

Licensing/Gambling Hearing

To: Councillors Cuthbertson, Galvin and Melly

Date: Thursday, 8 December 2022 (*postponed from 12 September 2022*)

Time: 10.00 am

Venue: Remote Meeting

AGENDA

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 disclosable pecuniary interest or other registerable interest they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests.

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. The Determination of a Section 18(3) Application by Mr Kheng Chooi Koay for a Premises Licence in respect of 10 - 12 George Hudson Street, York, YO1 6LP (CYC-070840)

Democratic Services officer:

Name: Fiona Young

Contact Details:

- Telephone – (01904) 552030
- Email - fiona.young@york.gov.uk

For more information about any of the following, please contact the Democratic Services 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 میا 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;
- 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
24. The Chair will invite the Applicant 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
 - Local residents
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.



Licensing Act 2003 Sub Committee

8 December 2022
*(postponed from 12
 September 2022)*

Report of the Director of Environment, Transport and Planning

Section 18(3) (a) Application for a premises licence for 10 - 12 George Hudson Street, York, YO1 6LP

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- 070840
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:

Proposed Activity	Timings
Late Night Refreshment (indoors)	23:00 to 00:00 Fri & Sat
Sale of alcohol (on & off sales)	11:00 to 23:00 Sun to Thurs 11:00 to 00:00 Fri & Sat
Opening times	11:00 to 23:30 Sun to Thurs 11:00 to 00:30 Fri & Sat

Background

6. A copy of the application can be found at Annex 1, including a plan(s) of the premises and a copy of conditions proposed by the applicant.

7. The premises is described in the application as a ground floor restaurant within a larger building.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at Annex 2.

Promotion of Licensing Objectives

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

9. General

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. This is a family restaurant that also offers takeaway facilities 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. He is very aware that this property is within the red zone of the cumulative impact area/zone. The applicant is putting in place proper structures to make the business work successfully going forward – including proper training and management – and with a new management team in place. Previously named persons will not be involved.

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.

The applicant detailed proposed conditions for the licence application, this document (numbered 1 – 21) is attached.

10. 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 ease of viewing. It will include all areas to which the public have access for licensed activity and where the public can consume alcohol and will display the correct date and time. The applicant takes a zero tolerance approach to crime and disorder, he will refuse to serve intoxicated patrons and involve the police if required.

Documented staff training will be given regarding the retail sale of alcohol, the conditions attached to the premises licence and opening/operating hours of the venue, such training will be refreshed

and documented. Training records will be kept and will be accessible upon request by any responsible authority.

Rigorous steps will be taken to check employees and ensure everyone involved in any aspect of running the business has proper immigration clearance and the right to work in the UK. No criminal activity of any kind will be tolerated. Full written employment records will be kept and will be available for inspection.

11. Public Safety

The applicant will accept a capacity limit to be put in place and for door supervisors to be employed at applicable times.

Any previous instances of unauthorised sale of alcohol have been addresses and rigorous standards will be maintained going forward. Means of escape will be unlocked, fire systems are being updated and no staff will live/sleep at the property.

12. The Prevention of Public Nuisance

Drinking glasses of any type will not be allowed to enter or leave the premises whilst under customers care. A refusals register and an incident report register will be kept. 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.

13. The Protection of Children From Harm

There will be a challenge 25 policy in place. The following forms of identification will be acceptable – photocard driving licence, valid passport, military ID, PASS accredited proof of age card and other form of ID agreed with North Yorkshire Police. The applicant wishes the restaurant to continue as a family friendly property and will do everything 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.

The applicant has produced an additional document to accompany the operating schedule which appears in full at Annex 1.

Special Policy Consideration

14. This premises is located within the cumulative impact assessment (CIA) area approved by full council on 24 March 2022. The assessment can be found at Annex 3. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at Annex 4.

Consultation

15. 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.
16. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

17. North Yorkshire Police have made a representation on the grounds that the all four licensing objectives will be undermined by the granting of this application. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA especially in the Amber Zone. Furthermore North Yorkshire Police object to the appointment of Mr Koay as the proposed Designated Premises Supervisor.
18. The Police representation is attached at Annex 5.
19. The Licensing Authority have made a representation on the grounds that the licensing objectives, prevention of crime and disorder and prevention of public nuisance will be undermined by the granting of this application. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA especially the Amber Zone.
20. The Licensing authority representation is attached at Annex 6.

Summary of Representations made by Other Parties

21. There have been no other representations received from other persons.
22. A map showing the general area around the venue is attached at Annex 7.
23. The mandatory conditions that will be attached to this licence if granted (if they apply) can be found at Annex 8. The Legislation and Policy considerations can be found at Annex 9.

Options

24. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
25. Option 1: Grant the licence in the terms applied for.
26. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
27. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
28. Option 4: Refuse to specify a person on the licence as premises supervisor.
29. Option 5: Reject the application.

Analysis

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

Council Plan

36. 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.
37. 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

38.
 - **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

39. 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.

40. 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

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

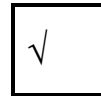
Contact Details

Author:
Lesley Cooke
Licensing Manager

Chief Officer Responsible for the report:
James Gilchrist, Director Environment,
Transport and Planning.

Tel No. 01904 551515

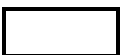
**Report
Approved**



27.06.2022

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

Wards Affected: Micklegate Ward



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form & Plans
- Annex 2** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** - Cumulative Impact
- Annex 4** - Licensing Policy Annex
- Annex 5** - North Yorkshire Police Representation
- Annex 6** - Licensing Authority Representation
- Annex 7** - Map of area
- Annex 8** - Mandatory Conditions
- Annex 9** - Legislation and Policy Considerations

Application for a premises licence to be granted under the Licensing Act 2003

Please read the following instructions first

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We **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 I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
10-12 GEORGE HUDSON STREET (GROUND FLOOR)			
Post town	YORK	Postcode	YO1 6LP

Telephone number at premises (if any)	01904-636304
Non-domestic rateable value of premises	£28,250

Part 2 - Applicant details

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

a)	an individual or individuals *	<input checked="" type="checkbox"/>	please complete section (A)
b)	a person other than an individual *	<input type="checkbox"/>	
	i as a limited company/limited liability partnership	<input type="checkbox"/>	please complete section (B)
	ii as a partnership (other than limited liability)	<input type="checkbox"/>	please complete section (B)
	iii as an unincorporated association or	<input type="checkbox"/>	please complete section (B)
	iv other (for example a statutory corporation)	<input type="checkbox"/>	please complete section (B)

c)	a recognised club		please complete section (B)
d)	a charity		please complete section (B)
e)	the proprietor of an educational establishment		please complete section (B)
f)	a health service body		please complete section (B)
g)	a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales		please complete section (B)
ga)	a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England		please complete section (B)
h)	the chief officer of police of a police force in England and Wales		please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (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 <input checked="" type="checkbox"/>	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 <input checked="" type="checkbox"/>	
Nationality MALAYSIAN					
Current residential address if different from premises address		28 ST PHILIP'S GROVE			
Post town	YORK			Postcode	YO30 6JP
Daytime contact telephone number					
E-mail address (optional)					

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service (please see note 15 for information)

Second individual applicant (if applicable)

Mr	Mrs	Miss	Ms	Other Title (for example, Rev)	
Surname			First names		
Date of birth or over		I am 18 years old		Please tick yes	
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service: (please see note 15 for information)					

(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

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)

Ground Floor, part of a much larger building – operating as a restaurant at 10-12 George Hudson Street, York, YO1 6LP

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)	

<u>Provision of late night refreshment</u> (if ticking yes, fill in box I)	✓
<u>Supply of alcohol</u> (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)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Thur					
Fri			<u>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</u> (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	
Day	Start	Finish		Outdoors	
				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)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
				Outdoors	
Day	Start	Finish		Both	
Mon				<u>Please give further details here</u> (please read guidance note 4)	
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)		
Thur					
Fri			<u>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</u> (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 <u>place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take <u>place indoors or outdoors or both –</u> <u>please tick</u> (please read guidance note 3)	Indoors	
Day	Start	Finis h		Outdoors	
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 5)		
Thur					
Fri			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)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
				Both	
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 6)		
Sat					
Sun					

H

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

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			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed					
Thur			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)		
Fri	23:00	24:00			
Sat	23:00	24:00			
Sun			<u>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</u> (please read guidance note 6)		

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	✓
				Both	
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	11:00	23:00			
Tue	11:00	23:00			
Wed	11:00	23:00			
Thur	11:00	23:00			
Fri	11:00	24:00			
Sat	11:00	24:00			
Sun	11:00	23:00			
			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)		

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	
Address	
Postcode	YO30 6JP
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).

None – not applicable.

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	11:00	23:30	
Tue	11:00	23:30	
Wed	11:00	23:30	
Thur	11:00	23:30	
Fri	11:00	00:30	
Sat	11:00	00:30	
Sun	11:00	23:30	

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 is a family friendly restaurant that also offers takeaway facilities 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. He is very aware that this property is within the Red Zone of the Cumulative Impact Area/Zone. The applicant is putting in place proper structures to make the business work successfully going forward – including proper training and management – and with a new management team in place. Mr Man Wei Leung, Mr Luing Lun Man and Mr Wen Lin Chen will not be involved.

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.

He has put together some detailed proposed conditions for the Licence and this document (numbered 1-21) is attached to this application.

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. Training records will be kept 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.

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.

There have been previous issues with, among other things, unauthorised sale of alcohol but these have been addressed and the applicant will maintain rigorous standards right across the board going forward. Advice is being taken to ensure that these standards continue going forward. Means of escape will not be locked. Fire systems are being updated and no staff will live/sleep at the property.

d) The prevention of public nuisance

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.

e) The protection of children from harm

There will be a challenge 25 policy in operation at the premises requiring any individual who appears to be under the appropriate age to produce identification to prove their age, 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, military ID card, 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 continue as 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.

Checklist:

Please tick to indicate agreement

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

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.**

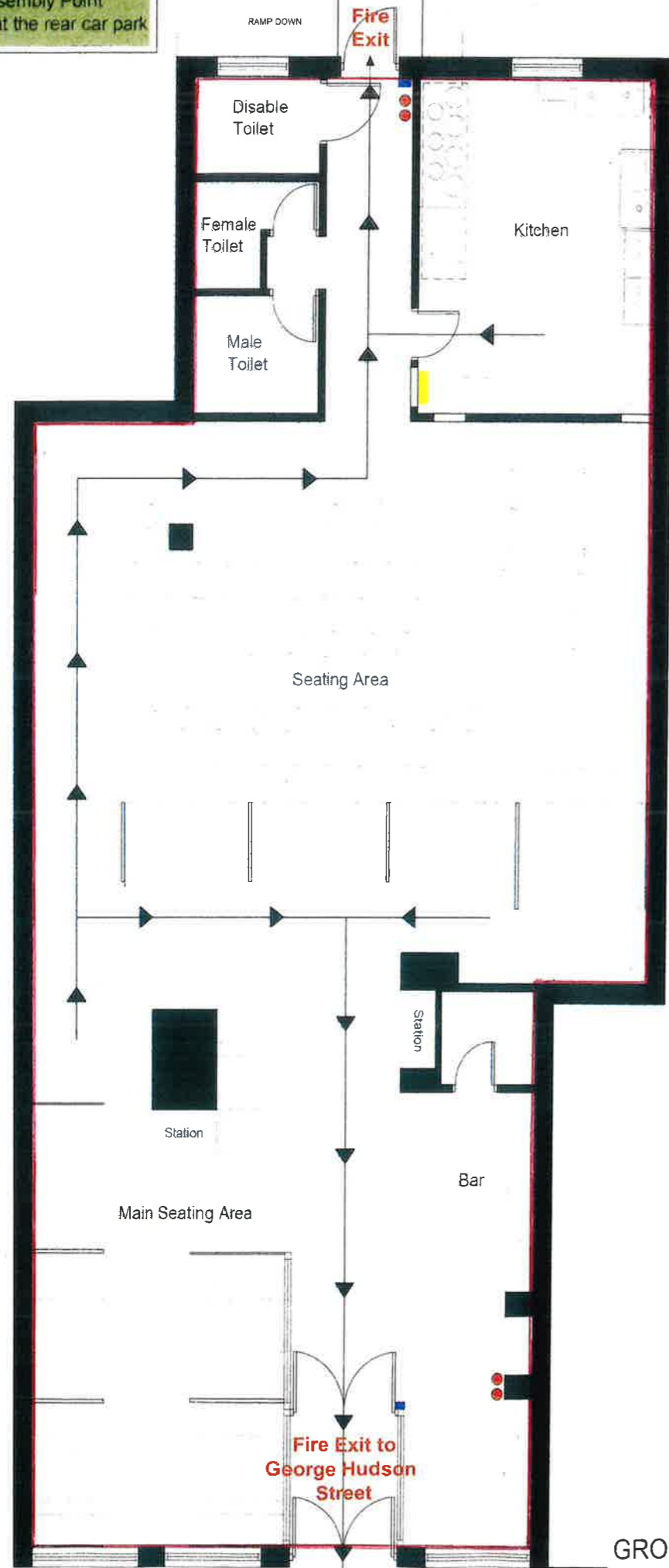
Declaration	<ul style="list-style-type: none"> [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject 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, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	
Date	25 th May 2022
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.**

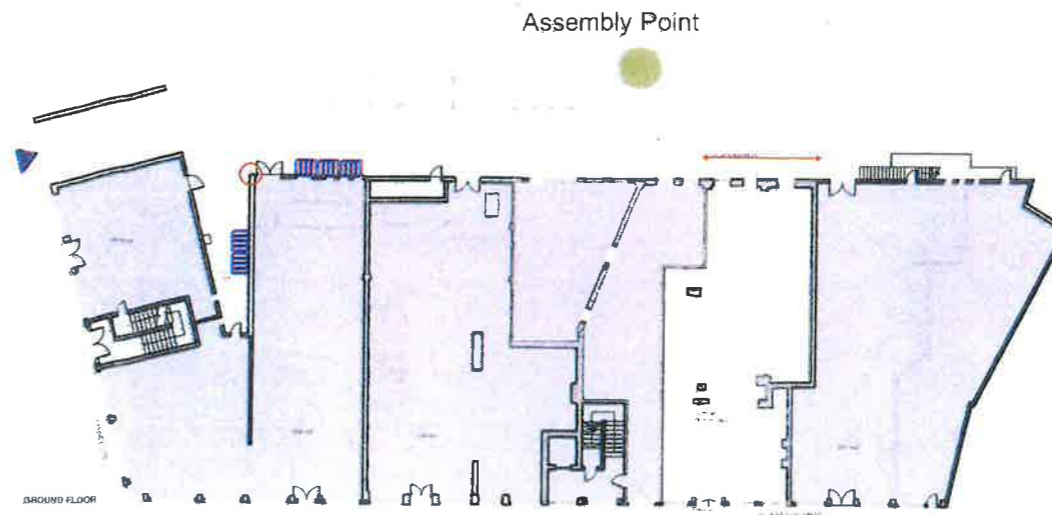
Signature	
Date	
Capacity	

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)			

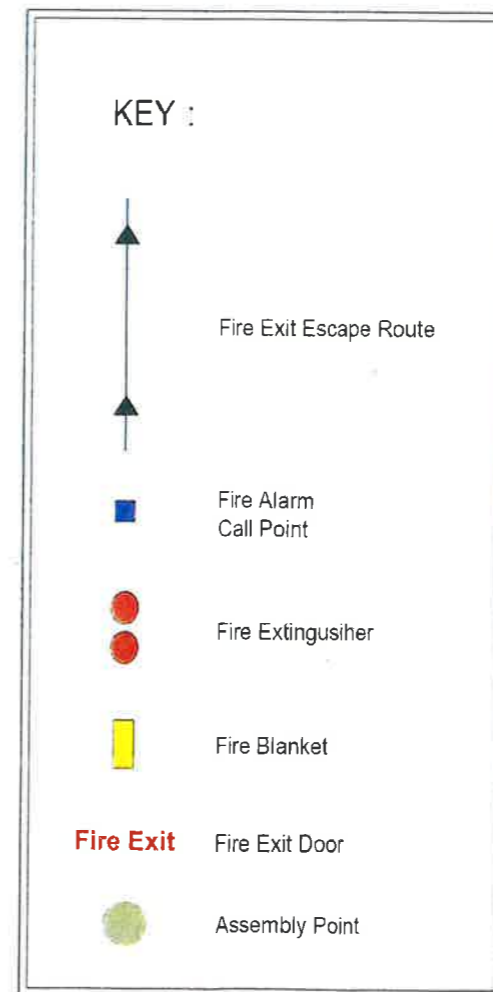
Assembly Point located at the rear car park



GROUND FLOOR PLAN Scale @ 1:100



Scale @ 1: 500



Notes:

All work is to be carried out to the latest current British standards Codes of Practice and recognised working practices.

All work and materials should comply with Health and Safety legislation

All dimensions are in millimetres unless where explicitly shown otherwise

The contractor should check and certify all dimensions as work proceeds and notify the architect of any discrepancies

Do not scale off the drawings, if in doubt ask

Title: 12 George Hudson Street
York
YO1 6LP

Fire Plan

Project No: 0001

Drawn: AM

Client: HaiZhonGiao

Paper: A3

Date: 08-09-2020

Scale: 1:100

Amendments:

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10-12 George Hudson Street, York, YO1 6LP – Applicant – Mr Kheng Chooi Koay

Proposed Conditions for Premises Licence

1. A colour digital 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
 - opening times for 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 logbook 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 substantial food and non-intoxicating beverages, including drinking water shall be available where alcohol is sold or supplied for consumption on the premises and alcohol shall be ancillary to food.
5. 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.

6. All sales of alcohol shall be in sealed containers.
7. The licence holder will operate a Challenge 25 Age Verification Policy at the premises.
8. 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).
9. 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.
10. A clear and legible notice will be placed outside the premises indicating the authorised licensable hours and activities.
11. The premises licence holder will operate a full HR management system where all relevant documents are stored for each individual member of staff. 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.
12. The premises licence holder will work with Peninsula or other similar agency 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.
13. 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.
14. Customers will not be sought by means of personal solicitation outside or in the vicinity of the premises.
15. Staff will be trained to ask customers to use the premises in an orderly and respectful manner and will take steps to prevent the drinking of alcohol in the retail unit.
16. All parts of the premises and all fittings and apparatus, door fastenings, notices, lighting, heating, electrical, air conditioning, sanitary fittings and other installations will be maintained at all times in a good and safe working condition.
17. Deliveries will be carried out so as not to cause a public nuisance to nearby residents.
18. Staff arriving or leaving early in the morning or late at night will avoid disturbing nearby residents.
19. The movement of bins/rubbish will be kept to a minimum after 2300 hours. Bottle bins shall not be emptied between 18:00 and 08:00 on each and every day.
20. Lighting on or outside the premises will be positioned or screened so as not to cause nuisance to nearby residents.
21. Waste receptacles will be provided for customers to use.

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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Cumulative Impact

1. Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
2. Relevant authorisations means:
 - premises licence
 - club premises certificate
3. Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
4. The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

Cumulative Impact Assessment

5. As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
6. As required by the Act the Council has formally consulted on the assessment.
7. By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of

Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

8. Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
9. Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
10. The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.
11. The Statement of Licensing Policy and Cumulative Impact Assessment were approved by the City of York on the 21 March 2019.

Cumulative Impact Area

12. The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
 - prevention of crime and disorder
 - prevention of public nuisance
13. North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
 - drink led premises – pubs, bars, nightclubs and restaurants/cafes;
 - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
 - late night refreshment premises – takeaways; and
 - off licence premises – supermarkets and convenience stores.
14. A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.

9. Cumulative Impact

- 9.1 Cumulative impact has been included within the Section 182 guidance issued by the Home Office since the commencement of the Act. Cumulative impact assessments were introduced at Section 5A of the Act by the Police and Crime Act 2017, with effect from 6 April 2018. This provides provision for licensing authorities to publish a document, cumulative impact assessment, stating that the licensing authority considers that a number of relevant authorisations in respect of premises in one or more parts of its area, described in the assessment, is such that it is likely that it would be inconsistent with the authority's duty under the Act to grant any further relevant authorisations in respect of premises in that part or those parts.
- 9.2 Relevant authorisations means:
- premises licence
 - club premises certificate
- 9.3 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 9.4 The Council has included a Cumulative Impact Policy within its Statement of Licensing Policy since 2005, in relation to an area within York city centre. Due to the changes within the city centre, mainly the locations where licensed premises are predominately operating, this area has increased over the years.

Cumulative Impact Assessment

- 9.5 As required by the Act the Council has reviewed the cumulative impact area following the receipt of evidence provided by North Yorkshire Police and the Councils Public Protection Service (noise). The Council has published its first cumulative impact assessment (assessment) in relation to an area that has been identified in York city centre. The assessment is available on the Council website or from the Licensing Section. The assessment will be reviewed at least every three years as required by the Act. A map showing the area can be found in the assessment.
- 9.6 As required by the Act the Council has formally consulted on the assessment.
- 9.7 By publishing the assessment the Council is setting down a strong statement of intent about its approach to considering applications for grant and variation of premises licences or club premises certificates in the area described. The Council must have regard to the assessment when determining or revising this Statement of Licensing Policy. The assessment does not change the fundamental way that a licensing decision is made, each application will be considered on its own merits. It is open for the Council to grant an application where it is considered appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in the area covered by the assessment should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and the Council

determines to grant an application reasons for granting the application will be given to the applicant, the Chief Officer of Police and all parties who made a relevant representation, with the reasons for departing from the Policy.

- 9.8 Where no relevant representations are received an application within the cumulative impact area will be granted in terms consistent with the operating schedule.
- 9.9 Applications for new premises licences or variations for premises situated within the cumulative impact area that are likely to add to the cumulative impact already experienced will normally be refused if relevant representations are received. The applicant must demonstrate through the operating schedule, the steps that they intend to take so that the Council and responsible authorities can be satisfied that granting a new or varied licence will not add to the cumulative impact already being experienced.
- 9.10 The onus is on the applicant to demonstrate to the responsible authorities the suitability of how their proposal will not add to the cumulative impact. To assist this process the Council recommends early consultation with responsible authorities; this can be done directly with those authorities or through the Council's Licensing Section.

Cumulative Impact Area

- 9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:
- prevention of crime and disorder
 - prevention of public nuisance
- 9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:
- drink led premises – pubs, bars, nightclubs and restaurants/cafes;
 - entertainment premises – pubs, bars and nightclubs providing entertainment, especially late at night into the early hours of the morning;
 - late night refreshment premises – takeaways; and
 - off licence premises – supermarkets and convenience stores.
- 9.13 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have lead to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.



NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003

North Yorkshire Police hereby give notice of objection to the Premises Licence as listed below:

Postal Address of premises or club premises: 10-12 George Hudson Street	
Post town: York	Post code (if known): YO1 6LP

Notice of Objection relates to the following licensing objective: *(Please tick one or more boxes)*

1. The prevention of crime and disorder	<input checked="" type="checkbox"/>
2. Public safety	<input checked="" type="checkbox"/>
3. Prevention of Public Nuisance	<input checked="" type="checkbox"/>
4. The protection of children from harm	<input checked="" type="checkbox"/>

GROUNDINGS FOR RELEVANT REPRESENTATION

Please provide as much information as possible to support this relevant representation:

(e.g. please list any additional information, e.g. dates of problems which are included in the grounds for review)

This application relates to a new premises licence for a ground floor restaurant in York's Cumulative impact area for licensable activities as follows:-

Sun - Thurs 1100-2300 and Fri/Sat 1100-2400

The premises sits within York's CIA (Cumulative impact assessment area) 'Amber zone', an area which The City of York Council has identified as being under the most stress from crime and disorder and public nuisance in their statement of licensing policy. The current policy came into effect on 24th March 2022 and runs until 2027 and which states:-

9.11

"The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives:

- prevention of crime and disorder
- prevention of public nuisance "

And

9.14

"Amber zones have also been identified in this area, again due to the high concentration of licensed premises, the

impact of which has led to a high level of occurrences in relation to crime and disorder related issues. Therefore, unless the application relates to a food led operation, as details in paragraph 9.15, the Council should refuse all applications within the amber zones where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in these zones. A map showing the amber zones can be found in the assessment.”

Furthermore the CIA policy states at para 9.15

“Applications for the grant or variation of a premises licence in the cumulative impact area may be considered more favourably if the applicant can demonstrate, through the operating schedule, that the premises is going to be predominantly food led with:

- alcohol being sold/supplied ancillary to a meal, with substantial food (more substantial than a bag of crisps or a bowl of olives or nuts);
- being served throughout the duration of the operating hours;
- no vertical drinking, all customers seated at tables;
- set number of table covers;
- table service only, no customers at the bar; “

Whilst the applicant has offered 21 conditions as part of the operating schedule within the application there is no mention of no vertical drinking, all customers to be seated at tables, a set number of table covers and table service only, with no customers at the bar.

A condition that has been offered at point 15 on the additional material is:-

“Staff will be trained to ask customers to use the premises in an orderly and respectful manner and will take steps to prevent the drinking of alcohol in the retail unit”. As members will see from the plan submitted with this application there is no retail unit on the plans for this application, so this aspect needs to be clarified.

The Statement of Policy also states:-

8.13 “Even though the traditional drinking up time was not carried over into the Act the Council recommends that applicants of premises licensed for the on-sale of alcohol should consider a drinking up / cooling down period during which music volume may be reduced, customers may consume their drinks and make arrangements for transportation from the premises. The Council considers that a 30 minute drinking up time will assist in the gradual dispersal of customers and consequently reduce impact on the area.”

Again this has not been offered within the operating schedule.

In Section M of the application it states Para A, “the applicant accepts that there have been problems with regard to the management of these premises in the past but he was not involved in those practices and wishes to start afresh now. Mr Wan Wei Leung will not be involved”

At para-C states “ there have been previous issues with, amongst other things unauthorised sale of alcohol but these have been addressed and the applicant will maintain rigorous standards right across the board going forward”.

The premises has previously applied for two separate premises licences both being refused by a Licensing Sub-Committee following a hearing the most recent being on 25th January 2021.

At no time have the police identified any unauthorised sale of alcohol from the premises but have objected to the previous applications believing if granted the licensing objectives would be seriously undermined.

The Section 182 guidance provides applicants with clear guidance with regards to completing their operating schedule namely:-

8.43 - “Applicants are expected to include positive proposals in their application on how they will manage any potential

risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application: any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy".

Based on the above it does not appear that the applicant has considered York's Statement of licensing Policy, as there is no reference to the Amber Zone and why their application should be considered as an exception to the policy.

Upon receiving this application North Yorkshire Police have conducted due diligence checks in relation to the applicant who is also the proposed Designated Premises Supervisor.

Alongside the concerns raised above North Yorkshire Police do not support this application for a premises licence under Section 18(9) of the Licensing Act, as it is believed the applicant and proposed Designated Premises Supervisor Mr Koay, would undermine the Crime Prevention Objective.

The Section 182 guidance para 4.39 states

"The Police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns."

North Yorkshire Police have to be satisfied that an individual, who performs the role of a DPS, and who will ultimately have day-to-day management of the Premises and be the point of contact for responsible authorities, is able to effectively promote the Licensing Objectives.

Mr Koay, is the current Premise Licence Holder and DPS of Sky Blue 16 Barbican Road York, which was granted on 29th April 2021. As part of his application for this premise he offered, a number of conditions similar to those contained in this application. Appendix 1- Premise Licence Sky Blue

On 22nd January 2022 North Yorkshire Police received a report of an alleged spiking incident which had taken place at Sky Blue. Following this report and as a result of information received from the investigating officer who had been unable to obtain CCTV, or staff details, (both conditions on the Premise Licence,) a visit was conducted to the premises on 18th February 2022 by North Yorkshire Police Licensing officers PC Sam Bolland and PC Kim Hollis. At the time of the visit the Premises was failing to comply with a number of Premise Licence Conditions which resulted in a Section 19 Closure Notice under the Criminal Justice and Police Act being issued to the Premises. Appendix 2 Closure Notice Part 1, Closure Notice Part 2

On 21st June 2022 at 1200hrs PS Booth Force Licensing Manager for North Yorkshire Police and PC Hollis York Licensing officer attended a pre-arranged meeting at Sky Blue with Mr Koay Premise Licence Holder and DPS, who was accompanied by his legal representative Mr Walker and the manager of the Premises Mr Man Wei Lueng. Mr Koay had been advised in advance of the meeting that it was to discuss concerns around the criminal investigation and the previous Section 19 notice issued.

At this time PS Booth conducted a further inspection under Section 179 of the Licensing to ascertain if the Premises were adhering to all the Premise Licence Conditions.

It was again established that Premise Licence Conditions were being breached and a further Section 19 Closure Notice was issued. Appendix 3

Mr Koay has failed to ensure that as a Premise Licence holder and DPS for Sky Blue, that conditions attached to the licence are being adhered to resulting in two Section 19 notices being issued within a five-month period. In that application the following was offered:-

"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".

The manager presently at Sky Blue is Mr Man Wei Lueng who was part of the management of the Premises when it was

Licensed as The Regency which had its licenced revoked in June 2020 and whom Mr Koay has stated will not be involved with this application but is clearly one of his staff, and who had previously tried to apply for a Premises Licence for 10-12 George Hudson Street.

North Yorkshire Police would therefore suggest that Mr Koay has not delivered what he offered as part of his licensing application regarding Sky Blue and have no confidence regarding what he is offering within this application for 10-12 George Hudson Street to be adhered to.

He has demonstrated that he is not a responsible operator that adheres to conditions attached to a Premise Licence.

North Yorkshire Police cannot support this application in the Cumulative Impact Area, and for the exceptional reasons highlighted in respect of Mr Koay as the proposed Designated Premises Supervisor (please refer to the statement of PS Booth) and respectfully ask members to refuse the application.

Accompanying Documentation:-

Appendix 1 - Premise Licence 16 Barbican Road York

Appendix 2 - Section 19 Notice issued 18/02/22 Part 1 and Part 2

Appendix 3 - Section 19 Notice issued 21/06/22

Statement PS133 Booth

Exhibit JB/01

Exhibit JB/02

Exhibit JB/03

Signature: J Booth

Date: 23/06/22

Contact name: PS 133 Jackie Booth

Address for correspondence: **Alcohol Licensing Department Fulford Road Police Station**

Post town: **York**

Post code: **YO10 4BY**

Tel. number (if any): **01609 643273**

Email address if preferred option of contact: **NYPLicensing@northyorkshire.pnn.police.uk**



LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Part 1 Premises details

Premises licence number CYC - 68154
--

Postal address of premises: 16 Barbican Road	
Post town: York	Post code: YO10 5AA
Telephone number: 01904 466785	

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Live Music
Recorded Music
Performance of Dance
Other Entertainment
Late Night Refreshment
Supply of Alcohol

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

LIVE MUSIC

Indoors

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

RECORDED MUSIC

Indoors

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

PERFORMANCE OF DANCE
Indoors

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

OTHER ENTERTAINMENT
Indoors

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

LATE NIGHT REFRESHMENT
Indoors

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

SUPPLY OF ALCOHOL

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

Non-standard timings for the above:

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

The Opening Hours of the Premises

Monday 10:00 - 04:00	Tuesday 10:00 - 04:00	Wednesday 10:00 - 04:00	Thursday 01:00 - 04:00
Friday 10:00 - 04:00	Saturday 10:00 - 04:00	Sunday 10:00 - 04:00	

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

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 premises licence:

Name: Mr Kheng Chooi Koay

Address:

[REDACTED]

Telephone number:

[REDACTED]

Email address:

Registered number of holder, for example company number, charity number (where applicable):

Not applicable

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

Name: Mr Kheng Chooi Koay

Address: 28 St Philips Grove
York
YO30 6JP

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:

HDC 1084 Hambleton DC

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.

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.

Annex 2 – Conditions consistent with the operating schedule

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).

7. 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

8. 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.

9. 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.

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

11. 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

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

13. 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).

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

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

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

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

23. 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.

24. 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.

25. After 00:00hrs 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.

26. 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.

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

28. 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.

29. 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.

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

31. All doors and windows shall be closed during regulated entertainment or, when entertainment is not provided after 2300 each night – except for ingress and egress.

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

- 1.Coaches attending the premises must not park, idle, pick-up, or drop-off on either Barbican Road or Wellington Street at anytime.
- 2.Coach noise is to be assessed via the noise management plan.
- 3.A leaflet containing the premises duty manager(s) contact details and the City of York Council’s noise patrol contact details must be provided to all properties on Barbican Road, Wellington Street, Lawrence Court and Barbican Mews prior to the premises operating, and each October thereafter.
- 4.The smoking area for the premises is to be assessed and agreed by the Council’s Public Protection team.

Annex 4 – Approved Plan

Plan Number: B.R. (16)/ O1 July 2012

For and on behalf of
The Corporate Director of Place

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Date: 29/04/2021

Phone: 01904 552422
Fax: 01904 551590
Email: licensing@york.gov.uk
Website: www.york.gov.uk/licensing



PREMISES LICENCE SUMMARY

Part B

Part 1 Premises details

Premises licence number
CYC - 68154

Postal address of premises:

16 Barbican Road

Post town: **York**

Post code: **YO10 5AA**

Telephone number: 01904 466785

Where the licence is time limited the date:

This licence has no expiry date.

Licensable activities authorised by the licence:

Live Music
Recorded Music
Performance of Dance
Other Entertainment
Late Night Refreshment
Supply of Alcohol

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

LIVE MUSIC

Indoors

Monday
10:00 - 03:30

Tuesday
10:00 - 03:30

Wednesday
10:00 - 03:30

Thursday
10:00 - 03:30

Friday
10:00 - 03:30

Saturday
10:00 - 03:30

Sunday
10:00 - 03:30

RECORDED MUSIC

Indoors

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

PERFORMANCE OF DANCE
Indoors

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

OTHER ENTERTAINMENT
Indoors

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

LATE NIGHT REFRESHMENT
Indoors

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

SUPPLY OF ALCOHOL

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

Non-standard timings for the above:

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

The Opening Hours of the Premises

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

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 premises licence:

Name: Mr Kheng Chooi Koay

Address: 28 St Philips Grove
York
YO30 6JP

Registered number of holder, for example company number, charity number (where applicable):

N/A

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

Mr Kheng Chooi Koay

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

Challenge 25 policy in operation

For and on behalf of
The Corporate Director of Place

Date: 29/04/2021

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Phone: 01904 552422
Fax: 01904 551590
Email: licensing@york.gov.uk
Website: www.york.gov.uk/licensing

Made under section 19 of the Criminal Justice and Police Act 2001



Premises Licence No: C4C-68154

Date and time of the Closure Notice: 18/02/22 - 12:38hrs

Person making the Notice: PC1671 Kim Hollis
Signature: [Handwritten Signature]

Name (if applicable) and address of the affected premises: SKY BLUE 16 BARBICAN RD, YORK, YO10 5AA

- Alleged unauthorised use of the premises:
- CCTV Time incorrect showing 12:28hrs at 12:14hrs. Concl 1 Annex 2.
 - No staff training signed for licensable activities. Concl 2 Annex 2.
 - no staff HR system + records Concl 17 + 18 Annex 2.

- Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
- CCTV time to be corrected.
 - Staff to sign training for licensure.
 - individual files for staff to be made with HR record.
- 7 days

The person (if applicable) on whom the Closure Notice has been served:
Name: Alan LEUNG (Kevin)
Signature: [Handwritten Signature]

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Closure Notice

Made under section 19 of the Criminal Justice and Police Act 2001

Premises Licence No: CYC-68154

Date and time of the Closure Notice:
18/02/22 - 1238 hrs

Person making the Notice:
PC1671 Kim Hollis

Signature: [Handwritten Signature]

Name (if applicable) and address of the affected premises:
SKY BLUE, 16 BARBICAN RD
YORK YO10 5AA

Alleged unauthorised use of the premises:
- no noise management plan
Cond 29. Annex 2.

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
- noise management plan to
be submitted to CYC
licensing authority.

7 days.

The person (if applicable) on whom the Closure Notice has been served:

Name: Man LEUNG (Kevin)

Signature: [Handwritten Signature]

This page is intentionally left blank



Closure Notice

Made under section 19 of the Criminal Justice and Police Act 2001

Premises Licence No: CYC - 68154

Date and time of the Closure Notice:
21/06/22 1335 hrs

Person making the Notice:
PS133 BOOTH
Signature: [Signature]

Name (if applicable) and address of the affected premises:
SKY BLUE
16 BARBICAN ROAD
YO10 5AA

Alleged unauthorised use of the premises:
Breach of PL Conditions
1. No data stored for 28 days for Karaoke rooms (25th May 22)
2. No documented staff training - kept for 1 yr
3. No Refused Incident Book
4. No SIA Sign on 21/06/22

Steps which may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring:
18. No staff shift documents on site
23. One member of staff to check rooms every 30 mins.
7 DAYS TO COMPLY

The person (if applicable) on whom the Closure Notice has been served:
Name: KHENG Cheol KOAY
Signature: [Signature]

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WITNESS STATEMENT**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

URN

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Statement of: Jacqueline BOOTH

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: POLICE OFFICER

This statement (consisting of four page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: J Booth (witness)

Date: 23rd June 2022

I am the Force Licensing Manager for North Yorkshire Police and have responsibility for managing a team of Police staff who deliver front-line operational services to over 6,500 premises across eight Licensing Authority areas within North Yorkshire and the City of York.

I am authorised to act on behalf of the Chief Constable of North Yorkshire Police in matters relating to the Licensing Act 2003, Gambling Act 2005, Scrap Metal Dealers Act 2014 and Local Government (Miscellaneous Provisions) Act 1982.

I have completed the Institute of Licensing Professional Licensing Practitioner's Qualification and the British Institute of Inn keeping Awarding Body's Award for Licensing Practitioner's (Alcohol).

My role involves working with statutory partners and key stakeholders to ensure the promotion of the four Licensing objectives, The Prevention of Crime and Disorder, The Prevention of Public Nuisance, Public Safety, and the Protection of Children from harm, alongside compliance with the Licensing Act 2003.

On Monday 8th June 2020, I was on duty when I participated and represented North Yorkshire Police at a remote Licensing Hearing arranged by City of York Council in relation to the review of Premises Licences for the following premise:-
Regency Restaurant 16 Barbican Road York.

Members of the Licensing sub-committee heard representations from the Licensing Authority, and North Yorkshire Police and the determination from the hearing was that the Premises Licence at 16 Barbican Road should be revoked.

On 10th March 2021 North Yorkshire Police received notification from City of York Licensing Authority in respect of an application for a new Premises Licence for a restaurant, takeaway and karaoke bar at 16 Barbican Road York, Sky Blue. The applicant being Mr Kheng Koay. Mr Koay provided information that there would be "wholly new management team in place" and following negotiations robust and enforceable conditions to mitigate risks were agreed with the applicant.

On 14th February 2022, I had sight of an email regarding an Operation Night investigation (operation night is North Yorkshire Police's response to investigations relating to reports of drink or needle spiking). The investigation advised that an allegation had been made from a female victim aged 16 years of age who believed she had been spiked whilst attending Karaoke at 16 Barbican Road York Sky Blue.

The investigating officer PC1665 Souster advised that she was having difficulties obtaining the CCTV, to progress the investigation from the Premises.

I emailed her to advise of the Premises Licence Conditions and their obligations to comply with requests for CCTV and arranged for a member of my team PC Hollis to contact the Premises Licence Holder and Designated Premises Supervisor to advise that we required the CCTV. Exhibit JB/01.

On 15th February 2022 I checked the police incident and noted that the investigating officer had re-attended the Premises but still had been unable to obtain the CCTV, police incident log 12220012237 refers.

Following this update and to secure and preserve evidence I advised PC Souster to seize the CCTV hard drive as it was within the 28-day time frame that the Premise Licence Condition requires them to retain footage. JB/02.

I requested PC Bolland and PC Hollis to attend 16 Barbican Road on 18th February 2022 to ensure the Premises were complying with the Premise Licence Conditions. Mr Koay the DPS was not present, but Mr Man Wai Lueng (known as Kevin) was present. Lueng was part of the previous management team when the Premises operated under the Regency.

The below breaches of the Premises Licence were found at the time and as a result a Section 19 Closure Notice under the Criminal Justice and Police Act 2001 was issued :-

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.

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.

29.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.

On 15th June 2022 following an update from PC Souster that the CCTV from Sky Blue had been forensically examined and contained no footage from 21st January 2022, I contacted Mr Koay first by telephone to discuss the concerns around the criminal investigation being frustrated by failings from the Premise Licence Conditions not being adhered to. I followed this up with a written email which I produce as exhibit JB/03.

On 16th June 2022 I contacted Mr Koay by text and phone to arrange a meeting at the Premises on Tuesday 21st June 2022 at 1200hrs.

On 21st June 2022 I attended Sky Blue 16 Barbican Road York, in company with PC Kim Hollis the Licensing Officer for York. I met with Mr Koay and present was his legal representative Mr Walker and a male I know to be Mr Man Wei Lueng (known as Kevin). I have met Lueng previously at the premises when it was operating under the business name of "The Regency".

My encounters with Mr Lueng previously have included issuing him a Section 19 Notice under the Criminal Justice and Police Act 2001 on 2nd December 2020 when he was the person in charge of the Premises operating under "The Regency" for breach of Premise Licence Conditions. Mr Lueng had previously applied for a Premises Licence for 10-12 George Hudson Street York, to which I made a formal representation on behalf of North Yorkshire Police. This resulted in a Licensing Hearing on 25th January 2021, where the licence was refused by the Sub-committee.

I informed Mr Koay that the reason I was in attendance was due to the concerns that had been highlighted to me from the criminal investigation going back to the incident on 21st January 2022, which had highlighted the failings of the Premise to adhere to Premise Licence Conditions. This had resulted in a visit from Police Licensing on 18th February 2022 and a Section 19 Notice that had been issued by PC Hollis.

I explained that due to breaches of the Premises Licence, the concerns highlighted as part of the criminal investigation in that a 16-year-old had been served alcohol at the premise I had concerns that the Licensing Objectives were being seriously undermined, and my intention was to seek a review of the Premises Licence, and for a Licensing committee to determine if the Premises was fit to operate under a Premise Licence.

Mr Walker legal representative advised that it was his understanding that the breaches relating to the previous Section 19 notice issued in February had been rectified and I explained that whilst present I would conduct a Section 179 inspection to ascertain if there was compliance but that the previous Section 19 was still open as all aspects had not been complied with.

I began by asking Mr Koay if he could show me the Premise Licence summary which is required to be on display in a visible place on the Premises. He was unsure as to where this was located and he sought advice from Mr Lueng who advised it was on display on a shelf at the Bar and Mr Koay then went to retrieve it.

I then commenced going through the conditions at Annex 2 on the Premises Licence. The first condition related to CCTV. I asked Mr Koay if he could show me footage from the 25th May 2022 (this is per the condition to retain recordings for 28 days). He again asked Mr Lueng to do this stating he was the person who deals with the CCTV. The CCTV is not stored on one hard drive it is retained over several and Mr Lueng had to take hard- drives out and change them over. It became apparent though that there was no footage for the Karaoke Rooms from the 25th May 2022, placing them in breach of the Premise Licence Condition.

I requested Mr Koay produce staff training records as per condition 2 on the Premise Licence. He produced names of staff who he stated were current employees but had no training records. The training records also did not include the requirements from the Licence.

Mr Koay was asked by PC Hollis to explain how he delivered the training and he said that he leaves that responsibility to Mr Lueng but on occasions when he has done it, he hands the member of staff a page to read regarding age verification and they sign the document. There were no documents in relation to the Premises Operating Challenge 25, the conditions attached to the Licence , the permitted Licensable Activities, the licensing objectives, or the opening times of the venue.

I requested Mr Koay produce to me the refusals and incident register. He again did not appear to know where this was located and spoke in Chinese to Mr Lueng about this and then produced some pieces of paper from a folder. There were no details of PC Hollis's visit in February and no details of any incidents recorded.

I went on further to identify other breaches and subsequently issued a further Section 19 Closure Notice to Mr Koay for failing to comply with the following conditions on the Premises Licence:-

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

8. 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.

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.

23. 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.

North Yorkshire Police have a duty of care to consider information in line with the Prevention of Crime and Disorder objective for Licensing Applications. Koay is the Premise Licence Holder and Designated Premises supervisor for 16 Barbican Road York which has had two Section 19 notices issued in a period of 5 months, 18th February 2022, and 21st June 2022, meaning the premises has been operating unauthorised licensable activities an offence under Section 136 of the Licensing Act 2003. He appears to have delegated responsibility for the management of the Premises to Mr Lueng who previously was part of the issues which resulted in the Regency Licence being revoked.

Mr Koay has failed to take responsibility to manage another licensed premises in line with Premise Licence Conditions and despite knowing he was having a pre-arranged meeting with Licensing on 21st June 2022 at the premises failed to demonstrate his ability to manage those premises effectively. The Police deem him unsuitable to be a Premise Licence Holder and Designated Premises Supervisor for the circumstances highlighted above.

Signature: J Booth

Signature witnessed by:

Witness contact details		URN				
Name of witness:						
Home Address:		Postcode:				
E-mail address:		Mobile:				
Home Telephone Number:		Work Telephone Number:				
Preferred means of contact (<i>specify details for vulnerable/intimidated victims and witnesses only</i>):						
Gender:		Date and place of birth:				
Former name:		Ethnicity Code (16 + 1):				
DATES OF WITNESS NON-AVAILABILITY:						
Witness care						
a)	Is the witness willing to attend court?		If 'No', include reason(s) on form MG6 .			
b)	What can be done to ensure attendance?					
c) Victims Only – does the victim fall into one of the 3 priority categories who are eligible for enhanced care under the Code of Practice for Victims of Crime? 1) Victims of most serious crimes <input type="checkbox"/> 2) Persistently targeted victims <input type="checkbox"/> 3) Vulnerable and intimidated <input type="checkbox"/> If any of the boxes are checked then Inform CPS at pre-charge stage on MG3, and on MG11 at all other stages and/or where necessary MG2						
d) Witness Only - Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? <input type="checkbox"/> (<i>youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case</i>) If they do submit MG2 with file in anticipated not guilty, contested or indictable only cases.						
e) Does the witness have any particular needs? If 'Yes' what are they? (<i>Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?</i>).						
Witness Consent (for witness completion)						
a)	The Victim Personal Statement scheme (victims only) has been explained to me			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
b)	I have been given the Victim Personal Statement leaflet			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
c)	I have been given the leaflet "Giving a witness statement to the police..."			Yes <input type="checkbox"/>	No <input type="checkbox"/>	
d)	I consent to police having access to my medical record(s) in relation to this matter (<i>obtained in accordance with local practice</i>)		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
e)	I consent to my medical record in relation to this matter being disclosed to the defence		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
f)	I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA		Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
g) Child witness cases only. I have had the provision regarding reporting restrictions explained to me.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
I would like CPS to apply for reporting restrictions on my behalf.			Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>						
Signature of witness:			PRINT NAME:			
Signature of parent/guardian/appropriate adult:			PRINT NAME:			
Address and telephone number (of parent etc.), if different from above:						
Statement taken by:			Time and place statement taken:			

JB/01

From: Booth, Jackie
Sent: 14 February 2022 17:15
To: Souster, Katherine <Katie.Souster@northyorkshire.police.uk>; [REDACTED]
[REDACTED] Hollis, Kimberley
<Kimberley.Hollis@northyorkshire.police.uk>
Cc: [REDACTED]
Subject: RE: Op Night

Kate,

The CCTV conditions are as follows:-

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.**

As such they are still within their 28 days even if you go when you are on nights this week.

[REDACTED]

Kind Regards

Jackie

PS133 Booth
Force Licensing Manager
Partnership Hub
Tel 101 Ext 30133
Mobile: 07710977979
Email:- Jacqueline.booth@northyorkshire.police.uk

Please note by working days are Mon-Thurs 0700x1700
Committed to the Code of Ethics

JB/02

From: Booth, Jackie

Sent: 15 February 2022 17:08

To: Souster, Katherine <Katie.Souster@northyorkshire.police.uk>; Hollis, Kimberley <Kimberley.Hollis@northyorkshire.police.uk>

Subject: 12220012237

Hi Kate,

This afternoon PC Kim Hollis has contacted the Premise Licence Holder and Designated Premises Supervisor Mr Kheg Chooi KOAY (this is the person who is authorised to supply alcohol and has responsibility for the day to day management of the premises ensuring compliance with the conditions attached to the licence). Kim has stated to him that this evening (We are aware you are on nights and time is running out for the requirement to keep CCTV for 28 days) that you will attend the premises as you are making enquiries regarding an incident that has taken place and require access to the CCTV. Mr KOAY states he cannot be there this evening but he states that one of his managers Kelvin or Mike will assist you with CCTV enquiries. Mobile for KOAY should you need it is [REDACTED]

My advice is that the investigation regarding the spiking is the primary offence and evidence needs to be secured in respect of this (all other matters surrounding licensing offences will be dealt with by the Licensing Department). As such I would advise the following:-

1. Attend the premises with Body Worn Camera and ensure all engagement is captured for evidential purposes.
2. Ask to speak to duty manager Kelvin or Mike and advise that you are making enquiries regarding an incident on 21st January and require to see CCTV from that date. I have attached a copy of the current premises licence, please feel free to print out and take a copy (the Premises should have a copy of their own) and you can also advise them on camera that it is a requirement whilst they are open to the public for licensable activities they must be in compliance with all conditions on the premises licence. I have Highlighted the CCTV condition at ANNEX 2.
3. If they are unable to produce CCTV of the 21st January then as this is within the 28 days they are required to keep CCTV this is a breach of their licence conditions and advise that you will refer this to police licensing who will make contact to follow this up.
4. I would then advise you if they are unable to produce the CCTV or you feel they cannot operate correctly, under Section 19 PACE seize the full hard drive system (we will then be able to take this to Calder park who can see if they can retrieve any data or advise if footage has been deleted. Whilst this will effectively put them further in breach of the PL, I have considered the offence under investigation and if there is a chance to retrieve anything evidentially then I would rather secure the CCTV footage).
5. You will see I have also highlighted some other conditions under ANNEX 2, namely an incident/refusal book, ask to see this for the 21st January to see if any entries.

6. Also ask for them to provide them you full details of all staff who were working on 21st January as you will see it is a condition for the SIA staff to sign in and out in a register with their full badge number (Condition 8). Again if they cannot provide you this mention it is another breach of a premise licence condition and again licensing will be informed.
7. Condition 17 and 18 require the premises to keep a full HR record of staff so they are required to provide you details of staff who where working on the night in question.

[REDACTED]

[REDACTED]

[REDACTED]

Hope this assists and if you need anything else please get in touch.

Kind Regards

Jackie

PS133 Booth
Force Licensing Manager
Partnership Hub
Tel 101 Ext 30133
Mobile: 07710977979
Email:- Jacqueline.booth@northyorkshire.police.uk

Please note by working days are Mon-Thurs 0700x1700

Committed to the Code of Ethics

JB/03

From: Booth, Jackie
Sent: 15 June 2022 09:47
To: [REDACTED] >; greatwallchina93@yahoo.com
Subject: Sky Blue- 16 Barbican Road York

Good Morning Mr Koay,

Thank you for your time on the telephone this morning. As explained to you I am the Force Licensing Manager for North Yorkshire Police and have been made aware of a criminal investigation that occurred at the above Premises for which you are the Premises Licence Holder and Designated Premises Supervisor, on 21st January 2022 police reference number 12220012237.

The investigating officer has advised that she has not been able to obtain any staff records as part of the investigation.

I have attached a copy of your Premise Licence which has the following conditions:-

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.

Failure to comply with the above conditions is a criminal offence under Section 136 of the Licensing Act (unauthorised licensable activities).

I am wanting to obtain details of your full staff records and also liaise with Peninsula as per condition 19 in respect of what advice/support they have provided to you.

If you are amenable to providing consent so that I can liaise directly with Peninsula, can I please request that you reply to this email advising if you are happy for North Yorkshire Police to have access to ALL or if you wish to specify certain correspondence in your contract with Peninsula.

I have copied in [REDACTED] from Peninsula, if you can also include him in your reply.

Once I have received your response, I will contact you further to arrange a meeting at the Premises to discuss the above and some other matters.

If you have any queries in relation to the above please do not hesitate to contact me.

Kind Regards

Jackie

PS133 Booth
Force Licensing Manager
Partnership Hub
Tel 101 Ext 30133
Mobile: 07710977979
Email:- Jacqueline.booth@northyorkshire.police.uk

Please note my working days are Mon-Thurs 0700x1700

Committed to the Code of Ethics

Licensing Authority Representation, 10 – 12 George Hudson Street, York

I am the Senior Licensing Officer for the City of York Council and I make this representation on behalf of the Licensing Authority.

This application relates to a new premises licence at 10 - 12 George Hudson Street, York. The premises is situated within one of the Amber Zones of York's Cumulative impact area.

The application seeks the following for licensable activities:-

- Sale of alcohol, for on and off sales 1100-2300 Sunday to Thursday, 1100 – midnight Friday & Saturday
- Late night refreshment, indoors only, 2300 to Midnight, Friday & Saturday

The premises sits within York's CIA (Cumulative impact assessment area), an area which City of York Council has identified as being under stress from crime and disorder and public nuisance, in the statement of licensing policy. Specifically the premises falls within one of the Amber Zones. The current policy came in to effect on 24 March 2022 and states:-

9.11 The published assessment relates to an area within York city centre. This area has been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in this area continue to adversely affect residents, visitors and other businesses and therefore adversely affecting the promotion of the licensing objectives of prevention of crime and disorder and prevention of public nuisance.

9.12 North Yorkshire Police and Public Protection have provided information that the nature of this area is such that the problems and cumulative impact directly relates to the style of businesses operating in the area and their clientele, due to the concentration of:

- pubs, bars, nightclubs, restaurants, cafes, hotels (with bars open to the general public), late night refreshment premises (takeaways) and off-licensed premises (including supermarkets and convenience stores);
- especially in the night-time economy; and
- especially at weekends (day and night-time economy).

9.14 Amber zones have also been identified in this area due to the high concentration of licensed premises, the impact of which have led to a high level of occurrences in relation to crime and disorder related issues. Therefore, unless the application relates to a food led operation, as detailed in paragraph 9.15, the Council should refuse all applications within the amber zones where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone.

Furthermore the CIA policy states:

9.15 Applications for the grant or variation of a premises licence in the cumulative impact area may be considered more favourably if the applicant can demonstrate,

through the operating schedule, that the premises is going to be predominantly food led with:

- alcohol being sold/supplied ancillary to a meal, with substantial food
- being served throughout the duration of the operating hours;
- no vertical drinking, all customers seated at tables;
- set number of table covers;
- table service only, no customers at the bar;
- no drinks promotions, unless they are in line with a food promotion.

The applicant has failed to address that the premises sits within the Amber Zone, the application refers to an outdated Policy and states the premises lies within the Red Zone. This policy was replaced on 24 March 2022. The applicant fails to explain why their application is such that the Licensing Authority should depart from its special policy in light of the individual circumstances of this case.

The applicant has failed to offer any substantial conditions, which would seek to address concerns that they are promoting the licensing objectives of Prevention of Crime and Disorder or Prevention of Public Nuisance, in an area that already experiences high levels of disorder.

The proposed conditions which form part of the operating schedule are in part welcomed but there are weak conditions which demonstrate that the applicant has failed to take into account York's Statement of Licensing Policy or the government guidance. The applicant does propose a condition (4) that the premises will be a restaurant with substantial food, with alcohol ancillary to food. They do not stipulate that there will be table service, there is no mention of preventing vertical drinking, there is no requirement for customers to be seated, and there is no set number of table covers. This is what we would expect to see in an application for a restaurant style premises being proposed within the Amber Zone of the CIA.

Furthermore the applicant proposes the acceptance of capacity limits, but does not put forward an actual numbered limit. The applicant proposes that door supervisors will be considered but does not demonstrate when, how many supervisors or who will determine when they will be employed and how. Condition 15 states that staff will prevent customers drinking alcohol in the retail unit. At no point in the application or on the plans is there a description/plan of a retail unit.

Within the operating schedule the applicant refers to past problems with the management of the premises, he also refers to incidents of unauthorised sale of alcohol at the premises. It is correct that there have been two previous applications for the grant of a new premises licence at this address. Both applications came before the Licensing Sub-Committee and both applications were refused on the grounds that the licensing objectives would be undermined if the licence were granted. At no time has this address held a licence to sell alcohol. In May 2021 information was received that the premises was selling alcohol both within the restaurant and via online sales/delivery services. In June 2021 a visit was undertaken by a Licensing Enforcement Officer, Mr Shields. Mr Shields found alcohol on display on and behind the bar and alcohol on offer on the menus. The premises manager, at that time, was advised to remove all trace of alcohol immediately from the premises and the menus and received a written warning for

these offences. The person in control of the premises at the time of these offences, is now known to be working either for, or with, the applicant Mr Kheng Chooi Koay at his premises Sky Blue, 16 Barbican Road, York. This information has been confirmed by PS Booth during her visit to Sky Blue, 16 Barbican Road on 21 June 2022.

The Licensing Authority cannot support this application in the Cumulative Impact Area, and respectfully ask members to refuse the application.

Helen Sefton
Senior Licensing Officer
licensing@york.gov.uk
01904 552422

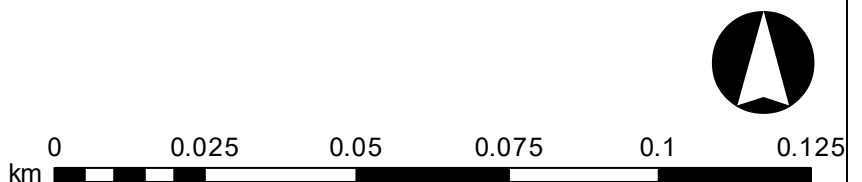
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Map of area



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Date: 21 Jun 2022
Author: City of York Council
Scale: 1:1,250



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**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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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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Licensing Hearing 12 September 2022

10-12 George Hudson Street

1. Additional documents submitted by North Yorkshire Police

- Further statement of PS Booth, North Yorkshire Police, with appendices.

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WITNESS STATEMENT**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

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Statement of: Jacqueline BOOTH

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: POLICE OFFICER

This statement (consisting of three page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: J Booth (witness)

Date: 1st Septemer 2022

Further to my previous statement made on 23rd June 2022 in respect of the police representation objecting to a Premise Licence for 10-12 George Hudson Street York, I would like to add the following additional information.

Following my visit to Sky Blue 16 Barbican Road on 21st June 2022 and the issue of a Section 19 Closure Notice to Mr Koay (the applicant for 10-12 George Hudson Street), for failing to comply with Premise Licence conditions at Sky Blue, I re-attended the premises on Tuesday 5th July 2022 for a pre-arranged appointment, in company with PC 1520 Bolland and Nigel Parkin Senior CCTV officer Regional Scientific Support West Yorkshire Police.

At this time I discussed with Mr Koay, who was in company with his legal representative Mr Walker and also Mr Leung one of the managers if the Section 19 Notice had been complied with. I refer members to Appendix 3.

Mr Koay advised me that in respect of the CCTV, he had upgraded the system to ensure that there was sufficient capacity to comply with the Premise Licence conditions regarding storage for 28 days. Nigel Parkin examined the CCTV but as it had only been installed on 1st July 2022, whilst the hard drive appeared to have storage capacity to retain storage for 28 days, he advised that I checked the system was recording once 28 days had lapsed. The system was recording at the time of my visit and I did however check footage from the previous weekend Saturday 2nd July 2022.

Whilst checking the CCTV recordings for this date I noted the following breaches in respect of Premise Licence conditions at Annex 2-

"7.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".

At 22:27hrs on 2nd July 20022 a male identified as working as SIA staff at the premises was noted to not be wearing any high visibility arm band in line with the above condition. There was nothing from the footage to identify him as SIA and he looked like a customer at the premises from the way he was dressed with nothing highlighting him as SIA.

A further breach was identified as follows in respect of condition 24:-

"24.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." From viewing CCTV footage between 22:30 hrs and 22:32 hrs on 2nd July 2022 two separate customers were observed purchasing drinks from the bar and not being served by way of waiter/waitress service in line with the

above condition. At this time I identified Mr Leung, one of the managers working behind the bar who served one of the customers.

I advised Mr Koay that given we were present to check compliance with a Section 19 Notice issued for previous breaches of Premise Licence conditions that to identify further breaches were taking place was extremely concerning and that as Section 136 offences of unauthorised licensable activities had taken place, I would arrange a formal police interview at the police station to investigate the criminal matter.

I continued to then check compliance with the Section 19 Notice in respect of the six conditions which had previously not been complied with. Mr Koay was advised as per the information on the notice that he had seven days to comply but due to operational demands, by the time of the police follow up visit he had had fourteen days to rectify the breaches and again the appointment was pre-arranged. However despite the additional time he had to comply of the six conditions not being complied with only one had been rectified, condition three:-

“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.”

I advised Mr Koay that he would be formally interviewed for the Section 136 offence of unauthorised Licensable activities for failing to comply with Premise Licence conditions pertaining to the Section 19 Notice of 21st June 2022 and the two further offences I had identified from 2nd July 2022.

At 1032hrs on 20th July 2022 I was on duty at Fulford Road Police Station in company with PC1720 Furlong when I commenced an interview under Caution with Mr Koay in respect of the following offence:-

Section 136 – Unauthorised (1)A person commits an offence if—

(a)he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, meaning a premises licence

Mr Koay had legal representation during the interview and fully admitted the offence of breach of Premises Licence conditions on 18th February 2022 (date of first Section 19 Notice issued by PC Hollis) , 21st June 2022 and 2nd July 2022.

The interview concluded at 1137hrs and Mr Koay was advised he would be reported for the offence in question.

On 21st July 2022 I conducted enquiries with North Yorkshire Fire and Rescue Service and emailed Mr Kevin Caulfield Watch Manager at York. Appendix four refers to the email correspondence.

Mr Caulfield advised that the Fire Service had prosecuted Mr Koay for breach of Fire Regulations in respect of a Premises Mr Happy 53 Blossom Street York for which he was the Premise Licence Holder, this resulted in Mr Koay being convicted on 31st July 2018, see attached Appendix 5 (Fire Service prosecution document and Appendix 6 Fire Service press release following the conviction).

Following a Police disposal decision in line with the Director of Public Prosecution Guidelines, on Thursday 4th August 2022 at 1200hrs I was on duty at Fulford Road Police Station when I issued Mr Koay a Simple Police Caution in relation to the Section 136 offences for which he had been interviewed on the 20th of July 2022.

Mr Koay was advised that I would arrange to visit his premises Sky Blue on Monday 8th August 2022 to check compliance with the Section 19 Notice still outstanding from 21st June 2022.

On Monday 8th August 2022 at 1100hrs I attended the premise in company with PC 1520 Bolland. Mr Koay, Mr Leung, and Mr Walker legal representative where all present.

Checks with the outstanding Section 19 Notice revealed that Premise Licence Conditions were still not being adhered to as listed in the Premise Licence authorisation. The following had still not been complied with from the Section 19 notice:-

"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."

Working on information provided to me by Peninsula the HR company contracted to provide support in respect of staff training and management I identified that seven members of staff had no training records.

Furthermore in respect of condition 18 (below) no HR records could be provided for a member of staff that Mr Koay claimed had left the premises or any staff rotas in respect of what staff members had worked on what dates.

"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."

I examined the CCTV system from Saturday 6th August 2022 covering the Karaoke rooms and established Condition 23 was not being complied with:-

"23. 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."

Footage was viewed from 21:10hrs until 22:18hrs to ascertain in line with time sheet checks if a member of staff entered the room to check on customers present. Despite time sheets showing the room was checked at 21:20hrs and 21:30hrs no member or staff was seen on the CCTV as per the above to enter the room.

The Section 19 Notice had still not been complied with from 21st June 2022, and despite being issued a Simple Caution on 4th August 2022 for Section 136 offences at Sky Blue, Mr Koay continued to allow further breaches of the Premise Licence conditions on 6th August 2022, a further 136 offence of unauthorised licensable activity.

I followed this visit up with an email to Mr Koay on 9th August 2022 which I produce as Appendix 7.

Mr Koay has been prosecuted by North Yorkshire Fire and Rescue for a premise for which he is the Premise Licence Holder Mr Happy 53 Blossom Street York in 2018. He has received a Police Caution on 4th August 2022 for Section 136 unauthorised licensable activity offences for a Premise Sky Blue for which he is the Premise Licence Holder and Designated Premises Supervisor.

Following the issue of a Police Caution on 4th August 2022 he has failed to take responsibility for ensuring compliance with Premises Licence conditions at Sky Blue, resulting in another breach of a condition on the Premise Licence on 6th August 2022.

Mr Koay is not deemed by North Yorkshire Police to be a responsible person to uphold the Licensing objectives and adhere to any conditions which may be offered as part of this application. He continues to demonstrate a disregard for ensuring compliance with Premise Licence Conditions at Sky Blue which has resulted in enforcement action by North Yorkshire Police who are seeking a review of that Premise Licence. For the reasons highlighted above the police would respectfully ask members of the sub-committee to consider if this applicant is suitable to be issued another Premise Licence. Mr Koay has repeatedly failed to demonstrate that he understands the requirement to adhere to Premise Licence Conditions, on six separate occasions, 21st January 2022, 18th February 2022, 21st June 2022, 2nd July 2022, 5th July 2022, and 6th August 2022 (three of those breaches occurring after the Police had sought a review of Sky Blue Premise Licence) and for those reasons would request this application be refused.

Signature: J Booth

Signature witnessed by:

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From: Kevin Caulfield <Kevin.Caulfield@northyorksfire.gov.uk>
Sent: 21 July 2022 11:45
To: Booth, Jackie <Jacqueline.Booth@northyorkshire.police.uk>
Subject: RE: Sky Blue (previously Regency) 16 Barbican Road York

Hi Jackie,

I have attached documents which I think should have all the information we discussed. I don't have any record of Mr Koay date of birth, but we did prosecution Mr Koay personally as the documents show.

I have two weeks leave after this week, if you need any more information let me know.

Thank you

K. Caulfield

Kevin Caulfield
Watch Manager
Business Fire Safety

Telephone: [REDACTED]
Mobile: [REDACTED]
email: kevin.caulfield@northyorksfire.gov.uk



NORTH YORKSHIRE
FIRE & RESCUE SERVICE

From: Booth, Jackie <Jacqueline.Booth@northyorkshire.police.uk>
Sent: 21 July 2022 09:04
To: Kevin Caulfield <Kevin.Caulfield@northyorksfire.gov.uk>
Subject: RE: Sky Blue (previously Regency) 16 Barbican Road York

Good Morning Kevin,

In relation to my previous email would you be able to give me a call please to discuss.

I interviewed Mr Koay yesterday and upon completing a PNC I noted that he was prosecuted for failing to comply with prohibition notice under Fire Regs in 2018 relating to Mr Happy 53 Blossom Street in York.

I contacted CYC licensing to find out some further information. I spoke to [REDACTED] who advised there was nothing in relation to licensing being notified as it is a licensed premises but she interrogated CYC systems and found a statement that had been provided to yourself in respect of some living accommodation at the premises.

Again I would be grateful if you could provide me some more details [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

My mobile is listed below and I am available today if you are free to speak.

Kind Regards

Jackie

PS133 Booth

Force Licensing Manager

Partnership Hub

Tel 101 Ext 30133

Mobile: [REDACTED]

Email:- Jacqueline.booth@northyorkshire.police.uk

Please note my working days are Mon-Thurs 0700x1700

Committed to the Code of Ethics

-V-

Mr. Kheng Chool Koay

In relation to the premises

**Mr Happy
53 Blossom Street
York
YO24 1AZ**

**Alleged failures to comply with the REGULATORY REFORM
(FIRE SAFETY) ORDER 2005**

Article 32 (2) (h) fail to comply with any prohibition or restriction imposed by a prohibition notice.

Article 8 (1) (a) Duty to take general fire precautions.

(Supported by Article 4, Meaning of “general fire precautions”)

Article 8 (1) (b) Duty to take general fire precautions.

(Supported by Article 4, Meaning of “general fire precautions”)

Article 9 (1) Risk assessment

1.0 ALLEGATION

1.1 It is alleged that between 13th May 2015 and 25th May 2017, Mr. Kheng Chool Koay the Responsible Person, failed to comply with the requirements of Regulatory Reform (Fire Safety) Order 2005.

1.2 It is alleged Mr. Kheng Chool Koay failed to comply with the following articles of the Regulatory Reform (Fire Safety) Order 2005.

a) Article 32 - Offences

Article 32 (2) (h) fail to comply with any prohibition or restriction imposed by a prohibition notice.

b) Article 8 Offences – Duty to take general fire precautions

- i. Article 8 (1) (a) failed to take such general fire precautions as will ensure so far as is reasonably practicable, the safety of any of his employees.
- ii. Article 8 (1) (a) failed in relation to relevant persons who are not his employees, to take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.

Article 4 - meaning of “general fire precautions”

Article 4 (1) In the Order “general fire precautions” in relation to premises means;

- a) Measures to reduce the risk of fire on the premises and the risk of spread of fire on the premises.

-v-

Mr. Kheng Chool Koay

- b) Measures in relation to the means of escape from the premises
- c) Measures for securing that, at all material times, the means of escape can be safely and effectively used.
- d) Measures in relation to the means for fighting fire on the premises.
- e) Measures in relation to the means for detecting fire on the premises and giving warning in case of fire on the premises; and
- f) Measures in relation to the arrangements for action to be taken in the event of fire on the premises, including-
 - (i) measures relating to the instruction and training of employees; and
 - (ii) measures to mitigate the effects of fire.

c) Article 9 Offences – Risk assessment

Article 9 (1) The responsible person failed to make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needed to take to comply with the requirements and prohibitions imposed on him by or under the Order.

1.0 BACKGROUND

- 2.1 On 25th May 2017 North Yorkshire Fire and Rescue Service attended Mr Happy, 53 Blossom Street, York, YO24 1AZ to carry out a scheduled fire safety audit. Concerns were raised by WM Jamison from White watch York. The concerns were about people sleeping above the takeaway shop.
- 2.2 People were found to be living on the first and second floors above the shop. The access and egress from the upper floors was via an external fire escape. A number of other serious fire safety deficiencies were found which included;
- Fire alarm inoperable and did not cover 1st and 2nd floors
 - No Fire Risk Assessment in place
 - No Fire Safety Arrangements in place
 - No emergency lighting on the upper floors
 - Unsafe electrical plug socket
 - No up to date maintenance of fire fighting equipment
 - No staff fire safety training had been carried out.
- 2.3 A prohibition notice was served on the Responsible person Mr. Kheng Chool Koay, to prevent sleeping from continuing to take place in the premises. A Prohibition Notice is the most draconian formal notification available to be used by the Fire Authority. It is used only in cases where the risk to persons in the event of a fire is imminent. In the event of a fire it would be likely to result in death or serious injury. As such, this sanction is exercised sparingly and only in appropriate circumstances.
- 2.4 An enforcement notice was subsequently also served on Mr. Kheng Chool Koay, The Fire & Rescue Authority considered it appropriate to serve on the Responsible Person, an Enforcement Notice under the Regulatory Reform (Fire Safety) Order 2005.

Mr. Kheng Chool Koay

- 2.5 An Enforcement Notice is a formal notification available to be used by the Fire Authority. It is used only in cases where the risk to persons in the event of a fire is high. As such, this sanction is exercised sparingly and only in appropriate circumstances.
- 2.6 The Enforcement/Prohibition Notice has a right of Appeal to a Court of law if the Responsible Person considered the actions of the Fire Authority inappropriate. The Responsible Person, in this case, has not exercised this right.
- 2.7 The Enforcement Notice has been complied with within the specified time limit. The prohibition notice remains in force although there are no signs of people living above the shop.
- 2.8 The Fire and Rescue Authority always aims to ensure compliance with fire safety legislation through advice and education and by working in partnership with business and commerce. However, it uses legal sanctions sparingly and appropriately and where necessary, to ensure the safety of the public.

3.0 INSPECTION AND THE PREMISES

- 3.1 The premises consist of a basement, ground, first, and second floors. The basement is used for storage. The ground floor is used as a small restaurant and take away shop. The upper floors were in use as sleeping and storage accommodation.
- 3.2 Fire safety officers visited the premises on 25th May 2017 and due to failures with regard to fire safety; a prohibition notice was served.

Fire safety officers visited the premises on 26th May 2017 and due to failures with regard to fire safety; an enforcement notice was served.

- 3.3 On 25th May 2017 specific failures with regard to fire safety included;
1. On the first floor rooms had been created to make bedrooms, the construction was of poor quality with insufficient fire separation.
 2. There was no working fire detection system in the building. In the event of fire people living on the upper floors would not have been alerted to a fire in its early stages.
 3. No fire risk assessment had been carried out.
 4. No thought had been given to what fire safety arrangements were needed to be in place.
 5. No staff training had been carried out.
 6. There was an electrical item in a dangerous state with exposed live wires.
 7. The old internal stairs had been blocked off and floored over on the first floor but not to the required fire separation standard of a minimum of 30 minutes.

-v-

Mr. Kheng Chool Koay

- 3.4 Mr. Kheng Chool Koay did not have effective fire safety arrangements in place to ensure that the requirements of the Regulatory Reform (Fire Safety) Order 2005 were being complied with.
- 3.5 On 14th July 2017 a further visits to Mr Happy 53 Blossom Street York was carried out to check on compliance with the enforcement and prohibition notices, most of the fire safety deficiencies listed above were complied with.

4.0 INTERVIEW

- 4.1 Mr. Kheng Chool Koay, attended interview at York Fire Station on 28th June 2017. It was established that a private limited company had been set up called Mr Happy (YORK) limited; Requests where made to HMRC and this showed No Corporation Tax returns have been filed with HMRC by Mr Happy (YORK) Ltd for the period from 06/04/2015 to 05/04/2017. Also HMRC were unable to trace a Value Added Tax (VAT) record for Mr Happy (YORK) Ltd.
- 4.2 Mr. Kheng Chool Koay stated he was the owner of the business. Mr. Kheng Chool Koay admitted people where sleeping on the first and second floor from May 2015. He stated six to eight people slept at the premises.
- 4.3 On the 7th Dec 2017 City of York Council Licensing Enforcement Officer Mick Wilkinson attended Mr Happy, 53 Blossom Street, York with Immigration Officers. One person was found to living on the first floor, a Romanian male was in one of the first floor bedrooms. The male had his possessions in the room and was eating a meal at this time. When asked how long he had been at the premises he stated he had been living there a week. This is a breach of the prohibition notice which is inforce to prohibit people sleeping at the premises.
- 4.4 Mr. Koay and his family were living in a hostel in York; he has now been re-housed in York with his family.

5.0 THE DECISION TO PROSECUTE

- 5.1 The Fire and Rescue Authority consider that prosecution for the alleged contraventions of the Regulatory Reform (Fire Safety) Order 2005 is appropriate in the circumstances of this case.
- 5.2 The Fire and Rescue Authority consider that the decision to prosecute Mr. Kheng Chool Koay is a serious step and not one taken lightly.
- 5.3 The following factors have been taken into account in coming to its decision:
 - 1. The Responsible Person was in a position of authority.
 - 2. The alleged contraventions were caused by an act or omission that should have been foreseeable to the Responsible Person.
 - 3. The alleged contraventions would, in the event of a fire, put relevant persons at risk of death or injury. The relevant persons having little control of the act or omissions that endangered them.
 - 4. The alleged contraventions are serious and not of a minor nature.

-v-

Mr. Kheng Chool Koay

5. The alleged contraventions would have continued had the Fire Authority not acted by serving an Enforcement and or Prohibition Notices on the Responsible Person.

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NORTH YORKSHIRE FIRE & RESCUE SERVICE

NEWS RELEASE

Communications and Media Team
North Yorkshire Fire and Rescue Service
Headquarters
Thurston Road
Northallerton
DL6 2ND

Prosecution of York takeaway shop

On the 25th May 2017 North Yorkshire Fire and Rescue Service fire safety inspectors visited a takeaway shop Mr Happy Oriental Restaurant and takeaway, 53 Blossom Street, York, YO24 1AZ

During the visit the fire safety inspectors found that there were people living and sleeping on the first and second floors. There was no working fire alarm in the building, nor was there a fire protected escape route. The business owner had also failed to carry out a fire risk assessment.

In the event of a fire, the people living there would not have received an early warning that a fire had started and they would not have had a fire protected route to make an escape, meaning they could very easily have become trapped inside a burning building.

Due to the poor fire safety conditions found a Prohibition Notice was served, informing the responsible person that they must not allow anyone to sleep in the building.

North Yorkshire Fire and Rescue Service were of the opinion there was a risk to life of death or serious injury in the event of fire and prosecution was considered the appropriate action to take.

At York Magistrates Court on Tuesday 31st July 2018, Mr Kheng Chooi Koay the owner of Mr Happy Oriental Restaurant and takeaway, pleaded guilty to three contraventions of the Regulatory Reform (Fire Safety) Order 2005 which included breaching the Prohibition Notice served on the premises.

Mr Kheng Chooi Koay was fined £5000 and ordered to pay £1989 in costs with a surcharge of £170. A total cost of £7159

The magistrates stated these were very serious offences.

Watch Manager, Kevin Caulfield of North Yorkshire Fire and Rescue Service said; *“North Yorkshire Fire and Rescue Service will always make a visit to a property when reports of poor fire safety standards are made to us. Depending on what is found appropriate advice will be given to the business, informal action may be taken or in some cases, such as this, the necessary enforcement action will be implemented.”*

“In this case following the inspection, Prohibition and Enforcement Notices were served. An investigation was conducted because the fire safety problems were so serious. The responsible person had not given any real thought to what might happen to the people sleeping in the building if a fire had occurred. Conducting or commissioning a fire risk assessment is the starting point for beginning to ensure that a building is or can be made safe for people in the event of a fire.”

“North Yorkshire Fire and Rescue Service will in most cases give responsible persons chance to comply with the legislation before taking legal proceedings. However, where cases are found where there is risk to life of death or serious injury in the event of fire, prosecution will be considered and where appropriate taken.”

He continued: *“North Yorkshire Fire and Rescue Service find that many businesses and sole traders are proactive in managing their fire safety well. Sadly there are still too many occasions, like this case, where businesses are unaware or ignoring what they should be doing.*

“As a service we provide free fire safety advice to businesses and the public. We engage with various trade organisation and individual businesses to raise awareness of best practice around fire safety. I would welcome ideas from anyone and especially businesses and sole traders as to how we as a Service could best reach out and deliver our important fire safety messages. Improving the standards of fire safety and fire safety management will reduce the risk of fire and help to keep individuals and businesses safer.”

North Yorkshire Fire and Rescue Service would like to remind business owners and landlords that it is important that they are aware of the legislative requirements they need to comply with including having an up to date fire risk assessment.

For other fire safety information call the Fire Safety Advice Line (01609) 788545 or visit our website www.northyorksfire.gov.uk where links to business guidance documents can be found.

From: Booth, Jackie <Jacqueline.Booth@northyorkshire.police.uk>
Sent: 09 August 2022 08:30
To: [REDACTED]
Cc: NYP Licensing <NYPLicensing@northyorkshire.police.uk>
Subject: Sky Blue- Section 19 Non-Compliance

Good Morning Mr Koay,

Following my visit to Sky Blue yesterday to check compliance with the Section 19 Notice which I issued on 21st June 2022, the below Premise Licence Conditions are still not being adhered to as listed in your Premise Licence authorisation.

Annex 2

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.

I have attached a letter which I received from Peninsula dated 15th July 2022 listing current staff members. Yesterday working from the information provided in that letter we established the following staff had not undertaken any training in line with the above condition and there was no staff training records.



You also have a member of staff [REDACTED] listed whom you state has resigned. Please advise when this person resigned.

You also need to update all the current training records in respect of Challenge 25 which is condition 12 on your Premise Licence.

The next condition not complied with is Annex 2, condition 18

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.

In relation to [REDACTED] mentioned above if he has resigned you are still required to keep training records for him. Also you have not been able to produce staff rota's for dates that staff members work which would be a relevant document for HR purposes and would in line also with condition 17:-

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

Whilst present yesterday we examined the CCTV system from Saturday 6th August 2022 covering the Karaoke rooms and established Condition 23 was not being complied with:-

23. 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.

Footage was viewed from 21:10hrs until 22:18hrs to ascertain in line with time sheet checks if a member of staff entered the room to check on customers present. Despite time sheets showing the room was checked at 21:20hrs and 21:30hrs no member or staff was seen on the CCTV as per the above to enter the room.

At present the Section 19 Notice issued on 21st June 2022 has not been complied with and unauthorised licensable activities have taken place at the premises which is a criminal offence. Non-compliance with any condition on the Premise Licence whilst the premises are open for licensable activities is a prosecutable offence under Section 136 of the Licensing Act.

As Premise Licence Holder and Designated Premises Supervisor it is your responsibility to manage the premises in line with any authorisation.

It is imperative that you address the breaches immediately as failure to comply could result in a criminal prosecution against you and/or an application to the Magistrates Court under Section 20 of the Criminal Justice and Police Act 2001 for a Closure Order.

I have copied in your legal representative Mr Walker.

A member of the Police licensing team will arrange a further visit to check compliance with the above in the next 7 days.

Kind Regards

Jackie

PS133 Booth
Force Licensing Manager
Partnership Hub
Tel 101 Ext 30133
Mobile: [REDACTED]
Email:- Jacqueline.booth@northyorkshire.police.uk

Please note my working days are Mon-Thurs 0700x1700

Committed to the Code of Ethics



LICENSING ACT 2003

PREMISES LICENCE

Schedule 12

Part A

Part 1 Premises details

Premises licence number
CYC - 009229

Postal address of premises:

**Mr Happy
53 Blossom Street**

Post town: **York**

Post code: **YO24 1AZ**

Telephone number: 01904 623317

Expiry date: This licence has no expiry date.

Licensable activities authorised by the licence:

Recorded Music
Late Night Refreshment
Supply of Alcohol

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

SUPPLY OF ALCOHOL

Monday - Saturday	Sunday
10:00-00:00	12:00-23:30

The Opening Hours of the Premises

No Restrictions

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

On the premises

Part 2

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

Name: Mr Kheng Chooi Koay

Address: 28 St Philips Grove
York
YO30 6JP

Telephone number: 01904 623317

Email address: None

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

Name: Mr Kheng Chooi Koay

Address: 28 St Philips Grove
York
YO30 6JP

Telephone number: 01904 623317

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

Hambleton District Council
HDC 1084

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.

Embedded Restrictions

SCHEDULE 10

STANDARD PRE-EXISTING CONDITIONS APPLICABLE TO 'RESTAURANT LICENCE'

Permitted Hours

1. Alcohol shall not be sold or supplied except during permitted hours. In this condition permitted hours means:

- a) On weekdays (other than Christmas Day or Good Friday) 10:00 to 00:00;
- b) On Sundays (other than Christmas Day) and on Good Friday, 12:00 to 23:30pm;
- c) On Christmas Day, 12:00 to 15:00 and 19:00 to 23:30;
- d) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or if there are no permitted hours on the following day, midnight on 31 December).

This shall not prohibit, during the first thirty minutes after the end of the above hours, the consumption of the alcohol on the premises by persons taking meals there, if the alcohol was supplied for consumption as an ancillary to their meals.

Statutory Conditions

2. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

3. Suitable beverages, other than intoxicating liquor (including drinking water), shall be equally available with or otherwise as an ancillary to meals served in the licensed premises.

4. The licensed premises shall be bona fide used for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises.

Credit Sales

5. Intoxicating liquor shall not be sold or supplied for consumption on the premises unless it is paid for before or at the time when it is sold or supplied. This condition, however, shall not apply:

- a) If the liquor is sold or supplied for consumption at a meal supplied at the same time, is consumed with the meal and is paid for together with the meal; or
- b) If the liquor is sold or supplied for consumption by a person residing in the premises or his guests and is paid for together with his accommodation; or
- c) If the sale or supply of intoxicating liquor is to any canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or to an authorised mess of members of Her Majesty's naval, military or air forces.

Private Entertainment

As the provisions of the Private Places of Entertainment (Licensing) Act 1967 was previously adopted and applied throughout the City of York Council area, private entertainment for gain may be provided throughout the premises without limitation by virtue of the previous Justices Licence.

Recorded Music

Recorded music may be played throughout the premises without limitation in line with previous provisions as set out in Section 182 of the Licensing Act 1964.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

None

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

No Hearing Held

For and on behalf of
The Director of Economy & Place

Date: 05/09/2005
29/09/2016 (DPS & Transfer)

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Phone: 01904 552422
Fax: 01904 551590
Email: licensing@york.gov.uk
Website: www.york.gov.uk/licensing



PREMISES LICENCE SUMMARY

Part B

Premises licence number
CYC - 009229

Part 1 Premises details

Postal address of premises:

Mr Happy
53 Blossom Street

Post town: **York**

Post code: **YO24 1AZ**

Telephone number: 01904 623317

Where the licence is time limited the date:

This licence has no expiry date.

Licensable activities authorised by the licence:

Recorded Music
Late Night Refreshment
Supply of Alcohol

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

SUPPLY OF ALCOHOL

Monday - Saturday	Sunday
10:00-00:00	12:00-23:30

The Opening Hours of the Premises

No Restrictions

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

On the premises

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

Name: Mr Kheng Chooi Koay

Address: 28 St Philips Grove
York
YO30 6JP

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

Mr Kheng Chooi Koay

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

No Restrictions

For and on behalf of
The Director of Economy & Place

Licensing Services
Hazel Court EcoDepot
James Street
York
YO10 3DS

Date: 05/09/2005
29/09/2016 (DPS & Transfer)

Phone: 01904 552422
Fax: 01904 551590
Email: licensing@york.gov.uk
Website: www.york.gov.uk/licensing

Document is Restricted

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Licensing Hearing 12 September 2022

10-12 George Hudson Street

2. Additional document submitted by Licensing Authority

- Email withdrawing representations.

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Tue 06/09/22 10:57

RE: Agenda for Licensing/Gambling Hearing, Monday, 12 September 2022, 2.00 pm - Withdrawal of LA Rep

On behalf of the Licensing Authority I would like to formally withdraw my representation for the new grant of a licence at 10 – 12 George Hudson Street, this is due to the applicant agreeing to a set of new conditions as below:

1. The premises shall be and remain predominantly food led, alcohol will only be sold ancillary to food.
2. Table service will be in operation throughout the premises in relation to orders for food and/or alcohol.
3. There will be no vertical drinking of any kind . Customers must be seated when consuming alcohol.
4. The minimum number of covers to be maintained will be 60 when the premises are operating under the Premises Licence.
5. There will be no drinks promotions.

Accordingly I do not intend to participate in the hearing scheduled for 1400 on Monday 12th September.

Kind regards

Helen Sefton | Senior Licensing Officer
t: 01904 551526 | e: helen.sefton@york.gov.uk

City of York Council | Public Protection
Place Directorate, Hazel Court Eco Depot, James Street, York, YO10 3DS
www.york.gov.uk | facebook.com/cityofyork | [@CityofYork](https://twitter.com/CityofYork)

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