outdoors or both – please tick** (please read guidance note 3)		
Day	Start	Finish		Indoors	☒
				Outdoors	☐
				Both	☐
Mon	10.00	03.30	**Please give further details here** (please read guidance note 4) Standard background music – it may be amplified.		
Tue	10.00	03.30			
Wed	10.00	03.30	**State any seasonal variations for the playing of recorded music** (please read guidance note 5) -		
Thur	10.00	03.30			
Fri	10.00	03.30	**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** (please read guidance note 6) **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.**		
Sat	10.00	03.30			
Sun	10.00	03.30			

G

Performances of dance Standard days and timings (please read guidance note 7)			**Will the performance of dance take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	10.00	03.30	**Please give further details here** (please read guidance note 4)		
Tue	10.00	03.30			
Wed	10.00	03.30	**State any seasonal variations for the performance of dance** (please read guidance note 5)		
Thur	10.00	03.30			
Fri	10.00	03.30	**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** (please read guidance note 6)		
Sat	10.00	03.30	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.		
Sun	10.00	03.30			

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing **KARAOKE**		
Day	Start	Finish	**Will this entertainment take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☒
Mon	10.00	03.30		Outdoors	☐
				Both	☐
Tue	10.00	03.30	**Please give further details here** (please read guidance note 4)		
Wed	10.00	03.30			
Thur	10.00	03.30	**State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)** (please read guidance note 5)		
Fri	10.00	03.30			
Sat	10.00	03.30	**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** (please read guidance note 6) **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.**		
Sun	10.00	03.30			

I

Late night refreshment Standard days and timings (please read guidance note 7)			**Will the provision of late night refreshment take place indoors or outdoors or both – please tick** (please read guidance note 3)	Indoors	☒
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	23.00	03.30	**Please give further details here** (please read guidance note 4) -		
Tue	23.00	03.30			
Wed	23.00	03.30	**State any seasonal variations for the provision of late night refreshment** (please read guidance note 5) -		
Thur	23.00	03.30			
Fri	23.00	03.30	**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** (please read guidance note 6) **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.**		
Sat	23.00	03.30			
Sun	23.00	03.30			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			**Will the supply of alcohol be for consumption – please tick** (please read guidance note 8)	On the premises	☒
				Off the premises	☒
Day	Start	Finish		Both	☐
Mon	10.00	03.30	**State any seasonal variations for the supply of alcohol** (please read guidance note 5) -		
Tue	10.00	03.30			
Wed	10.00	03.30			
Thur	10.00	03.30	**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** (please read guidance note 6)		
Fri	10.00	03.30	**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.**		
Sat	10.00	03.30			
Sun	10.00	03.30			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

NAME	**MR KHENG CHOOI KOAY**
Date of birth	
YORK	
Postcode	
Personal licence number (if known)	**HDC 1084**
Issuing licensing authority (if known)	**HAMBLETON DISTRICT COUNCIL**

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 9).

-

L

Hours premises are open to the public
Standard days and timings (please read guidance note 7)

Day	Start	Finish
Mon	10:00	04.00
Tue	10:00	04.00
Wed	10:00	04.00
Thur	10:00	04.00
Fri	10:00	04.00
Sat	10:00	04.00
Sun	10:00	04.00

State any seasonal variations (please read guidance note 5)
-

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 (please read guidance note 6)

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.

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 10)

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 practices and wishes to start afresh now. 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 licencing objectives are considered at all times so that there is no repetition of some of the past problems. The applicant is putting in place proper structures to make the business work successfully going forward – including proper training and management – and with a wholly new management team in place.

He has got Peninsula involved 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.

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.

b) The prevention of crime and disorder

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 licenced activities and where the public can consume alcohol and will display the correct time and date of the recording. The applicant has always operated a zero tolerance approach in relation to any kind of crime and disorder in 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.

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.

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. Full written employment records will be kept and will be available for inspection.

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.

c) Public safety

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.

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. 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.

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 management plan). Means of escape will not be locked. Fire systems are being updated and no staff will live/sleep in cramped conditions.

d) The prevention of public nuisance

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 is also happy to 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. Drinking glasses of any type will not be allowed to enter or leave the premises whilst under the customers' care. 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. 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 window shall be closed during regulated entertainment or, when entertainment is not provided, after 11pm each night – except for ingress and egress.

e) The protection of children from harm

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 unable to do so. 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. 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.
Steps will be taken to ensure that knives are not sold to children.

Checklist:

	Please tick to indicate agreement
• I have made or enclosed payment of the fee.	X
• I have enclosed the plan of the premises.	X
• I have sent copies of this application and the plan to responsible authorities and others where applicable.	X
• I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.	X
• I understand that I must now advertise my application.	X
• I understand that if I do not comply with the above requirements my application will be rejected.	X
[Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).	X

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 4 – Signatures (please read guidance note 11)

Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Declaration	• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).

	• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15)
Signature	
Date	MARCH 9th 2021
Capacity	**Solicitor**

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). **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 14)
JOHN WALKER
GUEST WALKER
12A SHAMBLES

Post town	**YORK**	Postcode	**YO1 7LZ**
Telephone number (if any)			

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)
uestwalker.co.uk

Notes

All dimensions and levels to be checked on site prior to starting work.

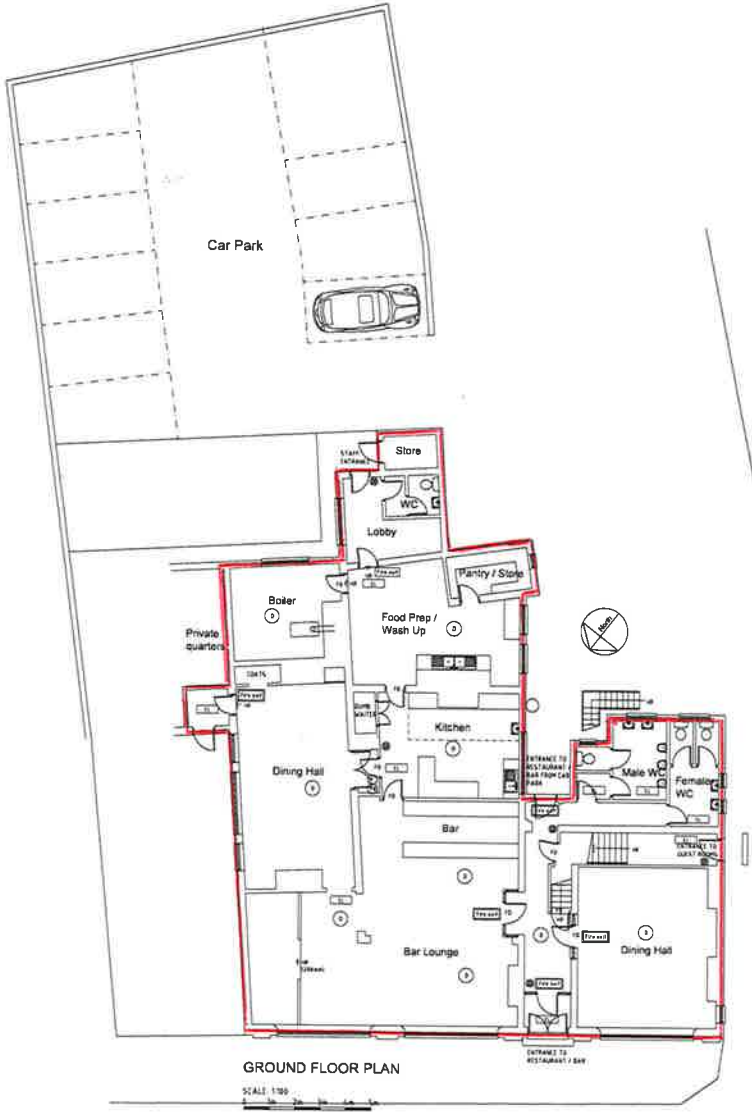
If in doubt refer to the practice before work starts

The Practice disclaim responsibility for any variations from this drawing made without their express written consent

This drawing is the property of the Designer. Copyright reserved

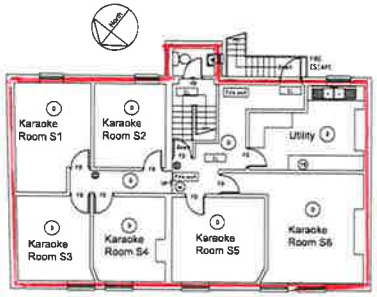
All work to be carried out in accordance with current building regulations and British Standards

All materials to conform to relevant British Standard specification where applicable



GROUND FLOOR PLAN

SCALE: 1:100

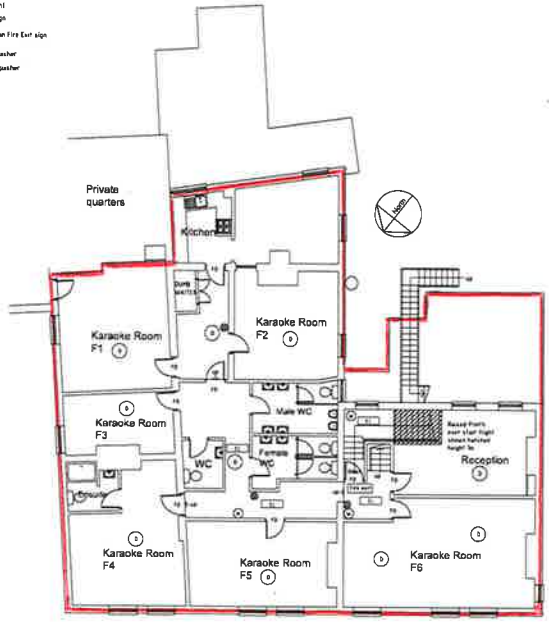


SECOND FLOOR PLAN

SCALE: 1:100

Key To Symbols

- Mains operated smoke or heat detector
- Emergency lighting
- Fire Door
- Fire alarm actuation point
- Running man Fire Exit sign
- ILLUMINATED Running man Fire Exit sign
- Water filled Fire Extinguisher
- Powder filled Fire Extinguisher
- Fire Blanket



FIRST FLOOR PLAN

SCALE: 1:100

Project

16 BARBICAN ROAD YORK YO10 5AA

Drawing Title

LICENSING DRAWING:
GROUND, FIRST AND SECOND FLOOR PLANS

Stephen Wood
Architectural Services Ltd
20 Stockdale Walk Knaresborough HG5 8DZ
Tel 01423 865360
e-mail: stephen.wood43@gmail.com

Scale 1:100 @ A1	Drawn SW
Date July 2012	
Drg No. B.R. (16) / 01	Rev A1

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CITY OF YORK COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Premises licence number
CYC - 009221

Part 1 Premises details

Postal address of premises:	
16 Barbican Road	
Post town: York	Post code: **YO10 5AA**
Telephone number: 01904 623134	

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Live Music
Recorded Music
Performances of Dance
Activities like music/dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:

LIVE MUSIC
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

RECORDED MUSIC
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

PERFORMANCES OF DANCE
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

ACTIVITIES LIKE MUSIC/DANCE
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

LATE NIGHT REFRESHMENT
Indoors

Monday	Tuesday	Wednesday	Thursday
23:00 - 03:30	23:00 - 03:30	23:00 - 03:30	23:00 - 03:30
Friday	Saturday	Sunday	
23:00 - 03:30	23:00 - 03:30	23:00 - 03:30	

SUPPLY OF ALCOHOL

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

Non Standard Timings for Live Music, Recorded Music, Performances of Dance, Activities like Music/Dance, Late Night Refreshment and Supply of Alcohol:

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 commences.

The Opening Hours of the Premises

Monday	Tuesday	Wednesday	Thursday
10:00 - 04:00	10:00 - 04:00	10:00 - 04:00	10:00 - 04:00
Friday	Saturday	Sunday	
10:00 - 04:00	10:00 - 04:00	10:00 - 04:00	

Non Standard Timings:

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 commences.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premise licence:

Name: Mr Zhongle Chen

Address: 16 Barbican Road
York
YO10 5AA

Telephone number: None

Email address: None

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol:

Name: Mr Zhongle Chen

Address: [redacted]

Telephone number: None

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol:

Selby District Council
LN/000006043

Annex 1 – Mandatory conditions

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

2. The first condition is that no supply of alcohol may be made under the premises licence -
(a) at a time where there is no designated premises supervisor in respect of the premises licence, or
(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
(a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
(ii) drink as much alcohol as possible (whether within a time limit or otherwise);
(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –
(a) a holographic mark, or
(b) an ultraviolet feature.

7. The responsible person must ensure that –
(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
(i) beer or cider: ½ pint;
(ii) gin, rum, vodka or whisky: 25ml or 35ml; and
(iii) still wine in a glass: 125ml;
(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION - ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –
(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
(b) "permitted price" is the price found by applying the formula – $P = D + (D \times V)$
where –
(i) P is the permitted price,
(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
(i) the holder of the premises licence,
(ii) the designated premises supervisor (if any) in respect of such a licence, or
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

Prevention of Crime & Disorder

1. CCTV recordings will include, as a minimum, a head and shoulders image of each individual who enters the premises through the main entrance.

Protection of Children from Harm

2. There shall 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 unable to do so.

3. The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited 'Proof of Age Card', any other form of identification previously agreed with representitives of North Yorkshire Police licensing Unit.

Annex 3 – Conditions attached after a hearing by the licensing authority

1. Prior to using the karaoke rooms customers must have consumed a meal in the restaurant, excluding snacks.

2. Digital colour CCTV will be installed to cover the premises and will include all areas to where public have access for licensable activities and where the public can consume alcohol. For the purpose of clarity this will include all rooms and stairways to which the public have access for licensable activities and where the public can consume alcohol.

3. It will be maintained, working and recording at all times when the premises are open.

4. The recordings should be of sufficient quality to be produced in Court or other such hearing.

5. Copies of the recordings will be kept available for any Responsible Authority for 28 days.

6. Copies of the recordings will be made available to any Responsible Authority within 48hrs of request.

7. Copies of the recordings will display the correct time and date of the recording.

8. All off sales shall be made in sealed containers save for those that are intended for consumption within the building.

9. After 24:00hrs the only door used by members of the public to enter the premises shall be the main door on to Barbican Road.

10. Last public entry to the premises shall be 24:00hrs. For the purpose of clarity no members of the public will be allowed entry to the premises after 24:00hrs until the close of business (this does not prevent re-entry to customers who have left the venue to smoke).

11. After 24:00hrs 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.

12. Two SIA Door Supervisors shall be provided at the venue from 24:00hrs until the close of business, with at least one staffing the main door on to Barbican Road.

13. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo.

14. Standard one pint capacity, half pint capacity and "high ball tumbler" drinking glasses will be strengthened glass (tempered glassware) in design whereby in the event of breakage the glass will fragment and no sharp edges are left.

15. Drinking glasses of any type should not be allowed to enter or leave the premises whilst under the customers care.

16. Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and the opening times of the venue.

17. Such training (referred to in Condition 16) will be refreshed and documented every 6 months.

18. Such training records (referred to in Condition 16) should be kept for at least 3 years.

19. Such training records (referred to Condition 16) will be made available for inspection upon request by any Responsible Authority.

20. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to underage or drunk people, as well as incidents of any anti-social behaviour and ejections from the premises.

21. Both the above documents (referred to in Condition 20) will be kept for at least 3 years.

22. Both the above documents (referred to in Condition 20) will be available for inspection upon request by any Responsible Authority.

23. Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

24. So as to ensure the Licensing Objective the prevention of crime and disorder is not undermined there shall be a maximum capacity of 100 persons of which there shall be no more that 30 persons on the first floor and no more that 20 persons on the second floor.

25. When 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.

26. The member of staff shall monitor the rooms that are in use and will enter each room that is occupied no less than every 30 minutes.

27. The members of staff situated on the first and second floor shall be in direct radio link with the Door Staff.

28. All alcohol consumed in the karaoke rooms shall be served by way of waiter/waitress service.

29. No dancing is to take place on the ground floor of the building at anytime.

30. All users of the karaoke rooms must have evidence of their room hire on their food bill as suitable evidence of food purchase.

31. All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided, after 23:00hrs each night (except for ingress and egress).

32. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.

33. The use of external areas shall be restricted to 10:00hrs – 23:00hrs each day. After this time, customers shall only be permitted at the front of the property, fronting onto Barbican Road, for the purpose of smoking.

35. A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

Annex 4 – Approved Plan - Plan Number BR.(16)/01

For and on behalf of
The Director of Communities
& Neighbourhoods

Date: 28/09/2005
25/06/2015 (Transfer and DPS Variation)

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Phone: 01904 552512
Fax: 01904 551590
Email: licensing.unit@york.gov.uk

Website: www.york.gov.uk/licensing

CITY OF YORK COUNCIL

PREMISES LICENCE SUMMARY

Part B

Premises licence number
CYC - 009221

Part 1 Premises details

Postal address of premises:	
16 Barbican Road	
Post town: **York**	Post code: **YO10 5AA**
Telephone number: 01904 623134	

Where the licence is time limited the date:

This licence has no expiry date.

Licensable activities authorised by the licence:

Live Music
Recorded Music
Performances of Dance
Activities like music/dance
Late Night Refreshment
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:

LIVE MUSIC
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	**Saturday**	**Sunday**	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

RECORDED MUSIC
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

PERFORMANCES OF DANCE
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

ACTIVITIES LIKE MUSIC/DANCE
Indoors

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

LATE NIGHT REFRESHMENT
Indoors

Monday	Tuesday	Wednesday	Thursday
23:00 - 03:30	23:00 - 03:30	23:00 - 03:30	23:00 - 03:30
Friday	Saturday	Sunday	
23:00 - 03:30	23:00 - 03:30	23:00 - 03:30	

SUPPLY OF ALCOHOL

Monday	Tuesday	Wednesday	Thursday
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	10:00 - 03:30
Friday	Saturday	Sunday	
10:00 - 03:30	10:00 - 03:30	10:00 - 03:30	

Non Standard Timings for Live Music, Recorded Music, Performances of Dance, Activities like Music/Dance, Late Night Refreshment and Supply of Alcohol:

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 commences.

The Opening Hours of the Premises

Monday	Tuesday	Wednesday	Thursday
10:00 - 04:00	10:00 - 04:00	10:00 - 04:00	10:00 - 04:00
Friday	Saturday	Sunday	
10:00 - 04:00	10:00 - 04:00	10:00 - 04:00	

Non Standard Timings:

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 commences.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies:

On and off the premises

Name and (registered) address of holder of premise licence:

Name: Mr Zhongle Chen

Address: 16 Barbican Road
York
YO10 5AA

Name of designated premises supervisor where the premise licence authorises the supply of alcohol:

Mr Zhongle Chen

State whether access to the premises by children is restricted or prohibited

There shall 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 unable to do so.

The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited 'Proof of Age Card', any other form of identification previously agreed with representitives of North Yorkshire Police licensing Unit.

For and on behalf of
The Director of Communities
& Neighbourhoods

Licensing Services
Hazel Court Eco Depot
James Street
York
Y010 3DS

Date: 28/09/2005
25/06/2015 (Transfer and DPS Variation)

Phone: 01904 552512
Fax: 01904 551590

Email: licensing.unit@york.gov.uk
Website: www.york.gov.uk/licensing

Annex 2

Home Office – Guidance Issued Under Section 182 of the Licensing Act 2003

Section 16 Regulated Entertainment

Overview of circumstances in which entertainment activities are not licensable

16.5 There are a number of exemptions that mean that a licence (or other authorisation18) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:

- activities which involve participation as acts of worship in a religious context;
- activities in places of public religious worship;
- education – teaching students to perform music or to dance;
- the demonstration of a product – for example, a guitar – in a music shop;
- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar)
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day provided that the

audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace26 that does not have a licence, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non- residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

- any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
- any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN) could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.

16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.

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ANNEX 4

Public Protection Representation

Public Protection are making representation against the premises licence grant for The Regency at 16 Barbican Road, York, YO10 5AA on the grounds of public nuisance.

I have been in mediation with the applicants and have agreed the following conditions which should be attached to any granted license:

Protection of Children from Harm

- There shall be a "Challenge 25" 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 unable to do so.

- The following forms of identification are acceptable: photocard driving licence, valid passport, PASS accredited 'Proof of Age Card', any other form of identification previously agreed with representitives of North Yorkshire Police licensing Unit.

Prevention of Public Nuisance

- After 24:00hrs the only door used by members of the public to enter the premises shall be the main door on to Barbican Road.

- Last public entry to the premises shall be 24:00hrs. For the purpose of clarity no members of the public will be allowed entry to the premises after 24:00hrs until the close of business (this does not prevent re-entry to customers who have left the venue to smoke).

- After 24:00hrs 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.

- Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and area quietly.

- A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request.

- The use of external areas shall be restricted to 10:00hrs – 23:00hrs each day. After this time, customers shall only be permitted at the front of the property, fronting onto Barbican Road, for the purpose of smoking.

- A detailed noise management plan shall be devised prior to the premises operating. The plan should be submitted and agreed by the local licensing authority to their reasonable satisfaction prior to its implementation. It shall show how nearby

residential properties will be protected from noise generated at the premises. The agreed noise management plan shall be implemented at all times during regulated entertainment.

Concern

I had a concern about the sale of knives from the premises as in box “E” Protection of children from harm the applicant had written “Steps will be made to ensure that knives are not sold to children”. I am happy to confirm that the applicant has agreed that no knives shall be sold from the premises.

Outstanding Concern

The following condition has been proposed to be attached to the license: “All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided, after 23:00hrs each night (except for ingress and egress).” The applicant has agreed to this with a caveat that we understand that the windows on the top floor will be open as staff have access to that area. This makes the condition ambiguous and may affect the ability for the local authority to enforce it.

Public Protection have recently received noise complaints about loud music from the premises that affected 2 nearby residents and there is a risk that if the top floor windows are opened then noise from the premises will rise and escape from these windows affecting the nearby neighbours. Public Protection are therefore making representation on the grounds of public nuisance unless this condition can be fully agreed.

Regards

Michael Golightly
Technical Officer

ANNEX 5

Agreed conditions with North Yorkshire police

1.A digital colour CCTV system will be installed to cover the premises and recorded coverage will include all areas (including outside areas) to where public have access to consume alcohol.

- It will be maintained, working and recording at all times when the premises are open.
- The recordings should be of good evidential quality to be produced in Court or other such hearing.
- Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.
- Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements.
- Copies of the recordings will display the correct time and date of the recording.

It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the cctv system at the request of the police or responsible authority. Subject to Data Protection requirements.

2. Documented staff training will be given regarding staff's obligation under the Licensing Act in respect of the:-

- Retail sale of alcohol
- Age verification policy
- Conditions attached to the Premises Licence
- Permitted Licensable activities
- The Licensing objectives and
- The Opening Times of the venue.

Such records shall be kept for a minimum of one year and will be made available immediately upon request from any Responsible Authority.

3. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals of alcohol sales to under-age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises.
Such records shall be kept for at least one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry]: They will be made available immediately upon a reasonable request from any responsible authority.

4.The premises shall operate as a restaurant and karaoke bar and not as a vertical drinking establishment providing food and non-alcoholic drinks.

5.There shall be a minimum of 60 table covers available at all times on the ground floor

6.A min of 2 SIA registered door staff shall be provided at the premises from 2400 hours to the close of business Fridays, Saturdays, Sunday's leading in to a bank holiday and any day where a Race meeting is held at York Racecourse (save for the Family meeting held in September and the first meeting in May).

At all other times the need for SIA registered door staff shall be determined in accordance with a risk assessment, to be carried out by the Designated Premises Supervisor and or the Premises Licence Holder. When employed, door staff will wear high visibility arm bands

7.When SIA Door Supervisors are on duty, they shall sign in and out of the premises in a register and shall provide their full name and SIA number.

8.It is the responsibility of the Designated Premises Supervisor / Manager on duty for risk assessing the need for SIA Door Supervisors at the premises. Special consideration should be given to the need for Door staff on Fridays/Saturdays or any Sunday leading into a bank holiday Monday and any days where race meetings are held at York Racecourse.

9.The sale of alcohol shall cease 30 minutes before close of business on any given day to allow for 'drinking up' time.

10.Clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly

11.The licence holder will operate a Challenge 25 Age Verification Policy at the premises.

12.The only acceptable proof of age identification shall be a current Passport, photo card Driving Licence, Military ID card, or identification carrying the PASS logo (until other effective identification technology e.g thumb print or pupil recognition, is adopted by the Premises Licence Holder).

13.Alcoholic drinks purchased on the premises may only be taken off the premises in sealed containers.

14. No drinks or drinking glasses shall be taken out of the licensed premises or (licensed area) onto the pavement or highway.

15. The outside area will be regularly cleared and kept tidy.

16. All off sales of alcohol shall be in sealed containers.

17. The premises licence holder will operate a full HR management system where all relevant documents are stored for each individual member of staff.

18. All copies of relevant documents for members of staff will be retained for a period of 24 months post termination of employment and will be made available to Police, Immigration or Licensing Officers on request.

19. The premises licence holder will work with Peninsula (or any other HR company) to carry out checks on the Home Office website and verify identification documents such as right to work documents to ensure that all new members of staff can be legally employed.

20. No new member of staff will be able to work at the premises unless they have provided satisfactory proof of identification and right to work.

21.After 24:00hrs the only door used by members of the public to enter the premises shall be the main door on to Barbican Road.

22.Last public entry to the premises shall be 24:00hrs. For the purpose of clarity no members of the public will be allowed entry to the premises after 24:00hrs until the close of business (this does not prevent re-entry to customers who have left the venue to smoke).

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(1)

Mr + Mrs
Wellington Street
Barbican Road.
York - 5BB
Wed 24TH March 2021

To whom it my concern,

I am objecting once again about the Regency Restaurant having a License for music & dancing from 10am - 03-30am all week, we already have students coming home in the early hours of the morning making a noise, with this opening it will be about 4am before they come out. and if they say it is only for the chinese, the coaches will be comming again we already had 1 coach parked oppisit, the Barbican Guest house the year before they lost their licence me and my husband are in poor heath 77 years of age please think very

P.T.O

hard before this is granted.
would you like your Eldery parents.
To have to Live with the
Noise

Sincerely yours

(2)

To: The Licensing Application Registrar
City of York Council,
Licensing Section
Hazel Court Eco Depot,
James Street
York YO10 3DS

24th March 2021

Dear Sir / Madam
Re Application for Premises Licensing 16 Barbican Road York: Regency Restaurant.

We are writing to make an objection concerning the Licensing application by the Regency Restaurant, 16 Barbican Road York.
Our Address is Barbican Road which is adjacent to the Regency Restaurant.

We understand that the Licensing application covers both the sale of alcohol on and off sales and late- night refreshments from 11.00pm to 3.30am. There is another License application for live music and dance from 10.00am to 3.30am. The noise of the playing of live music and dance music until 3.30am in the morning would also cause a severe disruption especially in the summer months when the windows are open.

We feel that the hours are too extensive and as they are every day of the week will therefore cause a great deal of noise nuisance especially in the early hours of the morning. As we are students living in the accommodation and studying at the Bible College, we are subject to a curfew during the week days. It seems that our sleep may be significantly disturbed!

As well as customers leaving the premises as late as 4.00am, there is the additional annoyance of the noise of cars and coaches stopping outside our house in the parking area with car doors slamming and coaches running their engines.

We are therefore concerned that there would be continual disruption and noise because of the opening hours and particularly the premises being open for the sale of alcohol for such extended hours.

Please consider these points when you are considering this Licensing Application.
Thank you for your time in reading and considering our concerns.

Yours faithfully

Barbican Road

3

To: The Licensing Application Registrar
City of York Council,
Licensing Section
Hazel Court Eco Depot,
James Street
York YO10 3DS

26th March 2021

Dear Sir / Madam
Re Application for Premises Licensing 16 Barbican Road York: Regency Restaurant.

We are writing to make an objection concerning the Licensing application by the Regency Restaurant, 16 Barbican Road York.
Our Address is Barbican Road which is adjacent to the Regency Restaurant.

We understand that the Licensing application covers both the sale of alcohol on and off sales and late- night refreshments from 11.00pm to 3.30am. There is another License application for live music and dance from 10.00am to 3.30am. The noise of the playing of live music and dance music until 3.30am in the morning would also cause a severe disruption especially in the summer months when the windows are open.

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Thank you for your time in reading and considering our concerns.

Yours faithfully

Barbican Road

(4)

To: The Licensing Application Registrar
City of York Council,
Licensing Section
Hazel Court Eco Depot,
James Street
York YO10 3DS

26th March 2021

Dear Sir / Madam
Re Application for Premises Licensing 16 Barbican Road York: Regency Restaurant.

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Our Address is a Barbican Road which is adjacent to the Regency Restaurant.

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Thank you for your time in reading and considering our concerns.

Yours sincerely

Barbican Road

(5)

To: The Licensing Application Registrar
City of York Council,
Licensing Section
Hazel Court Eco Depot,
James Street
York YO10 3DS

26th March 2021

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Thank you for your time in reading and considering our concerns.

Yours sincerely

Barbican Road

6

To: The Licensing Application Registrar
City of York Council,
Licensing Section
Hazel Court Eco Depot,
James Street
York YO10 3DS

26th March 2021

Dear Sir / Madam
Re Application for Premises Licensing 16 Barbican Road York: Regency Restaurant.

We are writing to make an objection concerning the Licensing application by the Regency Restaurant, 16 Barbican Road York.
Our Address is Barbican Road which is adjacent to the Regency Restaurant.

We understand that the Licensing application covers both the sale of alcohol on and off sales and late- night refreshments from 11.00pm to 3.30am. There is another License application for live music and dance from 10.00am to 3.30am. The noise of the playing of live music and dance music until 3.30am in the morning would also cause a severe disruption especially in the summer months when the windows are open.

We feel that the hours are too extensive and as they are every day of the week will therefore cause a great deal of noise nuisance especially in the early hours of the morning. As we are students living in the accommodation, we are subject to a curfew during the week days. It seems that our sleep may be significantly disturbed!

As well as customers leaving the premises as late as 4.00am, there is the additional annoyance of the noise of cars and coaches stopping outside our house in the parking area with car doors slamming and coaches running their engines.

We are therefore concerned that there would be continual disruption and noise because of the opening hours and particularly the premises being open for the sale of alcohol for such extended hours.

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Yours faithfully

Barbican Road

13

Sefton, Helen

From: [redacted]
Sent: 05 April 2021 11:21
To: licensing@york.gov.uk
Subject: Application for a grant of a premises licence for Kheng Chooi Koay

Categories: jemma

Good Morning

I am writing with my objections re [redacted] nning application by Kheng Chooi Koay for a licence and extended o[redacted] o have live music etc at 16 Barbican Road.

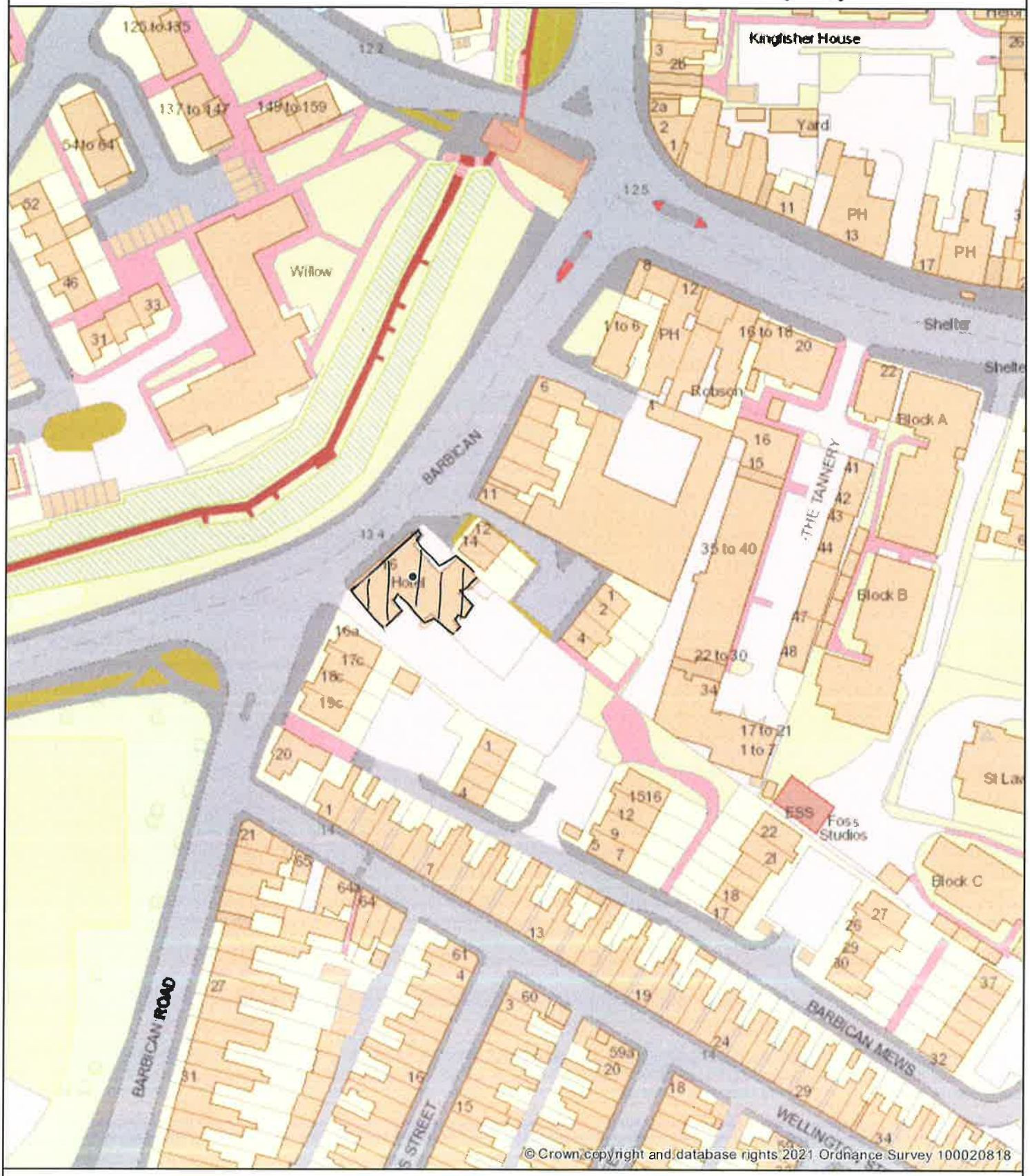
1. I work from home now fo[redacted] and will continue to do so for the forseable future and the extra activity around the building will be a mental distraction at the very least.
2. In Summer the waste produced by this restaurant smells and attracts flies and rats and makes sitting in the garden unpleasant to say the least, this is without extended hours.
3. The area is residential and we already had to endure a karaoke session which was 'private' during the Christmas period which kept the local residents awake until after 2am resulting in the police being called, once this happened the 'private' guests left in cars. This presumably was in breach of their current licence and the Covid restrictions.
4. People going to the premises are always mistaking the cul-de-sac's car park for the restaurant one and this would be an extra disturbance should the committee allow opening times to be extended and especially if they are proposing to run an off licence as well
5. The smokers using the restaurant come round the front of my house and stub out their cigarettes on my path and disturb our sleep with their talking now so opening earlier and later would bring even more disturbance and litter.
6. There have been several incidents of their waste pipes overflowing with sewerage and the lorry is usually outside my front window pumping the blockage for the whole day, this is not environmentally friendly and we have to close our windows.
7. The alcohol licence was refused previously and the change of manager makes no difference as the owners who were refused still live there.

I hope the committee will take into consideration all of the above and refuse to grant the application for the sake of the peace of mind of the residents of 1-4 Lawrence Court and 12 and 14 Barbican Road as well as the surrounding flats, houses and student accommodation.

Regards

[redacted]Barbican Road

Map of area



Date: 7 Apr 2021

Author: n/a

Scale: 1:1,250

0 0.015 0.03 0.045 0.06 0.075
km

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ANNEX 9

MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE
LICENSING ACT 2003

MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

2. The first condition is that no supply of alcohol may be made under the premises licence -
   (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
   (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
   (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
   (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
      (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
   (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
   (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
   (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
   (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
   (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either –

(a) a holographic mark, or
(b) an ultraviolet feature.

7. The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

(i) beer or cider: ½ pint;
(ii) gin, rum, vodka or whisky: 25ml or 35ml; and
(iii) still wine in a glass: 125ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

MANDATORY CONDITION: ALCOHOL PRICING

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 –

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);

(b) "permitted price" is the price found by applying the formula –

$P = D + (D \times V)$

where –

(i) P is the permitted price,
(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,
(ii) the designated premises supervisor (if any) in respect of such a licence, or
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(7).

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

MANDATORY CONDITION: DOOR SUPERVISION

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of that Act.

2. But nothing in subsection (1) requires such a condition to be imposed -

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to -

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section -

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

MANDATORY CONDITION: EXHIBITION OF FILMS

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

3. Where -

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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ANNEX 10

Legislation and Policy Considerations

1. The following provisions of The Licensing Act 2003 apply to this application: S4 general duties of licensing authorities; s17 application for premises licence; s18 determination of application for premises licence; s23 grant or rejection of application; ss19, 20 and 21 mandatory conditions; The Licensing Act (Mandatory Licensing Conditions) Order 2010; and The Licensing Act 2003 (Mandatory Conditions) Order 2014.

2. The following provisions of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 apply to this application: Regulation 42, Part 2 (Premises licences) and Part 4 (General) relating to applications, notices and representations and advertisement of applications

3. The following provisions of the Secretary of State's guidance apply to this application: Section 2 The Licensing Objectives; Section 9 Determining applications; Section 10 Conditions attached to premises licences and club certificates; and Section 14 Statements of licensing policy.

4. The following paragraphs of the licensing authority's statement of licensing policy apply to this application: 5.0 Applications for Premises Licences, Club Premises Certificates and Variations; 6.0 Guidelines for Applicants; 7.0 Saturation and Cumulative Impact and 8.0 Licensing Hours.

5. 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.

6. The Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property, which may include licences in existence, and the protection of private and family life.

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