

Licensing Act 2003 Sub Committee

8 April 2021

Report from the Assistant Director – Planning & Public Protection

Section 18(3) (a) Application for a premises licence for Impossible (York), 3 St Helen’s Square, York, YO1 8QN

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-67635
3. Name of applicant: Tokyo Industries (Yorkshire) Ltd
4. Type of authorisation applied for: Grant of Premises Licence
5. Summary of application:

This application was made in December 2020, since that date the applicant following receipt of representation from the Responsible Authorities, has made several changes to the original hours and licensable activities sought. They have also reduced the licensable area and made other changes to the plans attached to the applications. Therefore in an effort to provide clarity for all parties to the hearing the applicant offered to provide a set of updated application forms to clearly set out the application before you today.

Proposed Activity	Timings
Plays (indoors and outdoors)	0800 to 0300 everyday Changed to: Removed from application
Films (indoors)	0800 to 0300 everyday Changed to: 0800 to 0100 Sunday to Friday 0800 to 0300 Saturday
Indoor Sporting events	0800 to 0300 everyday

	<p>Changed to: Removed from application</p>
Live music (indoors)	<p>0800 to 0300 everyday Changed to: 0800 to 2300 Mon to Thurs 0800 to 0100 Fri 0800 to 0200 Sat 0800 to 0100 Sun</p> <p>Until 0200 on any day proceeding a Bank Holiday, Good Friday and Boxing Day</p>
Recorded music (Indoors)	<p>0800 – 0300 everyday Changed to: 0800 to 0100 Sunday to Friday 0800 to 0300 Saturday</p> <p>Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day</p>
Performance of dance (indoors)	<p>0800 – 0300 everyday Changed to: 0800 to 0100 Sunday to Friday 0800 to 0300 Saturday</p> <p>Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day</p>
Late night refreshment (indoors and outdoors)	<p>2300 – 0300 everyday Changed to: 2300 to 0100 Sunday to Friday 2300 to 0300 Saturday</p> <p>Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day</p>
Sale of alcohol (on and off sales)	<p>0800 – 0300 everyday Changed to: 0800 to 0100 Sunday to Friday 0800 to 0300 Saturday</p>

	Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day
Opening times	0800 – 0330 everyday Changed to: 0800 to 0130 Sunday to Friday 0800 to 0330 Saturday Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day

Background

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises. Both the application and plans have been updated and are now included in the additional papers.
7. The premises is described in the application as a restaurant, bar, cocktail club and speakeasy.
8. This site already has the benefit of a premises licence which was granted to the company Carluccios in July 2016. The applicant has stated that licence (CYC 55807) will be surrendered upon the grant of this new application, a copy of the current licence can be found at **Annex 2**. The applicant has determined to apply for a new grant rather than vary the existing licence due to the substantial changes to the operating hours and the proposed areas to be licensed as detailed on the plans.
9. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 3**.

Promotion of Licensing Objectives

10. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows: **The applicant has produced the operating schedule as an additional document to accompany the application form entitled 'Impossible (York), 3 St Helens Square, York, YO1 8QN Suggested Enhanced**

Condition Schedule considering CIZ/CIA which appears in full at Annex 4.

11. General

See Annex 4.

12. The Prevention of Crime and Disorder

See Annex 4.

13. Public Safety

See Annex 4.

14. The Prevention of Public Nuisance

See Annex 4.

15. The Protection of Children From Harm

See Annex 4.

The applicant has stated on the application at Box K that no adult entertainment of services will take place while any under 18's are allowed in that area. A challenge 21 policy will be adopted.

The forms of entertainment that may occur to an over 18's adult format may include Burlesque, Cabaret, Theatrical immersive entertainment, comedy and age restricted film screenings. These will only take place at a suitable time and restricted to the age appropriate audience.

In the amended application this has been changed to:

No adult entertainment will take place on the ground floor of the premises at any time. If any adult entertainment takes place on the first or second floor, it will (a) be screened so as not to be visible from outside the permitted area and (b) no under 18's will be allowed in that area and a challenge 25 policy will be followed.

Note: Should the applicant wish to provide entertainment such as burlesque more than 11 times within a calendar year they would be required to apply for a separate Sexual Entertainment Licence.

Special Policy Consideration

16. This premises is located within the cumulative impact assessment (CIA) area approved by full council on 21 March 2019. The assessment can be found at **Annex 5**. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at **Annex 6**.

Consultation

17. Consultation was carried out by the applicant in accordance with s13, and s17 (5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.
18. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

19. North Yorkshire Police 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 Red Zone.
20. The Police representation is attached at **Annex 7**.
21. City of York Council Public Protection Team (Environmental Protection) has made a representation on the grounds that the prevention of public nuisance and the protection of children from harm licensing objectives would be undermined if the premises licence was to be granted in the terms applied for. Furthermore the applicant fails to demonstrate how this application would not add to the cumulative impact of licensed premises already experienced within the CIA.
22. The Public Protection representation is attached at **Annex 8**.
23. City of York Licensing Authority has made a representation on the grounds that the granting of this application would undermine the

licensing objectives of both prevention of crime and disorder and prevention of public nuisance. 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 Red Zone.

24. The Licensing Authority representation is attached at **Annex 9**.

Summary of Representations made by Other Parties

25. There have been no other representations received from other persons.
26. A map showing the general area around the venue is attached at **Annex 12**.

Options

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

Analysis

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

36. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Council Plan

37. 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.
38. 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

39.

- **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

40. 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.

41. 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

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

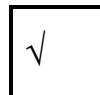
Contact Details

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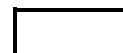
**Report
Approved**



18/01/2021

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

Wards Affected: Guildhall Ward



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form & Plans
- Annex 2** - Premises Licence CYC 55807
- Annex 3** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 4** - Operating Schedule
- Annex 5** - Cumulative Impact
- Annex 6** - Licensing Policy Annex
- Annex 7** - North Yorkshire Police Representation

- Annex 8** - Public Protection Representation
- Annex 9** - Licensing Authority Representation
- Annex 10** - Legislation and Policy Considerations
- Annex 11** - Mandatory Conditions
- Annex 12** - Map of area

Additional information:

- 1, Updated application form with reduced hours/licensable activity
- 2, Updated plans
- 3, Noise management report
- 4, Document from the applicant entitled Licensing Applications