

## Licensing/Gambling Hearing

**To:** Councillors Galvin, Hook and Mason

**Date:** Thursday, 8 April 2021

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

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

#### 4. Exclusion of Press and Public

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

5. **The Determination of an Application by Tokyo Industries (Yorkshire) Ltd for a premises licence in respect of Impossible (York), 3 St Helens Square, York, YO1 8QN). (CYC-067635) (Application A)**
6. **The Determination of an Application by Tokyo Industries (Yorkshire) Ltd for a premises licence in respect of Impossible (York), 5 St Helens Square, York, YO1 8QN). (CYC-067636) (Application B)**

Democratic Services officer:

Name: Fiona Young

Contact Details:

- Telephone – (01904) 552030
- Email - [fiona.young@york.gov.uk](mailto: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 مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

## **LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS**

### **Introduction**

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

### **Preparation for the Remote Licensing Hearing**

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

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

6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

### **The Remote Licensing Hearing**

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.
15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

### ORDER OF PROCEEDINGS AT THE REMOTE HEARING

#### **Chair's introduction and opening comments**

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their

representatives), and establish the identity of all who will be taking part.

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

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

### **Licensing Manager**

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

### **The Application**

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

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

- Police;
- Other Responsible Authorities;
- Ward Councillors;
- 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 February 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 Ltd
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:

<b>Proposed Activity</b>	<b>Timings</b>
Plays (indoors and outdoors)	0800 – 0300 everyday
Films (indoors)	0800 – 0300 everyday
Indoor Sporting events	0800 – 0300 everyday
Live music (indoors)	0800 – 0300 everyday
Recorded music (Indoors)	0800 – 0300 everyday
Performance of dance (indoors)	0800 – 0300 everyday
Late night refreshment (indoors and outdoors)	2300 – 0300 everyday
Sale of alcohol (on and off sales)	0800 – 0300 everyday
Opening times	0800 – 0330 everyday

## **Background**

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. The premises is described in the application as a 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.

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**

**Author:**

**Chief Officer Responsible for the report:**

Helen Sefton  
Senior Licensing Officer

Mike Slater  
Assistant Director for Planning and Public  
Protection.

Tel No. 01904 551526

**Report  
Approved**



**18/1/2021**

**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

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**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street,  
York, YO10 3DS

**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 Tokyo Industries (Yorkshire) Ltd

*(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			
IMPOSSIBLE (YORK) (Formally Carluccios) 3 ST HELENS SQUARE			
<b>Post town</b>	YORK	<b>Postcode</b>	YO1 8QN
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£ 161,000	

**Part 2 - Applicant details**

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

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
- i as a limited company/limited liability partnership  please complete section (B)
- ii as a partnership (other than limited liability)  please complete section (B)
- iii as an unincorporated association or  please complete section (B)

- iv other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- 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 type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/> Please tick yes			
<b>Nationality</b>					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see					

note 15 for information)

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		<input type="checkbox"/>	Please tick yes
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(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	Tokyo Industries (Yorkshire) Ltd
Address	1 City Road East Manchester M15 4PN
Registered number (where applicable)	06608845

Description of applicant (for example, partnership, company, unincorporated association etc.)  Limited Company
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
N	/	A

Please give a general description of the premises (please read guidance note 1)  Resturant, bar, cocktail club, speakeasy  The site already hold a Premises License under 'Carluccios'. This is a new application the existing premises license will be surrender if this application is granted
--

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N / A
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What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)

- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 1)			Will the performance of a play take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Mon	08:00	03:00		<b>Please give further details here</b> (please read guidance note 4) The use of immersive performers, actors and / or plays	
Tue	08:00	03:00			
Wed	08:00	03:00	<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			<b><u>Will the exhibition of films take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon	08:00	03:00			
Tue	08:00	03:00			
Wed	08:00	03:00	<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b><u>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</u></b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

**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	08:00	03:00	
Tue	08:00	03:00	<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed	08:00	03:00	
Thur	08:00	03:00	<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	08:00	03:00	
Sat	08:00	03:00	
Sun	08:00	03:00	

**D**

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

**E**

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	08:00	03:00	<b>Please give further details here</b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	08:00	03:00			
Wed	08:00	03:00	<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	08:00	03:00	<b><u>Please give further details here</u></b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	08:00	03:00			
Wed	08:00	03:00	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b><u>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</u></b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

G

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	08:00	03:00	<u>Please give further details here</u> (please read guidance note 4)		
Tue	08:00	03:00			
Wed	08:00	03:00	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<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	08:00	03:00			
Sun	08:00	03:00			

**H**

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 2)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b><u>Please give further details here</u></b> (please read guidance note 4)</p>		
Wed					
Thur			<p><b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)</p>		
Fri					
Sat			<p><b><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></b> (please read guidance note 6)</p>		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	23:00	03:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	23:00	03:00			
Wed	23:00	03:00	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
Thur	23:00	03:00			
Fri	23:00	03:00	<b>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</b> (please read guidance note 6)		
Sat	23:00	03:00			
Sun	23:00	03:00			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	08:00	03:00			
Tue	08:00	03:00			
Wed	08:00	03:00			
Thur	08:00	03:00			
Fri	08:00	03:00			
Sat	08:00	03:00			
Sun	08:00	03:00			
			<b>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</b> (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):**

<b>Name</b>	Stephanie Powell
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b>	138130
<b>Issuing licensing authority (if known)</b>	Manchester

**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).**

No adult entertainment or services will take place while any under 18 are allowed in that area.  
Challenge 21 policy is adopted

Forms of entrainment that may only occur to an over 18s adult format may include  
Burlesque, Cabert, Theatrical immersive entertainment, Comedy and Age restricted Film Screenings  
These will only take place at a suitable time and restricted only the age appropriate audience

**L**

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5)
Day	Start	Finish	
Mon	08:00	03:30	
Tue	08:00	03:30	
Wed	08:00	03:30	
Thur	08:00	03:30	
Fri	08:00	03:30	
Sat	08:00	03:30	
Sun	08:00	03:30	
			<b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 6)

**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)**

As Attached Operating Schedule

**b) The prevention of crime and disorder**

As Attached Operating Schedule

**c) Public safety**

As Attached Operating Schedule

**d) The prevention of public nuisance**

As Attached Operating Schedule

**e) The protection of children from harm**

As Attached Operating Schedule

**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.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [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).</li> <li>• 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</li> </ul>
--------------------	--

	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	Aaron Mellor
Date	11th December 2020
Capacity	Managing Director

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> 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)			
Tokyo Industries (Yorkshire) Ltd t/as IMPOSSIBLE (YORK) 1 City Road East			
Post town	Manchester	Postcode	M15 4PN
Telephone number (if any)		T FOR PUBLIC DISPLAY	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			R PUBLIC DISPLAY



**IMPOSSIBLE (YORK), 3 St Helens Square, York. YO1 8QN  
Suggested Enhanced Condition Schedule considering CIZ / CIA**

**Annex 1 – Mandatory Conditions**

**MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

Retained as Standard.

**Annex 2 – Conditions consistent with the operating schedule**

**Licensing Objectives**

**General**

1. The premises shall trade predominantly as a tea rooms and restaurant on the ground floor and cocktail club to the first floor, with a 'speakeasy' style cocktail bar to the rear of the ground floor premises along with upper roof terraces.
2. There shall be 120 (minimum) chairs/seats for customer use inside the premises at all times the venue is open for usual operation (Covid social distancing may temporarily reduce this number)
3. All staff shall undergo relevant training prior to the initial opening of the premises and thereafter there shall be ongoing regular training. Full and detailed training manuals shall be available for inspection.

**Prevention of Crime & Disorder**

3. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
4. All Off-Sales shall be made in sealed containers, save for those sales specifically for consumption in any outside drinking areas attached to the premises.
5. If the premises open after 02:00 hours, SIA Door Supervisors shall be employed in adequate numbers at the venue from 21:00 hours until the venue has closed for business on Friday, Saturday and Sunday evening preceding a bank holiday and, on any day, when York race meetings are held.

6. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of Door Supervisors should the need arise at other times.
7. Seating shall be provided for customers using the outside terrace and outside drinking area.
8. A zero tolerance towards illegal drugs will be enforced at all times.
9. All instances of crime and disorder will be reported to the police and will be kept in an incident log book.
10. The Premises Licence Holder is required to join the York Pubwatch scheme.
11. The venue shall partake in the York Nightsafe Night-time Economy radio system.
12. The Premises Licence Holder will comply with any instructions issued by the Police regarding closure on race days and/or other sporting events.
13. The Premises Licence Holder shall ensure so far as possible that when an exclusion order is made, the person subject to the order is denied access to the premise.

#### **Public Safety**

14. A Health and Safety Policy is in place.
15. This policy is fully briefed and trained to all management and staff. Continued training of staff is undertaken to the standards required by relevant legislation.

#### **Public Nuisance**

16. All music in the premises shall be played via a digital noise limiter, to be agreed with City of York Council's Environmental Protection Unit.
17. A Noise Management plan shall be submitted to and approved by the City of York Council within two months of the license being granted, once approved it shall be implemented. The Noise Management Plan will also include a procedure for investigating noise complaints received from the premises and a map identifying the sound check locations following any such complaint.
18. The use of the roof top terraces should cease at 1am nightly, excepting to close of trade on New Years Eve.

19. During regulated entertainment, the main doors shall be kept closed at all times, other than for ingress or egress.

20. Notices are displayed at all exits asking customers to respect neighbours when leaving the premises.

21. No noise nuisance is to be caused by amplified noise emanating from the premises at the nearest residential property.

22. All doors and windows shall be closed after 23:00 hours when regulated entertainment is taking place.

**Protection of Children from Harm**

23. The premises shall operate a 'Challenge 21' policy. Any person requesting alcohol who appears to be under 21 shall be required to produce only Government issued photo ID, PASS Card or any other form or ID approved by the police.



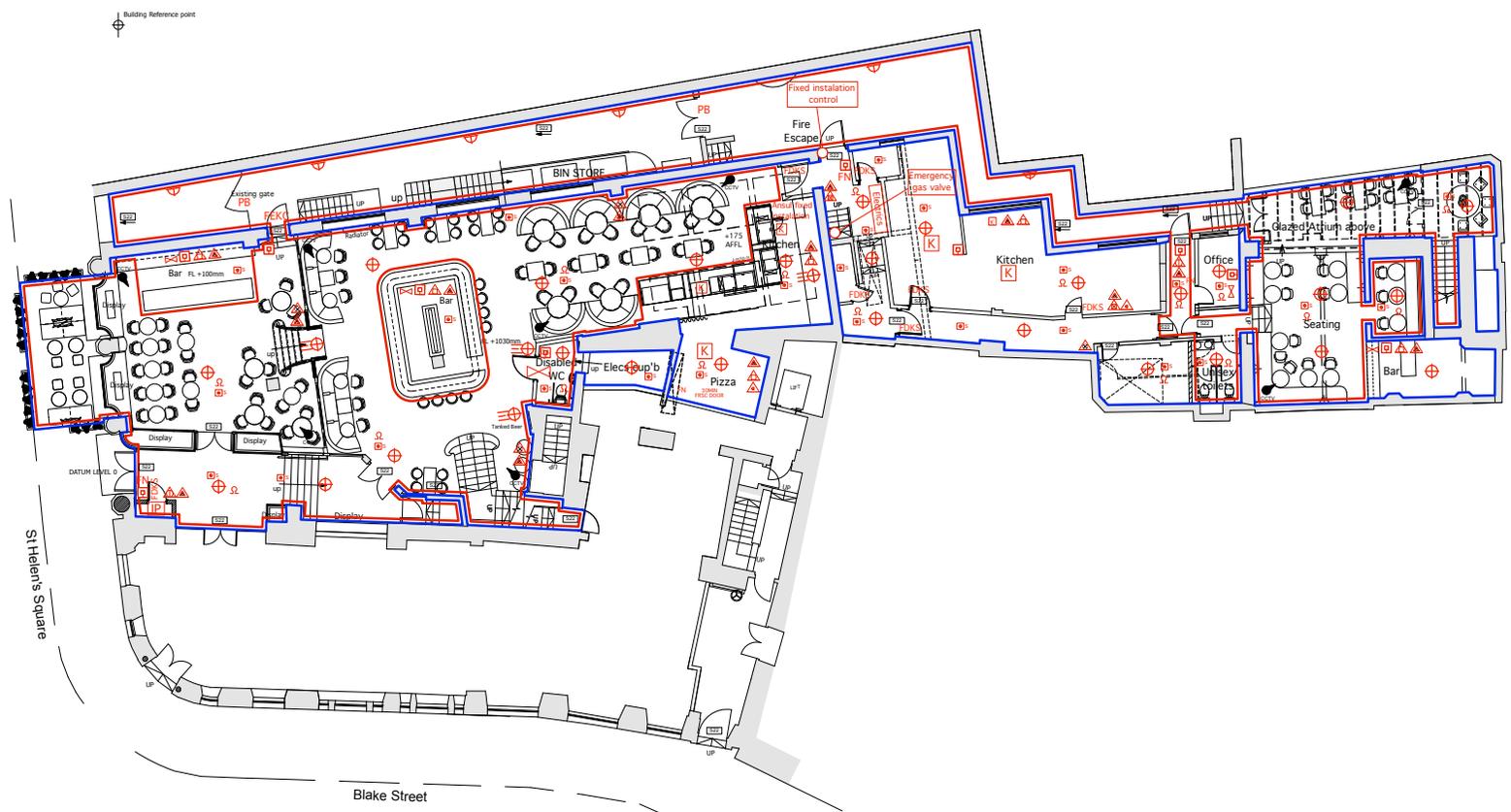
# GROUND FLOOR

## LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice		Fire Exit Keep Clear Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass		Fire Door Keep Shut Notice
	Heat Detector		Foam Fire Extinguisher		Emergency Flood Lights		Keep Locked Shut Notice
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Emergency Lights		Door Fitted With Panic Ironmongery
	Fire Alarm Sounder		Fire Blanket		Wall mounted Emergency Lights		Disabled Alarm Call Point
	Fire Alarm Panel		Wet Chemical Fire Extinguisher		CCTV		
	Emergency Break Glass Call Point		Push Bar Notice				

LICENSING ZONES KEY:

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.



1000 2000 3000 4000 5000 6000 7000 8000 9000 10000 mm  
**GROUND FLOOR PLAN** Scale 1:100 @ A1

**JULIAN**  
 JULIAN BUILDING SERVICES LTD

CARLUCCIOS  
 Tokio Industries

568/P/027  
 Ground floor plan/licensing plan  
 1:100 @ A1

DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
 APPROVED BY: \_\_\_\_\_

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FIRST FLOOR

LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice		FEKC Fire Exit Keep Clear Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass		FDKS Fire Door Keep Shut Notice
	Heat Detector		Foam Fire Extinguisher		Emergency Flood Lights		KLS Keep Locked Shut Notice
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Emergency Lights		PANIC Door Fitted With Panic Ironmongery
	Fire Alarm Sounder		Fire Blanket		Wall mounted Emergency Lights		Disabled Alarm Call Point
	Fire Alarm Panel		Wet Chemical Fire Extinguisher		CCTV		
	Emergency Break Glass Call Point		Push Bar Notice				

LICENSING ZONES KEY:

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.



Building Reference point



FIRST FLOOR PLAN Scale 1:100 @ A1

**JULIAN**  
JULIAN BARNER LTD (INCORPORATED IN THE UK)

Client: CARLUCCIOS  
 Title: Tokio Industries  
 Description: 1st floor - Licensing plan  
 Drawing No: 568/P/026  
 Scale: 1:100 @ A1  
 Date: -  
 Author: -  
 Checker: -

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IMPOSSIBLE (YORK)

568/P/035

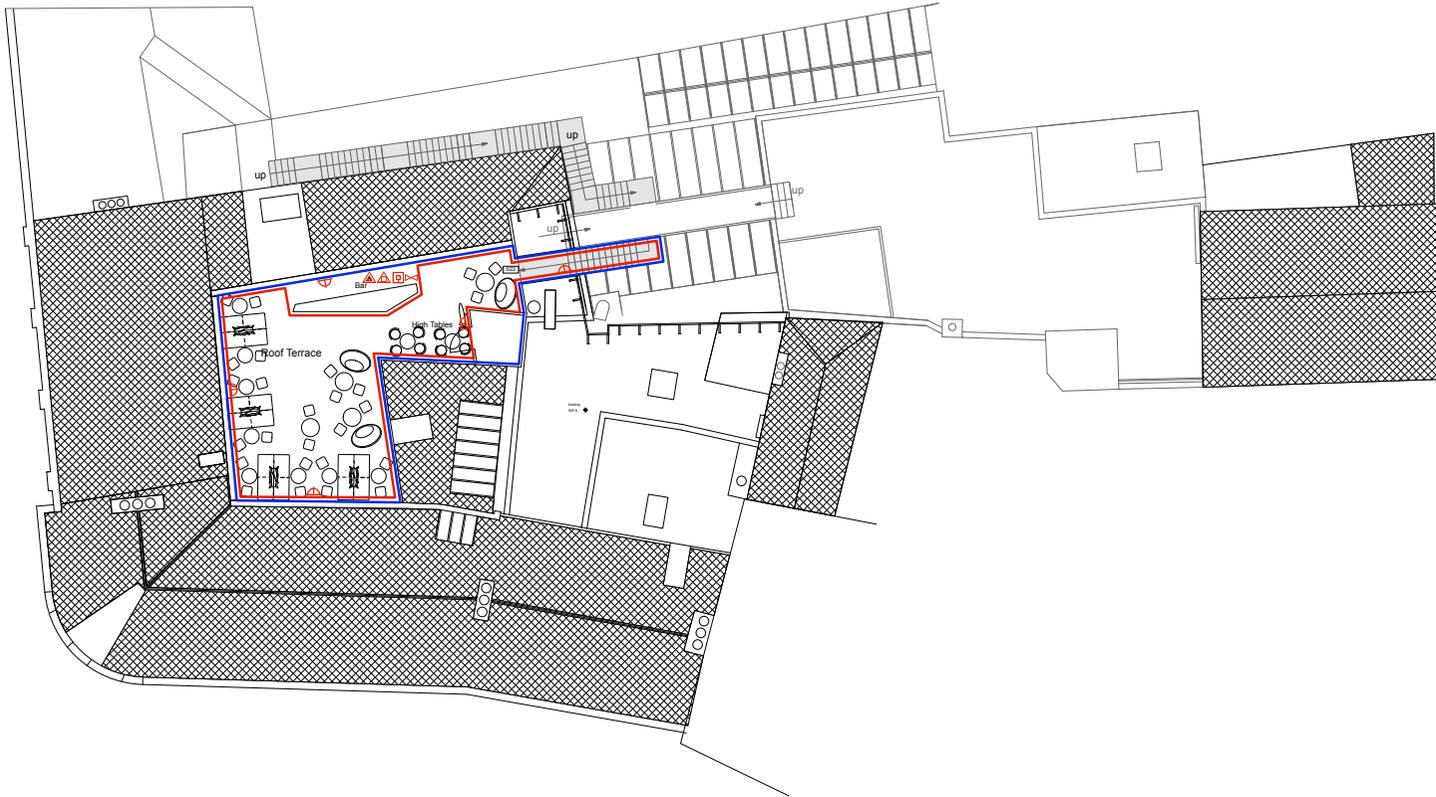
# ROOF TERRACE

## LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher	<b>FN</b>	Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Wall mounted Emergency Lights
	Fire Alarm Sounder		Fire Blanket		Disabled Alarm Call Point
	Emergency Break Glass Call Point	<b>PANIC</b>	Door Fitted With Panic Ironmongery		CCTV

LICENSING ZONES KEY:

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.



ROOF PLAN Scale 1:100 @ A1

**JULIAN**  
JULIAN HAZARD (11 221 111111 1 1 1)

Client: CARLUCCIOS  
 Job: Tokio Industries  
 Drawing: Roof - Licensing plan  
 Drawing No: 568-P/035  
 Scale: 1:100 @ A1  
 Date: / /  
 Author: /  
 Approver: /

Rev	Date	Description

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**IMPOSSIBLE (YORK)**

568/P/028

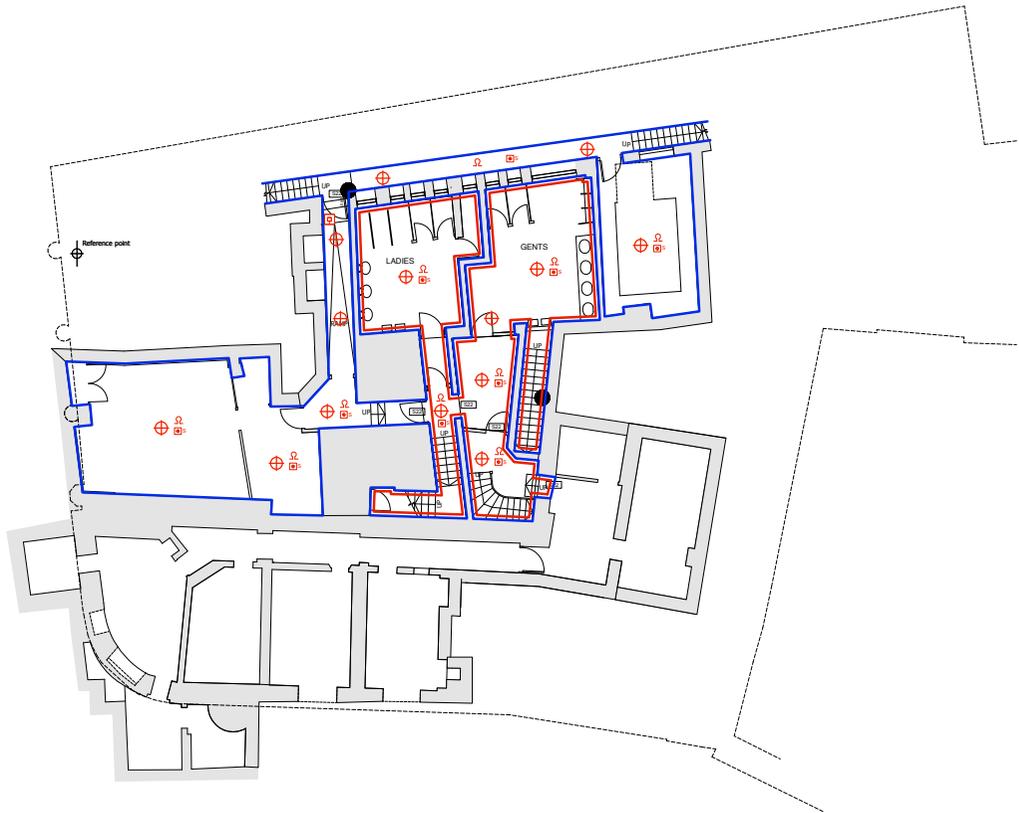
**BASEMENT**

**LICENSING SYMBOLS**

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice		Fire Exit Keep Clear Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass		Fire Door Keep Shut Notice
	Heat Detector		Foam Fire Extinguisher		Emergency Flood Lights		Keep Locked Shut Notice
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Emergency Lights		Door Fitted With Panic Ironmongery
	Fire Alarm Sounder		Fire Blanket		Wall mounted Emergency Lights		
	Fire Alarm Panel		Wet Chemical Fire Extinguisher		Disabled Alarm Call Point		
	Emergency Break Glass Call Point		Push Bar Notice		CCTV		

**LICENSING ZONES KEY:**

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.



**BASEMENT PLAN** Scale 1:100 @ A1

**JULIAN**  
JULIAN HULLUK (11 221 0000) LTD

Client: CARLUCCIOS  
 User: Tokio Industries  
 Project: Basement - Licensing plan  
 License No: 568/P/028  
 Scale: 1:100 @ A1  
 Author: [ ]  
 Date: [ ]

The Design Team is not responsible for any errors or omissions in this drawing. It is the responsibility of the client to ensure that the drawing is used for the intended purpose.

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## LICENSING ACT 2003

### PREMISES LICENCE

#### Schedule 12

#### Part A

#### Part 1 Premises details

Premises licence number CYC - 055807
---

Postal address of premises:

**Impossible York**  
**3 - 5 St Helens Square**

Post town: **York**

Post code: **YO1 8QN**

Telephone number: None

**Expiry date:** This licence has no expiry date.

#### Licensable activities authorised by the licence:

Late Night Refreshment  
Supply of Alcohol

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

LATE NIGHT REFRESHMENT  
Indoors and Outdoors

Monday  
23:00 - 00:00

Tuesday  
23:00 - 00:00

Wednesday  
23:00 - 00:00

Thursday  
23:00 - 00:00

Friday  
23:00 - 00:00

Saturday  
23:00 - 00:00

Sunday  
23:00 - 00:00

SUPPLY OF ALCOHOL

Monday 08:00 - 00:00	Tuesday 08:00 - 00:00	Wednesday 08:00 - 00:00	Thursday 08:00 - 00:00
Friday 08:00 - 00:00	Saturday 08:00 - 00:00	Sunday 08:00 - 00:00	

**The Opening Hours of the Premises**

Monday 08:00 - 00:30	Tuesday 08:00 - 00:30	Wednesday 08:00 - 00:30	Thursday 08:00 - 00:30
Friday 08:00 - 00:30	Saturday 08:00 - 00:30	Sunday 08:00 - 00:30	

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

On and off the premises

**Part 2**

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

Name: Tokyo Industries (Yorkshire) Ltd

Address: 1 City Road East  
Manchester  
M15 4PN

Telephone number: None

Email address: None

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

06608845

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

Name: Stephanie Jayne Powell

Address:



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:**

Manchester City Council  
LN138138

**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**

### **Licensing Objectives**

#### General

1. This licence excludes 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.

2. The premises shall trade predominantly as a restaurant, and substantial food and non-intoxicating drinks shall be available at all times the premises are trading.

3. Off sales of alcohol will primarily be made from the delicatessen area (marked retail upon the plan).

4. All staff shall undergo relevant training prior to the initial opening of the premises and thereafter there shall be ongoing regular training. Full and detailed training manuals shall be available for inspection.

5. Tables and chairs will be laid out for a minimum of 170 customers and there shall be waiter/waitress service. Food and alcohol will be served to customers seated or to those waiting to be seated.

#### Prevention of Crime & Disorder

6. Staff training will include details of offences relating to the sale and supply of alcohol to persons under 18.

7. Other than the external area shown upon the deposited plan, the taking of alcoholic and other drinks from the premises in open containers shall not be permitted.

8. The pavement café area shall be no greater than 1.5 metres x 7.99 metres located directly in front of the premises and consist of no more than 4 x tables and 8 x chairs.

9. Only semi-permanent infilled barriers or fixed posts and ropes to be used to define the perimeter of the pavement café licence (subject to such determination by Highways).

10. Tables, chairs and semi-permanent barriers / fixed posts and ropes shall only be placed outside the premises, as defined on the plans, between 10:30 hours and 23:00 hours daily.

11. No parasols, awnings, planters or ornamental trees shall be used in the pavement café licensed area. This shall not apply to the existing awnings on the frontage of the building. There shall be no change to the style of those awnings without seeking further permission, other than the general refurbishment and maintenance thereof.

#### Public Safety

12. Staff training and manuals shall include full training in relation to accidents to staff and customers on the premise, and the requirement to detail any such problems, and also food hygiene training which is reinforced by the general introductory notes and safety notes.

13. Regular risk assessments shall be carried out.

#### Protection of Children from Harm

14. The premises shall operate a 'Challenge 21' policy. Any person who appears to be under 21 shall be required to produce one of the following forms of identification;

- a) a full UK photo driving licence;
- b) passport;
- c) military ID Card;
- d) a recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS); or
- e) any other form of ID approved by the police.

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

No hearing held

**Annex 4 – Approved Plan**

Plan Number                    L15 3609 07-00, 07-01, 07-02 & 07-03, All Rev X

For and on behalf of  
The Director of Economy & Place

Date: 23/06/2016  
01/12/2020 (Name of Name & DPS Variation)

Licensing Services  
Hazel Court EcoDepot  
James Street  
York  
YO10 3DS

Phone: 01904 552422  
Fax: 01904 551590  
Email: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)



## PREMISES LICENCE SUMMARY

### Part B

#### Part 1 Premises details

Premises licence number  
CYC - 055807

Postal address of premises:

**Impossible York**  
**3 - 5 St Helens Square**

Post town: **York**

Post code: **YO1 8QN**

Telephone number: None

#### Where the licence is time limited the date:

This licence has no expiry date.

#### Licensable activities authorised by the licence:

Late Night Refreshment  
Supply of Alcohol

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

LATE NIGHT REFRESHMENT  
Indoors and Outdoors

Monday  
23:00 - 00:00

Tuesday  
23:00 - 00:00

Wednesday  
23:00 - 00:00

Thursday  
23:00 - 00:00

Friday  
23:00 - 00:00

Saturday  
23:00 - 00:00

Sunday  
23:00 - 00:00

SUPPLY OF ALCOHOL

Monday 08:00 - 00:00	Tuesday 08:00 - 00:00	Wednesday 08:00 - 00:00	Thursday 08:00 - 00:00
Friday 08:00 - 00:00	Saturday 08:00 - 00:00	Sunday 08:00 - 00:00	

**The Opening Hours of the Premises**

Monday 08:00 - 00:30	Tuesday 08:00 - 00:30	Wednesday 08:00 - 00:30	Thursday 08:00 - 00:30
Friday 08:00 - 00:30	Saturday 08:00 - 00:30	Sunday 08:00 - 00:30	

**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: Tokyo Industries (Yorkshire) Ltd  
Address: 1 City Road East  
Manchester  
M15 4PN

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

06608845

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

Stephanie Jayne Powell

**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: 23/06/2016  
01/12/2020 (Change of Name & DPS Variation)

Phone: 01904 552422  
Fax: 01904 551590  
Email: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)  
Website: [www.york.gov.uk/licensing](http://www.york.gov.uk/licensing)

## 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 authorisation<sup>18</sup>) 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 workplace<sup>26</sup> 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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**IMPOSSIBLE (YORK), 3 St Helens Square, York. YO1 8QN  
Suggested Enhanced Condition Schedule considering CIZ / CIA**

**Annex 1 – Mandatory Conditions**

**MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL**

Retained as Standard.

**Annex 2 – Conditions consistent with the operating schedule**

**Licensing Objectives**

**General**

1. The premises shall trade predominantly as a tea rooms and restaurant on the ground floor and cocktail club to the first floor, with a 'speakeasy' style cocktail bar to the rear of the ground floor premises along with upper roof terraces.
2. There shall be 120 (minimum) chairs/seats for customer use inside the premises at all times the venue is open for usual operation (Covid social distancing may temporarily reduce this number)
3. All staff shall undergo relevant training prior to the initial opening of the premises and thereafter there shall be ongoing regular training. Full and detailed training manuals shall be available for inspection.

**Prevention of Crime & Disorder**

3. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
4. All Off-Sales shall be made in sealed containers, save for those sales specifically for consumption in any outside drinking areas attached to the premises.
5. If the premises open after 02:00 hours, SIA Door Supervisors shall be employed in adequate numbers at the venue from 21:00 hours until the venue has closed for business on Friday, Saturday and Sunday evening preceding a bank holiday and, on any day, when York race meetings are held.

6. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of Door Supervisors should the need arise at other times.
7. Seating shall be provided for customers using the outside terrace and outside drinking area.
8. A zero tolerance towards illegal drugs will be enforced at all times.
9. All instances of crime and disorder will be reported to the police and will be kept in an incident log book.
10. The Premises Licence Holder is required to join the York Pubwatch scheme.
11. The venue shall partake in the York Nightsafe Night-time Economy radio system.
12. The Premises Licence Holder will comply with any instructions issued by the Police regarding closure on race days and/or other sporting events.
13. The Premises Licence Holder shall ensure so far as possible that when an exclusion order is made, the person subject to the order is denied access to the premise.

#### **Public Safety**

14. A Health and Safety Policy is in place.
15. This policy is fully briefed and trained to all management and staff. Continued training of staff is undertaken to the standards required by relevant legislation.

#### **Public Nuisance**

16. All music in the premises shall be played via a digital noise limiter, to be agreed with City of York Council's Environmental Protection Unit.
17. A Noise Management plan shall be submitted to and approved by the City of York Council within two months of the license being granted, once approved it shall be implemented. The Noise Management Plan will also include a procedure for investigating noise complaints received from the premises and a map identifying the sound check locations following any such complaint.
18. The use of the roof top terraces should cease at 1am nightly, excepting to close of trade on New Years Eve.

19. During regulated entertainment, the main doors shall be kept closed at all times, other than for ingress or egress.

20. Notices are displayed at all exits asking customers to respect neighbours when leaving the premises.

21. No noise nuisance is to be caused by amplified noise emanating from the premises at the nearest residential property.

22. All doors and windows shall be closed after 23:00 hours when regulated entertainment is taking place.

### **Protection of Children from Harm**

23. The premises shall operate a 'Challenge 21' policy. Any person requesting alcohol who appears to be under 21 shall be required to produce only Government issued photo ID, PASS Card or any other form or ID approved by the police.

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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:

<b>Postal Address of premises or club premises:</b> Impossible 3 St Helens Square	
<b>Post town:</b> York	<b>Post code (if known):</b> YO18QN

**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 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 tea rooms/restaurant/cocktail bar in York's Cumulative impact assessment area for licensable activities i.e sale of alcohol, late night refreshment, plays, performances of dance, films, indoor sporting events, adult entertainment, recorded music and live music 0800hrs-0300hrs 7 days a week with hours open to the public 0800hrs-0330hrs and includes three outside area.

The premises sits within York's CIA (Cumulative impact assessment area) 'Red 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 in to effect on 21st March 2019 and runs until 2024; it states:

'9.13 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.

9.14 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of which have led to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council

should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.'

Furthermore the CIA policy states:

7. An applicant wishing to obtain a new licence or vary a licence for premises, within the cumulative impact area, 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.

On 02/12/20 North Yorkshire Police met with the applicant at the premises to view and discuss the proposed plans for the new licence application prior to this application being submitted.

It was explained the ground floor is to be used as a tea room and restaurant with a bar at the rear and the first floor as a 'speakeasy' style bar a cocktail lounge with a stage for performances to include regular live music such as 'jazz'. Further we were shown the second floor which may have multifunctional uses such as private events and two roof terrace areas which are also applied for in this application.

The application and plans show seating across the four floors and two outside roof terraces as well as outside at ground level and has a total of 9 bars throughout the venue, as follows:-

Three Bars on the ground floor

Two Bars on the first floor

Three bars on the second floor, including outside rooftop terrace

One bar on rooftop terrace.

The plans and proposed business model have suggested one set of conditions to be applied to all areas/bars except in relation to the timings for the outside roof terrace, which offers the 'roof terrace' area's shall be closed at 0100hrs with New Year's Eve as an exception wishing for this to be extended to the close of business.

Following the meeting between the police, environmental health and the applicant at the Premises on 02/11/20, the applicant was advised that the Police could not support an application for a Premises licence wishing to operate until 3am seven days a week within the Cumulative Impact Area, given the nearby residential properties and. The conditions suggested also were not tailored to meet the business model of what was being proposed and the police reminded the applicant that the onus was on them to demonstrate how this large premises will not impact on crime and disorder and public nuisance in this area. Furthermore they have not shown how this will not impact the protection of children from harm given the range of licensable activities and adult entertainment applied for in this application and in line with the statement of licensing policy.

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".

The limited offering of 120 table covers over four floors is completely inadequate and could allow the venue to become a vertical drinking establishment. There is also no smoking or dispersal policy and the SIA condition which states that suitable doorstaff shall be employed from 2100hrs when the premises is open passed 0200hrs Friday, Saturday, Sundays leading into a bank holiday and days where race meetings are held at York racecourse is substandard for a venue of this capacity.

North Yorkshire Police would not oppose an application for a food led premises within the CIA area with timings and conditions ensuring the promotion of the 4 licensing objectives and which would not add to the cumulative impact of crime and disorder in the area and to not cause an unnecessary public nuisance to residents living in the area.

It is felt that this application does not take measures to mitigate associated risks with the adding of another alcohol led establishment.

It is the position of North Yorkshire Police that the applicant has not demonstrated how the adding of this licensed premises will not adversely impact on the night time economy in this area.

Members of the Committee, it is the view of North Yorkshire Police that this application should be refused. The above highlights that the applicants have not considered the special policy area carefully and the timings and lack of enforceable conditions in the operating schedule are felt will have a negative impact on the crime and disorder and public nuisance in the area.

North Yorkshire Police are working hard with key stake holders and partners within the City of York to tackle Alcohol fuelled disorder and I would ask members to also consider their obligations under Section 17 of the Crime and Disorder Act "it shall be the duty of each authority to which this section applies to do all it reasonably can to prevent crime and disorder in its area."

Signature: K. Hollis

Date: 11/01/2021

Contact name: Kim Hollis PC 1671

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**

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## Annex 8

### **Representation by Public Protection, 3 St Helen's Square**

Public Protection are making representations against the premises licence grant for "Impossible" at 3 St Helens Square, York on the grounds of public nuisance and the protection of children from harm.

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

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

**The premises** is at 3 St Helen's Square, York and is the old Terry's Building located in a prominent location in the middle of one of York's central historic squares frequented by both locals and tourists and already has a number of other licensed premises on the square itself that close between midnight and 1am. The area is a mix of restaurants, bars, business premises and residential premises at the roof top level.

### **The licence application**

As it stands the application proposes tea rooms and a restaurant at ground floor with an external seated area, a cocktail club on the first floor and then a speakeasy cocktail bar and a large roof top terrace and would have a licence for plays, films, indoor sporting events, live music, performance of dance, adult entertainment and supply of alcohol from 08:00 hours until 03:00 hours 7 days a week in every area of the application site inside the building with access to the public until 03:30 hours and to have the roof top terrace open to the public until 1am.

There is to be direct access from the hotel to 5 St Helens Square effectively linking the two premises into one joint premises. It is therefore difficult for the Local Authority to

view one application separately from the other and not consider the joint cumulative impact of both premises within the CIA.

## **Concerns**

### **Noise**

The application states that the downstairs tea rooms and restaurant will be open until 3 am and be licensed for regulated entertainment and adult entertainment. This may put pressure on the CIA in terms of noise from customers entering and leaving the premises. The applicant has offered a condition for a noise management plan which would have to be agreed with the Local Authority before being implemented is welcomed by Public Protection. The use of the ground floor for regulated entertainment, however, is still a cause for concern for us.

If regulated entertainment is permitted in the downstairs area, as applied for, then the building would have to offer sufficient sound proofing to prevent noise from escaping from this part of the building. A condition has been offered for a sound limiting device, however, this would not necessarily prevent noise from live music from escaping the building and may be ineffective if there is no acoustic lobby to act as a barrier from the inside of the building to the outside. The glazing of to the front of the premises may also allow sound to pass through unless it has adequate sound attenuating properties. The square is encompassed by buildings that have highly reflective facades that can reflect noise from music great distances especially at night and may pose a public nuisance to nearby residents.

The concern about the break out of noise from the building also relates to the first floor level. The premises is a listed building with large openable single glazed windows looking onto the square. The plan for the first floor is to have the bands and recorded music, which, although the applicant has said it to be more background music could include DJ's on the stage in front of these windows. Adult entertainment would also be permitted here at any time of day and the applicant has not offered restricted timings for this and noise from all of these activities may also break out onto the street at any time of day.

The applicant has offered conditions for the control of noise, however, some of these are not achievable or are not fully adequate and therefore more robust and precise conditions should be offered, especially considering the premises is in the red zone of the CIA. Further to this, without a noise report being commissioned to demonstrate that the building can adequately prevent noise break out from live and recorded music and adult entertainment within the various rooms that these will take place in, Public Protection are unable to comment on the suitability of any proposed conditions.

### **Noise from the roof top terrace.**

There are two levels proposed to the roof top terrace, the lower of which is directly opposite residential flats with little to no screening. The residents of these flats have to date been shielded from ground level city noise. This application would seek to change the nature of the roof top and bring the city noise and licensed activity noise from ground level up to this area until 1am, 7 days a week.

The upper terrace is more shielded from the closest residents but would still have a line of sight to other residential dwellings in the upper floors of other buildings in close proximity to the new premises.

Noise can travel substantial distances, especially later in the evenings and during night time periods and the applicant has not offered any meaningful conditions to control noise in these roof top terraces and has maintained a wish to use these areas until 1am which Public Protection would deem to be far too late and we are therefore concerned about the potential for noise from these areas resulting in a public nuisance.

### **The external seating area**

The application would grant use of the outside area on St Helens Square until 3am. This would be a seating area where customers would come and go from the restaurant/bar at ground level, which, if licensed for regulated entertainment would result in noise escaping from the building and add to peoples raised voices unless restricted. The applicant has not offered any conditions or restrictions to this outside area in order to curtail noise and bring the outside use in line with other premises in the square and therefore reduce the risk of a public nuisance occurring.

### **Protection of children from harm**

Section K of the application highlights that adult entertainment can take place. The applicant has not adequately defined where adult entertainment will take place and could therefore result in this taking place in every area of the application, including the roof top terrace and the restaurant at ground level. I do not believe that the applicant has offered adequate controls on adult entertainment in terms of the times, locations it will be permitted or to sufficiently demonstrate how they would prevent children from accessing areas where such entertainment is taking place and therefore protecting them from harm. As it stands Public Protection would therefore make representation to the application on grounds of the protection of children from harm.

### **In summary**

There are many variables and uncertainties to this application:

- There is an uncertainty to where regulated entertainment and adult entertainment will take place within the premises and how the different functions of the premises will be adequately separated from one another to prevent them from becoming one whole premises and causing further impact on the CIA.

- There is uncertainty as to how children will be adequately protected from being exposed to adult entertainment or prevented from accessing the adjacent hotel and areas where only adults should be.
- There is uncertainty on the buildings ability to contain noise generated internally from causing a public nuisance and concern about the potential of noise from the roof terraces.

The application site is within the red zone of the CIA and the applicant has not offered sufficient or adequate conditions to demonstrate that they can control noise or protect children from harm within such a sensitive area. I would therefore advise the members of the committee that unless the concerns raised here can be addressed and more robust and stringent conditions agreed, the application should be refused on the grounds of public nuisance and the protection of children from harm.

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

Regards

Michael Golightly  
**Technical Officer**

## Annex 9

### Representation by the licensing Authority, 3 St Helen's Square

I write to make representation on behalf of the Licensing Authority in relation to the grant of a premises licence for the above premises. Due to the Christmas period and work demands I have not had the opportunity to discuss the application with the applicant.

This application relates to the grant of a premises licence for a restaurant, bar, cocktail club and speakeasy, for licensable activities to take place seven days a week. Requested activities and hours as follows:

- Regulated entertainment (plays, films, indoor sporting events, live music, recorded music and performance of dance) (there is also reference to adult entertainment or services) to take place from 08:00hrs – 03:00hrs
- Late night from refreshment 23:00hrs to 03:00hrs
- Supply of alcohol from 08:00hrs to 03:00hrs
- Opening hours to the public from 06:00hr to 03:30hrs

The proposed licensed areas are located over five floors, from the plans the toilets are located in the basement, bars and seating areas on the ground, first and second floors, a terrace with a bar and seating on the roof and an outdoor seating area on the public highway on St Helen's Square.

The seating capacity for each floor, as indicated on the plans, is for approximately 140 ground, 109 first and 117 second floors, and 53 roof terrace, the seating capacity for the outdoor area is 13.

This premises is located in York city centre in close proximity to a number of licensed premises (bars, restaurants, cafes and takeaways), residential premises, churches (including York Minster) and the Mansion House. The premises is also located within York's Cumulative Impact Assessment (CIA) area 'red zone', this area has been identified by the Council within the Statement of Licensing Policy (the Policy) as being under the most stress from crime and disorder and public nuisance related issues due to the high concentration of licensed premises.

The Policy came into effect in March 2019, it 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

9.13 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.

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

The Policy also states:

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.

The Policy and CIA can be found at: <https://www.york.gov.uk/LicensingPolicy>

Within the proposed operating schedule (suggested enhanced conditions schedule considering CIZ/CIA) the applicant has offered conditions relating to CCTV, door supervisors and noise management, they have also offered a minimum number of chairs/seats inside the venue at all times as 120, none of which seem adequate for a premises located within the CIA red zone.

As detailed above this premises is located in an area identified by the Council as being under the most stress due to crime and disorder and public nuisance, already having a high level of licensed premises. I do not believe that the applicant has demonstrated through the hours applied for and the operating schedule how the granting of a licence for this restaurant/bar will not impact this area.

Even though the applicant has stated within the application that this premises is to be a restaurant, bar, cocktail club and speakeasy, I would ask Members to take into consideration that there is nothing within the proposed operating schedule to prevent this premises from just operating as a bar, with outdoor area, from 08:00hrs – 03:00hrs seven days a week over more than just the ground floor.

As a premises licence is already in place for a restaurant to operate at this premises, an application for a food led premises (restaurant) with reasonable timings for licensable activities and enforceable conditions which are robust and ensure the promotion of the four licensing objectives and not add to the cumulative impact of crime and disorder and public nuisance within the CIA red zone may not be opposed by the Licensing Authority.

The Licensing Authority do not believe the applicant has fully considered the Policy and CIA, and therefore has not demonstrated through the application and proposed operating schedule how the granting of this licence will not add to the cumulative impact already being experienced.

The Licensing Authority cannot support his application as it is within the CIA red zone, and respectfully ask members to refuse the application.

Kind regards

*Lesley*

Lesley Cooke | Licensing Manager

t: 01904 551515 | e: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)

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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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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE  
LICENSING ACT 2003**

**MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

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

7. The responsible person must ensure that –

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

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

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

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

### **MANDATORY CONDITION: ALCOHOL PRICING**

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

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

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

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

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

where –

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

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

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

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

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

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

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

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

**MANDATORY CONDITION: DOOR SUPERVISION**

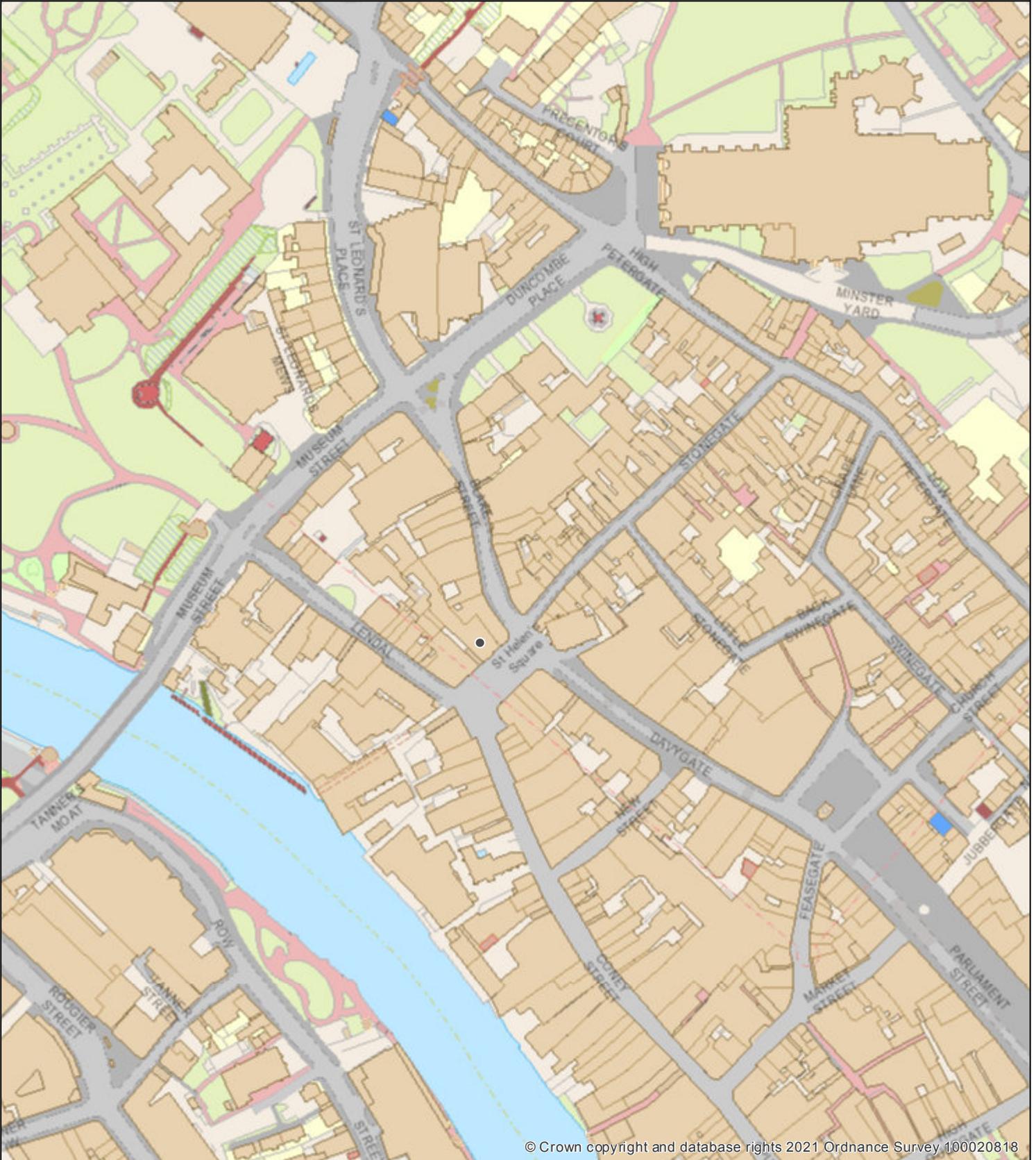
1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to -
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
  - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**MANDATORY CONDITION: EXHIBITION OF FILMS**

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
  - (a) the film classification body is not specified in the licence, or
  - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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# Annex 12 - Map of area



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**Date:** 18 Jan 2021

**Author:** n/a

**Scale:** 1:2,500



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**Licensing Hearing 8 April 2021**  
**Additional documents submitted by the Licensing Officer /**  
**Applicant for 3 St Helen's Square**

Updated report from the Licensing Officer, with the following attached:

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

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## 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
<del>Plays (indoors and outdoors)</del>	<del>0800 to 0300 everyday</del> <b>Changed to:</b> Removed from application
Films (indoors)	0800 to 0300 everyday <b>Changed to:</b> 0800 to 0100 Sunday to Friday 0800 to 0300 Saturday
<del>Indoor Sporting events</del>	<del>0800 to 0300 everyday</del>

	<p><b>Changed to:</b> Removed from application</p>
Live music (indoors)	<p>0800 to 0300 everyday <b>Changed to:</b> 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 <b>Changed to:</b> 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 <b>Changed to:</b> 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 <b>Changed to:</b> 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 <b>Changed to:</b> 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 <b>Changed to:</b> 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**

**Author:**  
Helen Sefton  
Senior Licensing Officer

**Chief Officer Responsible for the report:**  
Mike Slater  
Assistant Director for Planning and Public Protection.

Tel No. 01904 551526

**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

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**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street,  
York, YO10 3DS

**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 Tokyo Industries (Yorkshire) Ltd

*(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			
IMPOSSIBLE (YORK) (Formally Carluccios) 3 ST HELENS SQUARE			
<b>Post town</b>	YORK	<b>Postcode</b>	YO1 8QN

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ 161,000

**Part 2 - Applicant details**

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

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
- i as a limited company/limited liability partnership  please complete section (B)
- ii as a partnership (other than limited liability)  please complete section (B)
- iii as an unincorporated association or  please complete section (B)

- iv other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- 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 type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/>		Please tick yes	
<b>Nationality</b>					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see					

note 15 for information)

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		<input type="checkbox"/>	Please tick yes
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(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.

<b>Name</b>	Tokyo Industries (Yorkshire) Ltd
<b>Address</b>	1 City Road East Manchester M15 4PN
<b>Registered number (where applicable)</b>	06608845

Description of applicant (for example, partnership, company, unincorporated association etc.)	
Limited Company	
Telephone number (if any)	NOT FOR PUBLIC DISPLAY
E-mail address (optional)	FOR PUBLIC DISPLAY

**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
N	/	A

Please give a general description of the premises (please read guidance note 1)

Resturant, bar, cocktail club, speakeasy

The site already hold a Premises License under 'Carluccios' This is a now application the existing premises license will be surrender if this application is granted

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N / A
-------

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

- Provision of regulated entertainment (please read guidance note 2)
- Please tick all that apply
- a) plays (if ticking yes, fill in box A)
  - b) films (if ticking yes, fill in box B)
  - c) indoor sporting events (if ticking yes, fill in box C)
  - d) boxing or wrestling entertainment (if ticking yes, fill in box D)
  - e) live music (if ticking yes, fill in box E)

- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

Λ

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish				
Mon			<b>Please give further details here</b> (please read guidance note 4)			
Tue						
Wed			<b>State any seasonal variations for performing plays</b> (please read guidance note 5)			
Thur						
Fri			<b>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</b> (please read guidance note 6)			
Sat						
Sun						

**B**

Films Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	08:00	01:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	08:00	01:00			
Wed	08:00	01:00	<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Thur	08:00	01:00			
Fri	08:00	01:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	01:00			

C

Indoor sporting events Standard days and timings (please read guidance note 7)			Please give further details (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 5)
Wed			
Thur			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 6)
Fri			
Sat			
Sun			

**D**

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

E

Live music Standard days and timings (please read guidance note 7)			<b>Will the performance of live music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	08:00	23:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	08:00	23:00			
Wed	08:00	23:00	<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5)		
Thur	08:00	23:00			
Fri	08:00	01:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	02:00			
Sun	08:00	01:00	Until 02:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		

## F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	08:00	01:00	<u>Please give further details here</u> (please read guidance note 4)		
Tue	08:00	01:00			
Wed	08:00	01:00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)		
Thur	08:00	01:00			
Fri	08:00	01:00	<u>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</u> (please read guidance note 6)		
Sat	08:00	03:00	Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		
Sun	08:00	01:00			

**G**

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	08:00	01:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	08:00	01:00	<b>State any seasonal variations for the performance of dance</b> (please read guidance note 5)		
Wed	08:00	01:00			
Thur	08:00	01:00			
Fri	08:00	01:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	01:00	Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		

**H**

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 2)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b>Please give further details here</b> (please read guidance note 4)</p>		
Wed					
Thur			<p><b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 5)</p>		
Fri					
Sat			<p><b>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</b> (please read guidance note 6)</p>		
Sun					

**I**

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	23:00	01:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	23:00	01:00	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
Wed	23:00	01:00			
Thur	23:00	01:00	<b>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</b> (please read guidance note 6)		
Fri	23:00	01:00			
Sat	23:00	03:00	Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		
Sun	23:00	01:00			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	08:00	01:00			
Tue	08:00	01:00			
Wed	08:00	01:00			
Thur	08:00	01:00			
Fri	08:00	01:00			
Sat	08:00	03:00			
Sun	08:00	01:00			
			<b>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</b> (please read guidance note 6)		
			Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		

**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):**

<b>Name</b>	Stephanie Powell
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b>	138130
<b>Issuing licensing authority (if known)</b>	Manchester

**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).**

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

Forms of entertainment that may only occur to an over 18s 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 only to the age appropriate audience

**L**

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5)
Day	Start	Finish	
Mon	08:00	01:30	
Tue	08:00	01:30	
Wed	08:00	01:30	
Thur	08:00	01:30	
Fri	08:00	01:30	
Sat	08:00	03:30	
Sun	08:00	01:30	

**Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list** (please read guidance note 6)

Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day

**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)**

As Attached Operating Schedule

**b) The prevention of crime and disorder**

As Attached Operating Schedule

**c) Public safety**

As Attached Operating Schedule

**d) The prevention of public nuisance**

As Attached Operating Schedule

**e) The protection of children from harm**

As Attached Operating Schedule

**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.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [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).</li> <li>• 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</li> </ul>
--------------------	--

	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	 Aaron Mellor
Date	11th December 2020 (Revised 23rd Feb 2021)
Capacity	Managing Director

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> 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)			
Tokyo Industries (Yorkshire) Ltd t/as IMPOSSIBLE (YORK) 1 City Road East			
Post town	Manchester	Postcode	M15 4PN
Telephone number (if any)		- NOT FOR PUBLIC DISPLAY	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			T FOR PUBLIC DISPLAY



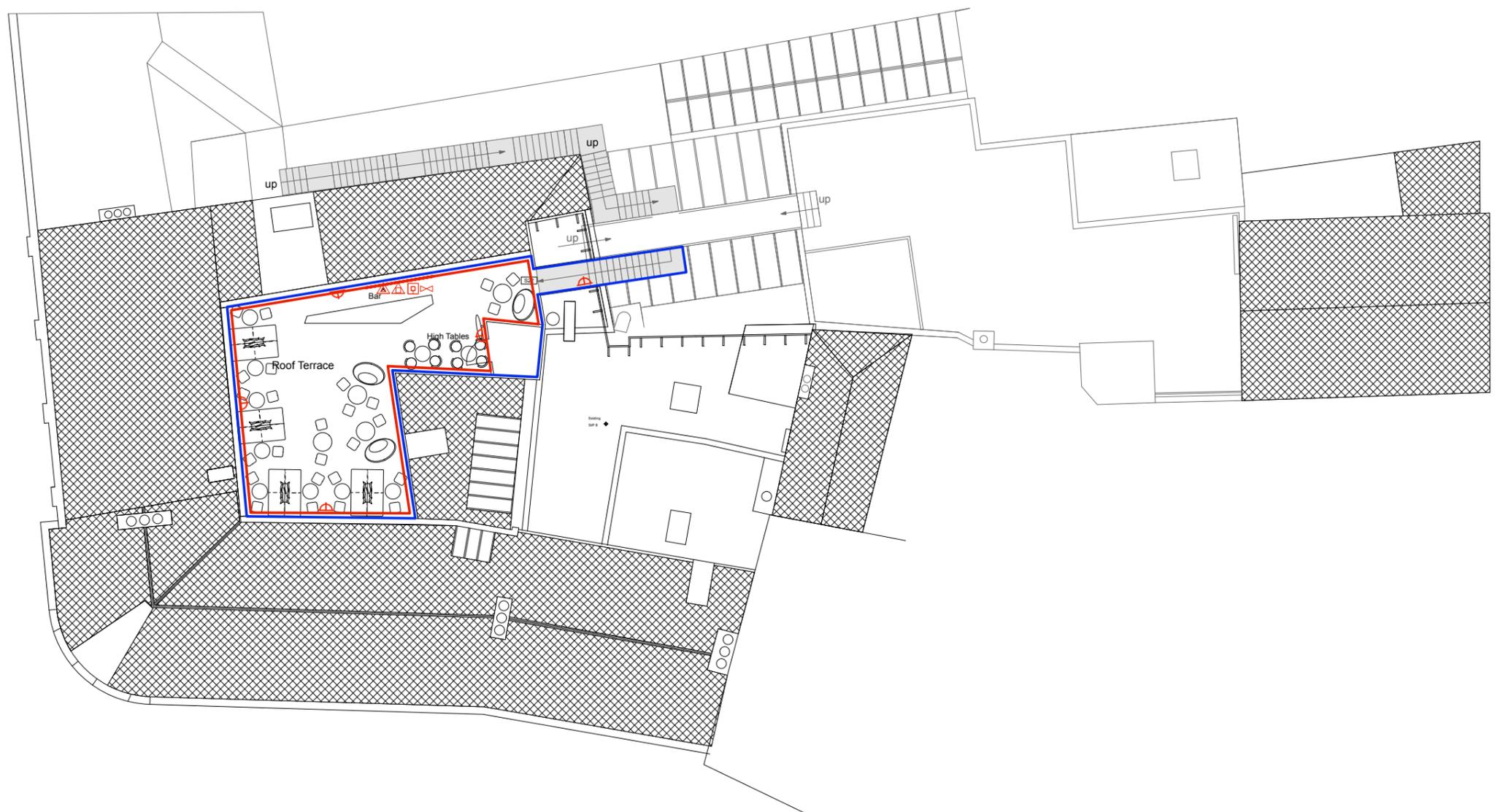


LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher	<b>FN</b>	Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Wall mounted Emergency Lights
	Fire Alarm Sounder		Fire Blanket		Disabled Alarm Call Point
	Emergency Break Glass Call Point	<b>PANIC</b>	Door Fitted With Panic Ironmongery		CCTV

LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.



ROOF PLAN Scale 1:100 @ A1

**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: CARLUCCIOS  
 Client: Tokio industries  
 Drawing Title: Roof - Licensing plan  
 Drawing Number: 568/P/035  
 Scale: 1:100 @ A1  
 Date: -  
 Drawn by: -

Revision	Date	Comments

The Sun Cross House 25 Winchester Road Hemley DD1 6AA  
 Tel: 01753 512121 Mobile: 07796 512121  
 e-mail: info@julian.co.uk Web: www.julian.co.uk

This drawing is the copyright of Julian and cannot be copied used or reproduced without express written permission.  
 All dimensions to be checked on site, do not scale from this drawing.



LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher	<b>FN</b>	Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Wall mounted Emergency Lights
	Fire Alarm Sounder		Fire Blanket		Disabled Alarm Call Point
	Emergency Break Glass Call Point	<b>PANIC</b>	Door Fitted With Panic Ironmongery		CCTV

LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.



SECOND FLOOR PLAN Scale 1:100 @ A1

JULIAN

JULIAN TRENDS (GROUP) LIMITED

Project: CARLUCCIOS

Client: Tokio industries

Drawing Title: 2nd floor - Licensing plan

Drawing Number: 568/P/025

Scale: 1:100 @ A1

Revision: -

Drawn by: \_\_\_\_\_

Revision	Date	Comments

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LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice		Fire Exit Keep Clear Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass		Fire Door Keep Shut Notice
	Heat Detector		Foam Fire Extinguisher		Emergency Flood Lights		Keep Locked Shut Notice
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Emergency Lights		Door Fitted With Panic Ironmongery
	Fire Alarm Sounder		Fire Blanket		Wall mounted Emergency Lights		
	Fire Alarm Panel		Wet Chemical Fire Extinguisher		Disabled Alarm Call Point		
	Emergency Break Glass Call Point		Push Bar Notice		CCTV		

LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.

Building Reference point



FIRST FLOOR PLAN Scale 1:100 @ A1

**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: CARLUCCIOS  
Client: Tokio Industries  
Drawing Title: 1st floor - Licensing plan  
Drawing Number: 568/P/026  
Scale: 1:100 @ A1  
Revision: -  
Drawn by: -  
Date: -

Revision	Date	Comments

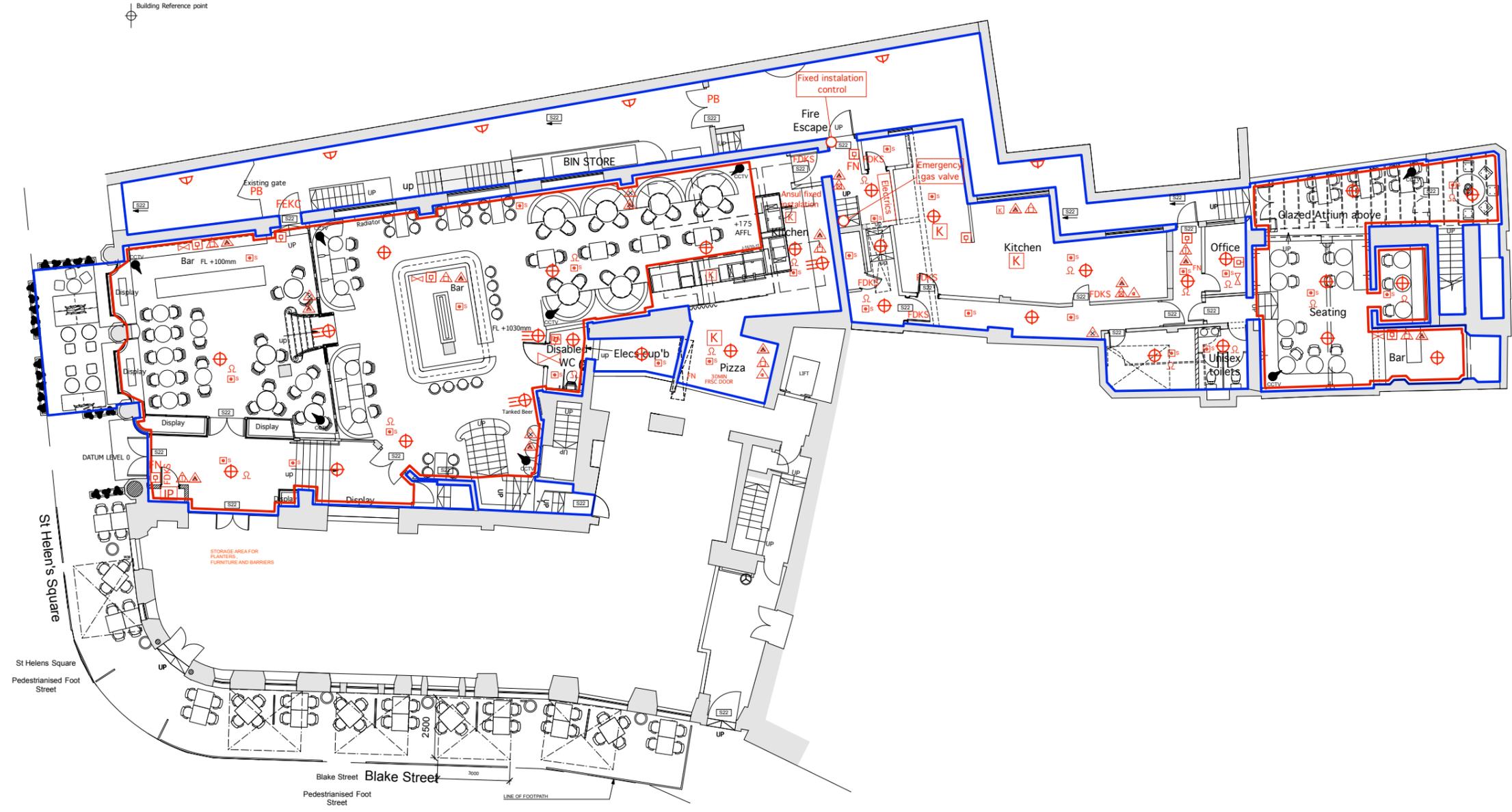
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LICENSING SYMBOLS

- |  |   |  |                                  |  |                                |  |  |
|--|---|--|----------------------------------|--|--------------------------------|--|--|
|  | Visual Warning Detector   |  | Water Fire Extinguisher          |  | Fire Notice                    |  | FEKC Fire Exit Keep Clear Notice         |
|  | Smoke Detector  |  | Carbon Dioxide Fire Extinguisher |  | Vision Panel 30mins Fire Glass |  | FDKS Fire Door Keep Shut Notice          |
|  | Heat Detector   |  | Foam Fire Extinguisher           |  | Emergency Flood Lights         |  | KLS Keep Locked Shut Notice              |
|  | Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD) |  | Dry Powder Fire Extinguisher     |  | Emergency Lights               |  | PANIC Door Fitted With Panic Ironmongery |
|  | Fire Alarm Sounder  |  | Fire Blanket                     |  | Wall mounted Emergency Lights  |  |  |
|  | Fire Alarm Panel  |  | Wet Chemical Fire Extinguisher   |  | Disabled Alarm Call Point      |  |  |
|  | Emergency Break Glass Call Point                                      |  | Push Bar Notice                  |  | CCTV                           |  |  |

LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.



GROUND FLOOR PLAN Scale 1:100 @ A1

**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: CARLUCCIOS  
 Client: Tokio Industries  
 Drawing Title: Ground floor plan-licensing plan  
 Drawing Number: 568/P/027  
 Scale: 1:100 @ A1  
 Date: -  
 Drawn by: -

Revision	Date	Comments

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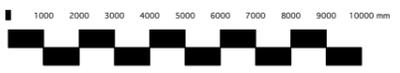


LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice		Fire Exit Keep Clear Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass		Fire Door Keep Shut Notice
	Heat Detector		Foam Fire Extinguisher		Emergency Flood Lights		Keep Locked Shut Notice
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	Fire Alarm Sounder		Fire Blanket		Wall mounted Emergency Lights		
	Fire Alarm Panel		Wet Chemical Fire Extinguisher		Disabled Alarm Call Point		
	Emergency Break Glass Call Point		Push Bar Notice		CCTV		

LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.



BASEMENT PLAN Scale 1:100 @ A1

**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: CARLUCCIOS  
 Client: Tokio Industries  
 Drawing Title: Basement - Licensing plan  
 Drawing Number: 568/P/028  
 Scale: 1:100 @ A1  
 Revision: -  
 Drawn by: -

Revision	Date	Comments

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## **Noise Management Proposal for Impossible bar & restaurant, 3 St Helen's Square, York, and the Impossible Motel, 5 St Helen's Square, York.**

by Dr Douglas Doherty of DACs Ltd

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## Introduction

Impossible is a previously licensed restaurant/tea rooms/speakeasy at 3 St Helen's Square, York and a proposed hotel & restaurant at 5 St Helen's Square, York.

Number 3 St Helen's Square is the old Terry's Building, and 5 St Helen's Square is the old TSB bank that traded last as a failed retail store 'Marchbrea'.

The area is "located in a prominent location in the middle of one of York's central historic squares frequented by both locals and tourists and already has a number of other licensed premises on the square itself that close between midnight and 1am. The area is a mix of restaurants, bars, business premises and residential premises at the roof top level."<sup>1</sup>, a statement which is a little misleading as the adjacent Hawkers holds 3am licensed nights and both Revolution and Pitcher hold nightly 3am licenses albeit that the latter are located off the 'Square' but the only customer entrance/exit is directly via the 'Square'

This report will assess the likely impact of both developments at 3 and 5 St Helen's Square.

## Elements to be considered

1. Ground Floor: tea rooms and a restaurant with existing licensed external seated area
2. First Floor: cocktail club with live music
3. Rear Ground & First Floor: 'Speakeasy': cocktail bar, lower rooftop terrace
4. Second Floor existing licensed Private Dining Room & upper rooftop terrace

## Ground Floor

Internally the music system is very low power and designed for background reproduction only.

## First Floor 'Cocktail / Supper Club'

The First Floor has a small 'Line Array' system of speakers, 'Line Array' speakers are expensive specialist which are purposefully very directional and focussed. They are placed facing into the bar, and we had them operating for 4 weeks (Dec 2<sup>nd</sup> to 30<sup>st</sup> 2020) without complaint. When music is being played the windows are closed. It should be noted that the façade is facing away from the nearby residences, so minimising any likelihood of nuisance. Although glazing exists along the rear of one side this is away from residential and into a commercial alleyway to the adjacent late licensed bar

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<sup>1</sup> From Premises Licence Grant by Michael Golightly

## **First Floor ‘Speakeasy’**

There are three main elements to the ‘Speakeasy’:

- Internal bars
- Lower Rooftop Terrace
- Upper Rooftop Terrace

The internal bars will have background music at low levels. This will be contained within the fabric of the building. The lower terrace faces a residence around 14m from the closest point. The upper terrace is around 40m from the residences opposite McDonalds. Each will have a maximum of 60 people due to their single means of fire escape.

## **Proposals for Both Ground Floor Bar/Restaurants**

### **Proposals for First Floor**

- Level management on the sound system to maintain the volume at or below an agreed level with the environmental health officer – we would consider a maximum of 100dBA as a sensible limit
- The use of a Sound Processor to physically limit the amplified noise output - this system will be locked to ensure DJs or Managers are unable to exceed this level
- When music is being played the windows to the outside will be closed
- Regular noise checks to take place around the external property to ensure no amplified noise can cause nuisance to the closest residential property.

### **Proposals for First / Second Floor Hotel**

- The Basement, First and Second floors of 5 St Helens Square are hotel rooms, no significant volume will be permitted in these rooms
- The hotel rooms actively add an important layer of self-policing to the restaurants below and adjacent supper club and roof terraces – these rooms will effectively become the nearest noise sensitive premises, and management will be required to control noise to prevent discomfort to their own hotel guests.

### **Proposals for ‘Speakeasy’ & Roof Terraces**

- Level management on the sound system for all areas to maintain the volume at or below an agreed level with the environmental health officer – we would consider a maximum of 80dBA to 85dBA as a sensible limit
- The use of a Sound Processor to physically limit the amplified noise output - this system will be locked to ensure DJs or Managers are unable to exceed this level
- Lower terrace – erect a solid noise barrier 2.2m high which will provide a reduction of 25dB; if the terrace has 60 people all talking, the level produced is 83dBLAeq
- The suggestion that this terrace ceases regular activity at 23:00hrs, a time which is generally accepted as the watershed between daytime and nighttime sound levels.

**Lower terrace reduction with distance** **Resulting LAeq value (dB)**

Normal speaking voice at 1m	65dB
Noise level of 60 people	83dB
Level at windows opposite assuming 14m distance	58dB
Transmission loss to residential windows	-24dB
a dimension of terrace	1.5
b dimension of terrace	4

- The resultant maximum level at the façade of the nearby residence would be 58dB less the barrier reduction and the smaller reduction from the overhead canopies and would certainly be less than the 50 -55dBLAeq recommended by the WHO for daytime levels in gardens/outdoor areas.
- Upper terrace – the nearest residence is opposite McDonalds, 40m away from the terrace. As can be seen from the calculation below, the maximum level at their windows is 49dB. This does not allow for any reducing effect of the partial barrier of the hotel roof. It should also be noted that McDonalds opposite is open 24 hours, and has people queuing up outside so generating considerable noise which will be reflected between the façades of the buildings.
- The level at the residence will again be less than the 50 -55dBLAeq recommended by the WHO for daytime levels in gardens/outdoor areas.

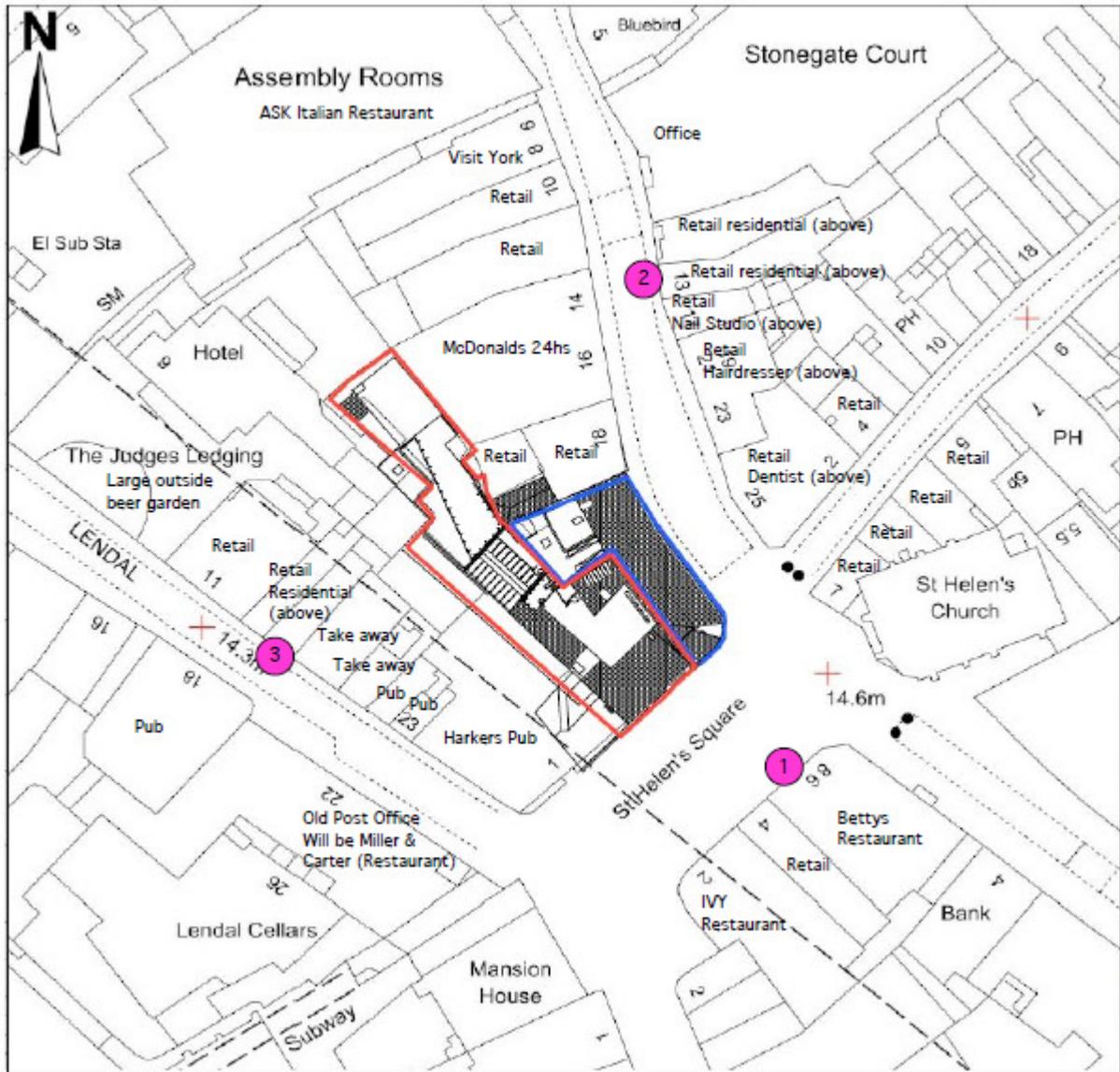
**Upper Terrace reduction with distance** **Resulting LAeq value (dB)**

Normal speaking voice at 1m	65dB
Noise level of 60 people	83dB
Level at windows opposite McDonalds assuming 40m distance	49dB
Transmission loss to residential windows	-34dB
a dimension of terrace	1.5
b dimension of terrace	4

## Proposals for general management of sound levels

- Managers will have an app on their phones to measure sound pressure levels. Though not laboratory accurate each manager's phone will be tested using a class 1 measuring device (see Appendix 1) and results noted. In general, these devices are accurate enough for indicative readings to alert for deviations from specified levels. Several positions for managers to check levels will be prepared eg on first floor at bar, outside in front of 3 St Helen's Square. Where there are noise levels above the expected, the managers will take steps to correct them. Below is a map indicating what we consider to be the three most sensitive points in the area that will be monitored by management.

Map indicating sensitive points (1, 2 and 3) to be monitored



- Managers, Security and door staff will be briefed on their specific duties regarding noise control
- Any complaints will be dealt with following a procedure that will include an immediate reduction of any noise causing a nuisance, a detailed description of the problem, and proposals to ensure it is not repeated
- Any noise complaints will be logged; any repeated complaints will be escalated to senior management for investigation and resolution.

## Calculation for sound level reduction over distance

The calculation for the reduction in sound level is based on the size of the 'source', which we have reckoned to be 1.5m high and 4m wide. Where a = height, and b = width, and r = the distance from the source to the nearest residence, the calculation is:

No reduction between 1m to  $a/\pi$

Line source between  $a/\pi$  and  $b/\pi$

Point source between  $b/\pi$  and r

Sound Level at nearest residence =  $83\text{dBA} - 10 \times \log_{10}((b/\pi)/(a/\pi))^2 - 20 \times \log_{10}(r/(b/\pi))^3$

## Noise Levels in the context of PPG24, WHO recommendations and BS8233

The standards above (PPG24, the World Health Organisation and BS8233) recommend similar sound pressure levels in gardens during the day (7am – 11pm), of between 50dBLAeq and 55dBLAeq.

The noise from the terraces will be below the minimum recommended level in both cases so will not constitute a nuisance.

Dr Douglas Doherty, DACS Ltd  
3/2/2021

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<sup>2</sup> Line source calculation

<sup>3</sup> Point source calculation

## Appendix 1

### ***Equipment used***

#### # Hardware Configuration

Device Info:	XL2, SNo. A2A-04060-D1, FW2.10
Mic Type:	NTi Audio M2210, S/N: 1578, Factory adjusted
Mic Sensitivity:	19.9 mV/Pa

#### XL2 + M2210:

- Class 1 frequency response according IEC 61672, IEC 60651
- Type 1 frequency response according ANSI S1.4

#### Conforms with Standards:

- IEC 61672, IEC 60651, IEC 60804, IEC 61260 class 0, ISO 2969
- China: GB/T 3785:2010, GB/T 3241, GB 3096-2008, GB 50526, GB-T\_4959-1995
- Germany: DIN 15905-5, DIN 45645-2, optional: DIN 45645-1
- Japan: JIS C1509-1:2005, JIS C 1513 class 1, JIS C 1514 class 0
- Switzerland: SLV 2007
- US: ANSI S1.4, ANSI S1.43, ANSI S1.11-2004 class 1
- International IEC standards are adopted as European standards and the letters IEC are replaced by EN. XL2 conforms to these EN standards.

## Appendix 2

### ***Acoustic Terms***

#### **dB(A)**

The human ear does not hear all frequencies with the same intensity. It is most sensitive to sounds in the 500Hz-8kHz range. Above and below this range the ear becomes progressively less sensitive. To compensate for this, sound level meters incorporate electronic filtering to correspond with the varying sensitivity of the ear. This filtering is called **A-weighting** and Sound Pressure Levels obtained with this weighting are referred to as **A-weighted** and signified as **dB(A)**.

#### **dB<sub>L<sub>Aeq(t)</sub></sub>**

This figure is the equivalent continuous sound pressure level. It is an average of the total sound energy measured over a specific time period.

#### **dB<sub>LA10</sub> and dB<sub>LA90</sub>**

These indicate the level exceeded for 10% and 90% of the time respectively. These statistical parameters can tell us a lot about the nature of the sound. The LA10 figure is mainly used to measure road traffic noise, reflecting as it does infrequent noise sources. The LA90 figure is usually used to measure environmental background noise. Where the LA90 figure is low it indicates irregular and variable background noise, and where close to the LAeq figure, it indicates a fairly constant background.

## **TL**

**Transmission Loss (TL)** is a figure which rates the ability of a material to block sound. It is usually measured in 1/3 octave band intervals. Mathematically it is defined as the ratio of the sound energy transmitted through a material to the sound energy incident on the material.

The Transmission Loss (TL) of a material is measured by mounting a sample of the material in an opening of a wall separating two reverberant test rooms. Broadband noise is played in one room (source). The difference between the sound levels in the source room and the other (receiving) room is defined as the **Noise Reduction (NR)**. As the frequency and/or density increases the Transmission Loss also increases. The density of the material is directly related to Transmission Loss.

## **SRI**

The ASTM (American) 1/3rd octave Sound Transmission Losses measured above are referred to by the European ISO standards as **Sound Reduction Indices (R)**. ISO 717/1 defines a standard contour and a procedure for fitting the contour to the measured sound reduction indices to determine a single-number rating of a sound transmission loss spectrum. This rating is called the **Weighted Sound Reduction Index (R<sub>w</sub>)**. Unlike the STC contour, the R<sub>w</sub> contour is defined over a slightly lower frequency range of 100 Hz to 3.15 kHz.

The contour fitting procedure requires that:

- The sound reduction values be determined to one decimal place
- The contour be raised in 1 dB increments to a point where the average deficiency over the contour frequency range is as close to, but not exceeding, 2.0 dB.
- If an 8dB or larger deficiency exists in the sound reduction index data, then the deficiency amount in dB and the frequencies at which they occur must be reported.
- The average deficiency is the sum of all deficiencies in all frequency bands divided by 16, the number of 1/3rd octave frequency bands spanned by the contour.
- The actual R<sub>w</sub> value is equal to the fitted contour value at 500 Hz.

**It should be noted** that the SRI value has been developed to approximate the performance of a material in reducing the transmission of speech. The SRI value obtained from the TL data is useful for a quick comparison of materials but does not give a true idea with respect to non-speech sounds such as music, traffic, trains, aircraft etc.

## **STC**

STC is the American ASTM, standard E413, equivalent of SRI and is based on the averaged sound insulation achieved between 125Hz and 4kHz. As before, the standard defines a procedure for determining the STC rating for a TL spectrum by fitting a contour to the 1/3rd octave data. This procedure involves raising or lowering the contour following these rules:

The contour may not be raised above the point at which the TL in any 1/3rd octave band falls more than 8dB below the contour.

The contour may not be raised above the point at which the total number of deficiencies is greater than 32dB.

A deficiency occurs when the TL data in any 1/3rd octave band falls below the contour by 1dB.

The STC rating resulting from the contour fitting procedure is the TL value of the contour at 500Hz.

**It should be noted** that the STC value has been developed to approximate the performance of a

material in reducing the transmission of speech. The STC value obtained from the TL data is useful for a quick comparison of materials but does not give a true idea with respect to non-speech sounds such as music, traffic, trains, aircraft etc.

### **NRC**

The Noise Reduction Coefficient defines how much sound specific materials absorb. It is the average sound absorption between 250Hz - 2kHz rounded to the nearest 0.05.

This is analogous to a room's finishes. Just as various colors of paint, or textures, visually alter a room, various materials with different NRC ratings, such as carpet or tile, audibly alter a room. A material with a low NRC rating (tile) absorbs little sound and a material with a higher NRC rating (carpet) absorbs more sound.

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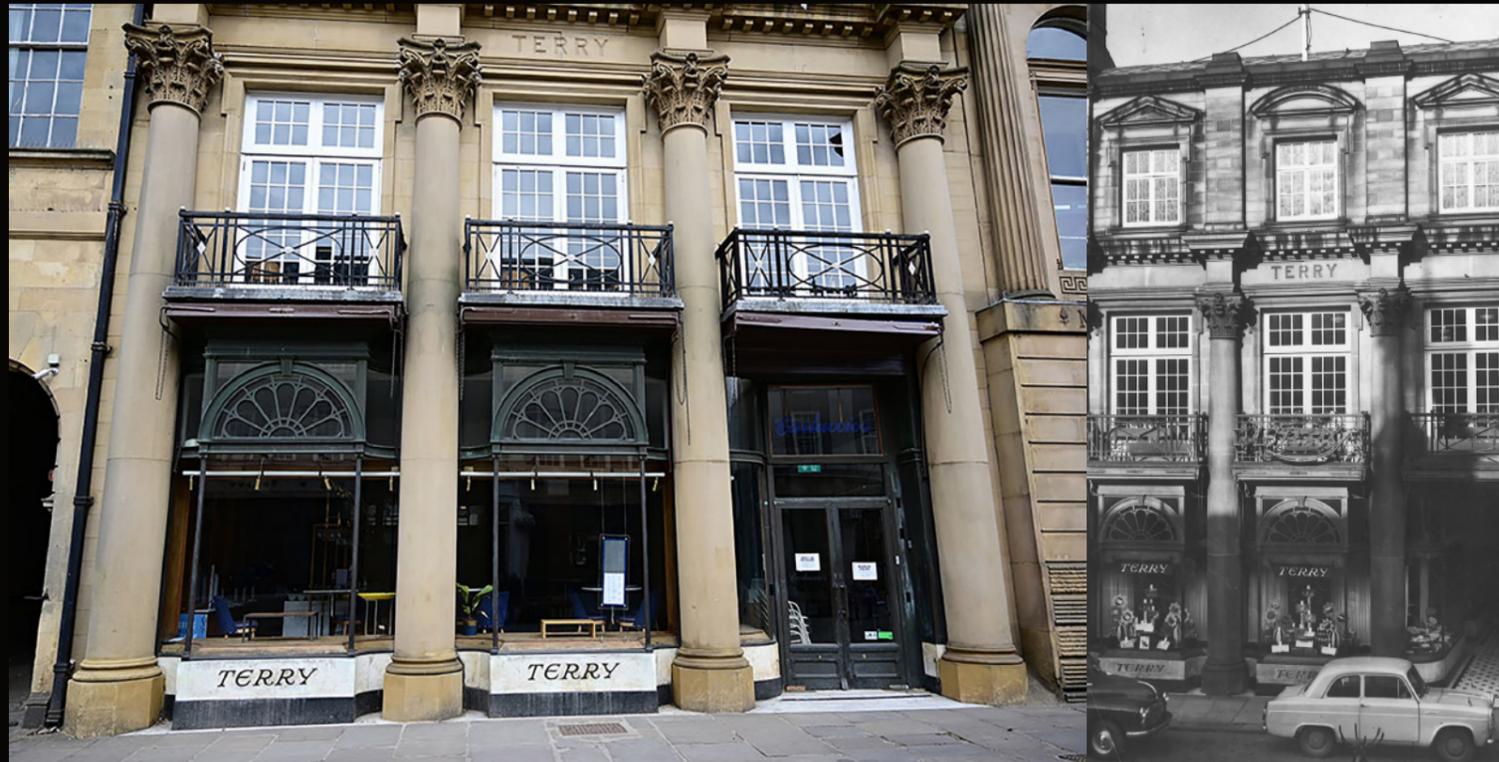
## LICENSING APPLICATIONS



This is a set of TWO Licensing Applications:

**(a) Impossible Restaurant, Supper Club and Speakeasy**  
3 St Helens Square and currently licensed as Carluccios.

**(b) Impossible Hotel and Restaurant**  
5 St Helens Square, York and was previously Marchbrea Kilt shop  
and before that TSB Bank & Offices.



## Joseph Terry & Sons

TERRY'S OF YORK, the confectioner and chocolatier, was founded in 1767 at Bootham Bar selling cough lozenges and lemon and orange sweets initially called Baydon & Berry. Joseph Terry was born in 1793 and came to York to serve as an apprentice apothecary in either Stonegate or Surrogate. In 1823 he married into the Baydon & Berry family. In 1825, following the death of Robert Berry, Terry agreed a new partnership and renamed as Terry & Berry, two years later Berry left the business and Terry became the sole owner. The company operated in York until 2005 when production moved to Kraft Foods 'Suchard' factory in Belgium and other EU countries.

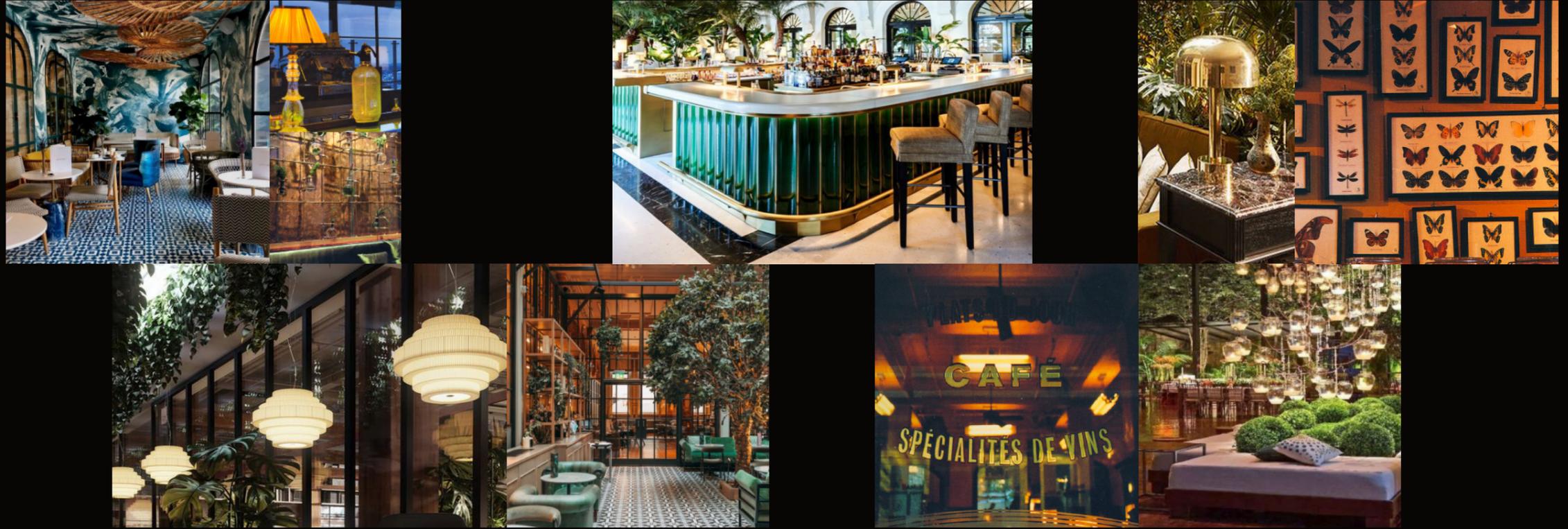
The business was based in St Helens Square as early as 1818 in a building that served as both shop and factory until 1864 when production was moved to Clementhorpe. The St Helens Square building was remodelled into the present day shop, restaurant and ballroom in 1922 when the present day Ashlar Stone and Corinthian columns were added which still bear the Terry's name inscription.

The Restaurant and Ballroom closed in 1981 when the building was sold to the adjacent TSB Bank who converted the restaurant into offices, before reopening as a Carluccio's restaurant in March 2017.

The famous 'Terry's Chocolate Orange' was introduced at this site in 1932, with Terrys All Gold also being introduced here in the mid 1930s.

We are told that the incredible wood panelling, the sweeping staircases, and Venetian dome were built by the same people who built the Titanic.

The property was GRADE II Listed in 1974 and stands at the centre of York's most impressive square. The building was awarded its BLUE PLAQUE by York Civic Trust in August 2017 being unveiled by Anthony Terry the 'great-great-great grandson' of Joseph Terry.



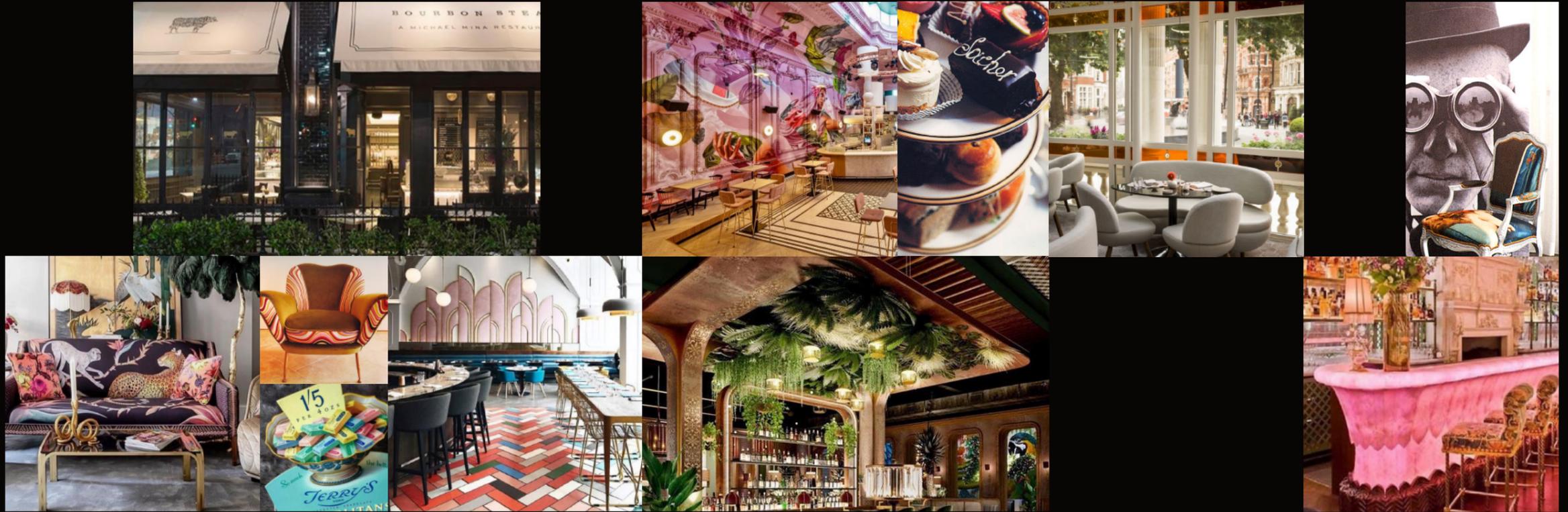
## Our Vision LICENCE A – The Former Carluccio’s

Carluccio’s just did not work, it felt like a national corporate brand was being forced into this beautiful historic building. York as a city demands a more independent, bespoke and quirky business that compliments the building and locality perfectly.

We have developed that spirit of ‘Impossibility’, that pride and vision both within the building and in York itself. We believe that Joseph Terry would be delighted with our reimagining of the building - housing its historical grandeur in a modern context.

The property is one of significant size - only a fraction of the space was used or seen by Carluccio’s.

It is a warren of corridors and space, which is why it is best to consider this side of the property in three separate phases.



## Phase I Tea Rooms / Restaurant and Supper Club

This essentially is the space already licensed by Carluccio's - we see the space as an all day, all evening and then transforming into the late night establishment.

The front area is an all day Tea Rooms and chocolatier overlooking the impressive square - all cakes, pastries and nibbles.

Up the short steps you will find the ground floor restaurant with its open gallery kitchen and impressive central island bar with an incredible brass and glass chandelier gantry.

Moving up the sweeping staircase with its impressive wood panelling brings you back to the ballroom. We will retain the original sprung dancefloor with a new horseshoe gallery bar with a second opulent brass gantry. This will deliver high quality cocktails to an evening dining audience moving to a supper club and jazz band accompaniment.

The oversized seating booths and central booth island are part of the licensing requirement and will remain as detailed - only the tall pedestal tables to the dancefloor / stage area may be moved for busier nights, weddings or corporate functions.



## Phase II The Boardroom & Roof Terrace

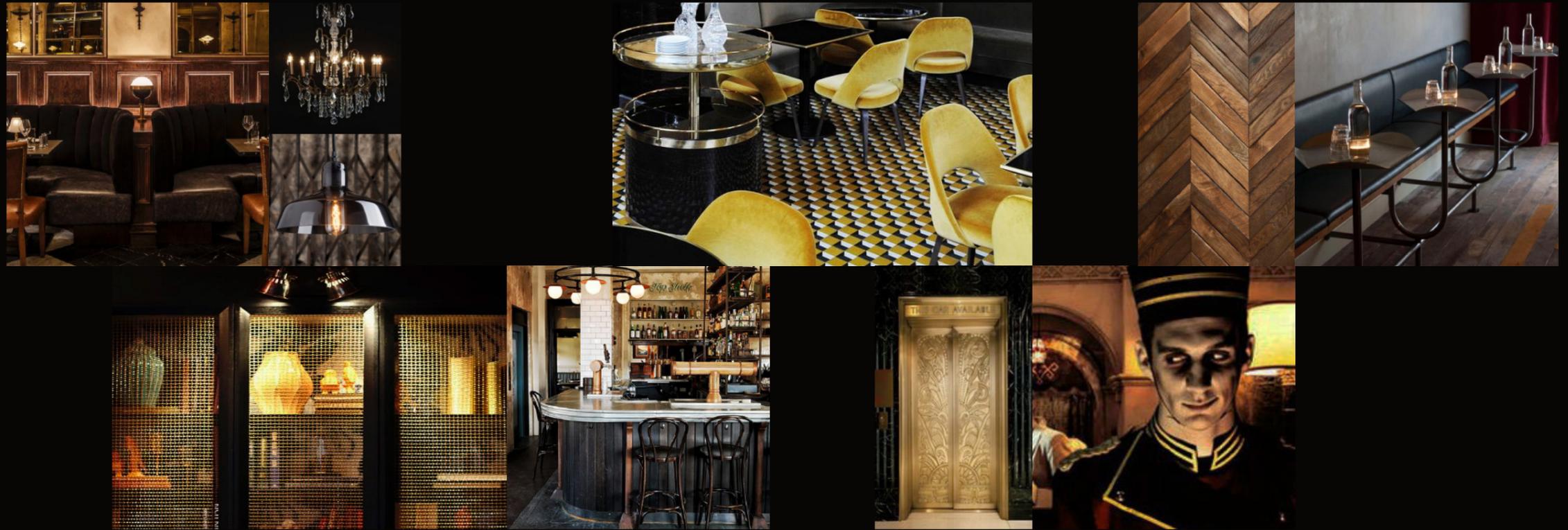
Above the incredible ballroom is another fantastical timber staircase that takes us up to an incredible 'Hogwarts style' boardroom with stone fireplace and original herringbone oak flooring. Our vision for this room is PDR (Private Dining Room) and function room for weddings and corporate events.

Although this room is currently licensed under the Carluccio's licensed plans - it was used as the only fire exit that was a difficult bridge over and through Harkers, which is not acceptable according to modern regulations. To enable this room to be lawfully occupied we have devised a new gantry and external staircase which forms new exit stairs

into the passageway / bin store area between ourselves and Harkers next door.

A second staircase then takes us up off the same gantry to a roof terrace with amazing 'Dickensian 360 views of the 'Mary Poppins' chimney pots over the city and on towards an amazing view of the York Minster in all of its beauty. The space on the rooftop is limited to 60 people due to its single means of escape - with seating and fire pits and small outdoor cocktail bar.

These carefully considered exit and roof interventions require planning and Listed Building Consent which are both currently in their application processes.



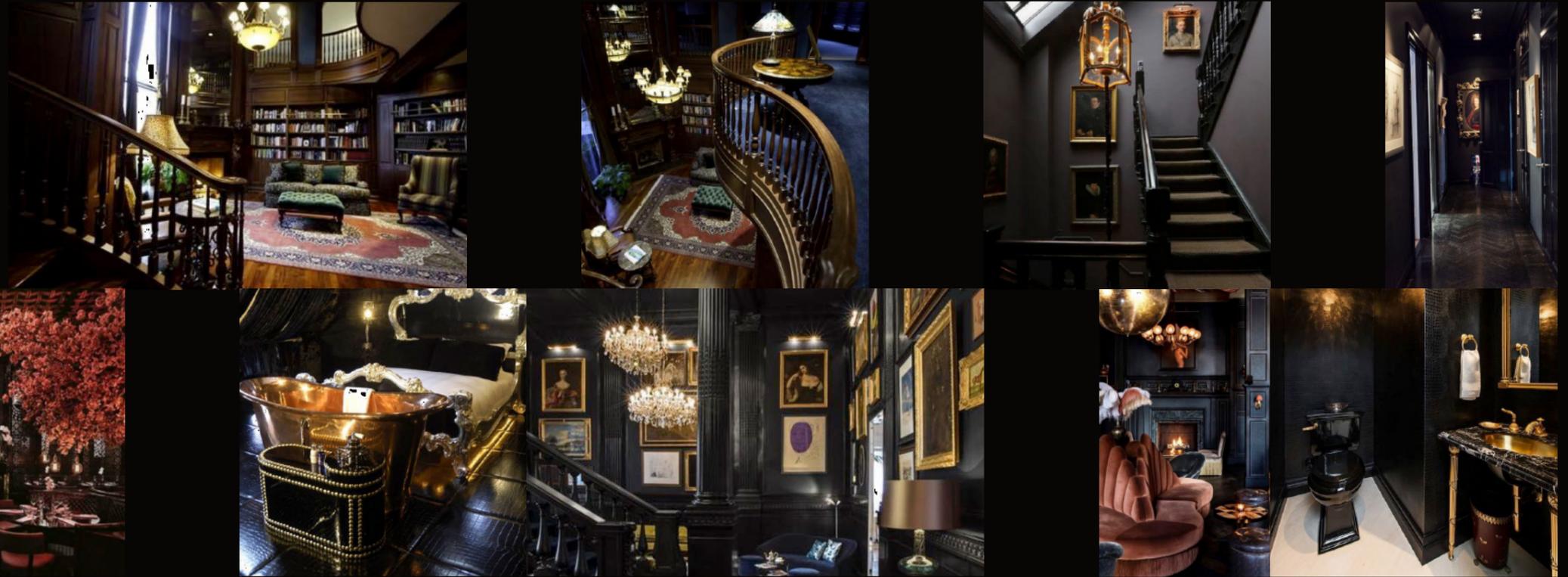
## Phase III Apothecary & Speakeasy

To the right hand side of the building is an incredible stone archway with real gas fired lamp leading to an alleyway and bin storage which urgently needs tidying up with our new storage solution under the new rooftop fire escape stairs. The winding alley takes adventurers down a winding glazed brick alleyway to the rear of the building and into what was previously the main Bank Vault door of the Yorkshire & Trustee Savings Bank - a new glazed courtyard and up to secret apothecary setback in time.

Speakeasies were secret hidden drinking dens in New York during 'prohibition' when alcohol was illegal so moonshiners would illegally distill their own alcohol - it tasted horrible so the taste would be hidden using overly powerful fruits and other flavours and medicines - the creation of the 'cocktail' being a cocktail of ingredients and the apothecary skills that Joseph Terry would be familiar with.

We have based our vision in 1930s New York - around a 'speakeasy' we love called 'Death&Co' in the Lower East Side. Low overly comfortable small seating with tiny tables and almost totally

candle lit - no lights and the cities best bartenders using traditional apothecary methods and their own imaginary cocktail stories.



## Our Vision LICENCE B – The Former York Savings Bank

The second licence is the conversion of what was last the Marchbrae Scottish Kilt retail store, and historically the TSB and before that York County Savings Bank.

Only the ground floor was used for the last retail use - our vision hopes to bring the full property back into use and back into the Rating system generating income back into the city. Empty Listed Buildings do not pay 'Empty Rates' so the upper floors currently hold no financial contribution back to the city.

Our vision is for a super-boutique hotel - ridiculously over the top ostentatious rooms - copper bath tubs, four poster beds, gallery library and sitting room, all based around hotel concepts we love like 'Crazy Bear' and 'The Bells Leeds' upstairs of first and second floor.

With a very different approach to the historic bank vaults in the basement - these will be left raw, almost untouched and sold as experience rooms, sleeping in the haunted 1818 old English bank vault in the centre of our historic city.

A separate hotel entrance to Blake Street is manned by a traditional Bell Boy during the day who will help collect your bags from the turning circle to the top of Blake Street when the 'Walking Street' is active before 8pm daily, leading up to a first floor reception by stairs or historically refurbished lift, following check-in you will be shown to your quirky room selection - be that either upstairs in one of our 12 individual and unique suites or down into the depths of one of our 5 haunted basement bank vaults. Either way, the experience is one-off, original and full of imagination. Just how York should be.

## Investment

After one of the most hostile years we have all experienced - especially for retail and hospitality - now we are seeing closure of bars, restaurants and retail nationally at an alarming pace. Carluccio's and Marchbrae both went into administration during the first lockdown and could have stood empty for some time.

We are investing £3.5m to create an independent and bespoke offering for York - generating employment for 120 people and returning these otherwise empty properties back into full commercial use, and in doing so adding two listed buildings back into the Rating system.

## Special Considerations

We understand the property sits within the Cumulative Impact Area and the duty is to ensure we add no further burden to that stress area.

We believe that 3 St Helens Square was purpose built as a Ballroom in 1922 and under the council's own policy should have been considered capable of inclusion to the CIA stress area - we also contend that since the CIA policy was introduced a great deal of premises have permanently closed or have been redeveloped away from licensed use, so overall capacity has reduced.

We asked initially for 3am on all nights - but after consultation with Police and EHO we have a reduced this request to 1am with a single weekly Saturday night until 3am to allow us to establish our venture as a high-end over 30s operation. We also contend that the nature of the opulent adjacent hotel creates a self-regulatory issue with regards to noise and local disturbance - we are essentially our own nearest sensitive property.

Other nearby residential properties are located next to a very busy 24hr McDonald's. Between us and those businesses, we received no objections or complaints during our one month operation in December 2020. And there were no residential or commercial objections to the applications.

We ask the committee to welcome new investment to the city and grant our reduced application.

## Accreditations

Tokyo Industries operate 45 restaurants, bars and live music venues throughout the UK, with International venues in Los Angeles, Palm Springs, Dubai, Croatia and Ibiza.

Tokyo Industries founder Aaron Mellor was a founding director of the NIGHT TIME INDUSTRIES ASSOCIATION [www.NTIA.co.uk](http://www.NTIA.co.uk). The Government & ACPO advisory group for late night leisure in the UK, & largely responsible for the creation of the 'Night Czar' roles in London and Manchester.

Aaron Mellor sits on UK Government DCMS & BEIS Select Committee for LATE NIGHT LEISURE in the COVID strategy groups.

Holding membership and board positions within UKHOSPITALITY (Formally ALMR) and BEDA (British Entertainment and Dance Association)

Aaron has been awarded a coveted 'Leader in Residence' title at the UCLan and is the founder and course lecturer for Msc Music Industry Management at UCLan.

## National & International Awards

### NATIONAL & INTERNATIONAL AWARDS

UK Hospitality INDUSTRY ICON 2018 / ALMR  
LIFETIME ACHIEVEMENT AWARD (Aaron Mellor)  
Restaurant Awards: Innovator of the Year 2018 (Aaron Mellor)  
International Licensed Trade Awards: Best Multiple Operator 2018  
UKHospitality Best New Venue 2018 (Impossible Manchester)  
Publican Awards: Best New Bar 2018 (Impossible Manchester)  
Best Bar None: Various winners across numerous venues

Europe Best Festival Production 2017 (LOST VILLAGE FESTIVAL)  
Europe Best Boutique Festival 2017 (LOST VILLAGE FESTIVAL)  
Restaurant & Bar Design Awards - Acclaimed 2017 (Get Baked Leeds))

DJ Mag 11th Best Club in the World 2016 (DIGITAL Newcastle)  
UKHospitality Best UK Entertainment Operator 2016 (Tokyo Industries)

Class Magazine Bar Tender of the Year 2012 (TOKYO Newcastle)  
DJ Mag Best of British: Best Small Venue 2011 (DIGITAL BRIGHTON)  
Theme Magazine Best New Bar 2010 (TOKYO Newcastle)  
DJ Mag Best of British: Best Large Venue 2010, (DIGITAL Newcastle)  
Bar Design Awards - Winner 2009/10 (theCUT Newcastle)

BEDA Awards UK Best SoundSystem 2006 (DIGITAL Newcastle)  
PNN Most Consistent Promoter 2005 (Stonelove Newcastle)  
Theme Best New Bar North 2002 (STEREO Newcastle)  
BEDA Awards UK Best Nightclub 2002 (Atomic Ashton)

New York Times: Voted 7th Best 'Must Visit Places' in Europe  
(Factory Manchester)

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**Licensing Hearing 8 April 2021**

**Additional documents submitted by Public Protection for 3 St  
Helen's Square**

1. Additional representations
2. Set of 4 photographs

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**Additional representation for the Premises License application for 3  
St Helen's Square, York**

Further to my previous representations in relation to 3 St Helens Square, York, I am submitting additional information to support my representation on the grounds of public nuisance. A planning application for the change of use of the premises and a listed building application have been made and these have not yet been decided.

There is an expectation when premises license applications are made that planning permission has already been obtained. This is important as the planning decision may restrict the type and amount of mitigation that can be implemented. It also helps to guide us in recommending appropriate licensing conditions for noise control. This is an old listed building and the sound insulation properties of the building envelope may not be suitable for controlling the breakout of noise from the licensable activities and we are awaiting further information for the planning applications in relation to this. Consequently until the planning decisions are made, I am unable to recommend appropriate licensing conditions in terms of controlling noise from music.

Michael Golightly  
**Technical Officer**

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## Licensing Act 2003 Sub Committee

8 February 2021

Report from the Assistant Director – Planning & Public Protection

### Section 18(3) (a) Application for a premises licence for Impossible Motel & Restaurant, 5 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-67636
3. Name of applicant: Tokyo Industries Ltd
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
Plays (indoors and outdoors)	0800 – 0300 everyday
Films (indoors)	0800 – 0300 everyday
Indoor Sporting events	0800 – 0300 everyday
Live music (indoors)	0800 – 0300 everyday
Recorded music (Indoors)	0800 – 0300 everyday
Performance of dance (indoors)	0800 – 0300 everyday
Late night refreshment (indoors and outdoors)	2300 – 0500 everyday
Sale of alcohol (on and off sales)	0800 – 0300 everyday 24 hours for hotel guests
Opening times	0600 – 0330 everyday 24 hours for hotel guests

## **Background**

6. A copy of the application can be found at **Annex 1**, including a plan(s) of the premises.
7. The premises is described in the application as a boutique hotel with ground floor restaurant/bar and pavement terrace.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 2**.

## **Promotion of Licensing Objectives**

9. 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 'The Impossible Motel, 5 St Helens Square, York, YO1 8QN Suggested Enhanced Condition Schedule considering CIZ/CIA which appears in full at Annex 3.**
10. General  
See Annex 3.
11. The Prevention of Crime and Disorder  
See Annex 3.
12. Public Safety  
See Annex 3.
13. The Prevention of Public Nuisance  
See Annex 3.
14. The Protection of Children From Harm  
See Annex 3.

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.

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**

15. 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 4**. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at **Annex 5**.

### **Consultation**

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

### **Summary of Representations made by Responsible Authorities**

18. 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.
19. The Police representation is attached at **Annex 6**.

20. 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.
21. The Public Protection representation is attached at **Annex 7**.
22. 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.
23. The Licensing Authority representation is attached at **Annex 8**.

### **Summary of Representations made by Other Parties**

24. There have been no other representations received from other persons.
25. A map showing the general area around the venue is attached at **Annex 11**.

### **Options**

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

### **Analysis**

31. The following could be the result of any decision made this Sub Committee:-
32. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
33. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 4: 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:**  
Helen Sefton  
Senior Licensing Officer  
  
Tel No. 01904 551526

**Chief Officer Responsible for the report:**  
Mike Slater  
Assistant Director for Planning and Public Protection.

**Report  
Approved**



**18/1/2021**

**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** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** - Operating Schedule
- Annex 4** - Cumulative Impact
- Annex 5** - Licensing Policy Annex
- Annex 6** - North Yorkshire Police Representation
- Annex 7** - Public Protection Representation
- Annex 8** - Licensing Authority Representation
- Annex 9** - Legislation and Policy Considerations
- Annex 10** - Mandatory Conditions
- Annex 11** - Map of area

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**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street,  
York, YO10 3DS

**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   Tokyo Industries (Yorkshire) Ltd  

*(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			
IMPOSSIBLE MOTEL & RESTAURANT (Formally MARCHBRAE / TSB BANK) 5 ST HELENS SQUARE			
<b>Post town</b>	YORK	<b>Postcode</b>	YO1 8QN

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ 109,000

**Part 2 - Applicant details**

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

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
- i as a limited company/limited liability partnership  please complete section (B)
- ii as a partnership (other than limited liability)  please complete section (B)
- iii as an unincorporated association or  please complete section (B)

- iv other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- c) 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)

<input type="checkbox"/> Mr	<input type="checkbox"/> Mrs	<input type="checkbox"/> Miss	<input type="checkbox"/> Ms	Other Title (for example, Rev)
<b>Surname</b>		<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/> Please tick yes		
<b>Nationality</b>				
Current residential address if different from premises address				
Post town		Postcode		
<b>Daytime contact telephone number</b>				
<b>E-mail address (optional)</b>				
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see				

note 15 for information)

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		<input type="checkbox"/>	Please tick yes
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(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.

<b>Name</b>	Tokyo Industries (Yorkshire) Ltd
<b>Address</b>	1 City Road East Manchester M15 4PN
<b>Registered number (where applicable)</b>	06608845

Description of applicant (for example, partnership, company, unincorporated association etc.)	
Limited Company	
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
N	/	A

Please give a general description of the premises (please read guidance note 1)

Boutique Hotel with  
Ground Floor Restaurant / Bar & Pavement Terrace

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N / A
-------

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)	<input checked="" type="checkbox"/>
b) films (if ticking yes, fill in box B)	<input checked="" type="checkbox"/>
c) indoor sporting events (if ticking yes, fill in box C)	<input checked="" type="checkbox"/>
d) boxing or wrestling entertainment (if ticking yes, fill in box D)	<input type="checkbox"/>
e) live music (if ticking yes, fill in box E)	<input checked="" type="checkbox"/>

- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 7)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	08:00	03:00	<b>Please give further details here</b> (please read guidance note 4) The use of immersive performers, actors and / or plays		
Tue	08:00	03:00			
Wed	08:00	03:00	<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon	08:00	03:00	<b>Please give further details here</b> (please read guidance note 4)		
Tue	08:00	03:00			
Wed	08:00	03:00	<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

## 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	08:00	03:00	
Tue	08:00	03:00	<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed	08:00	03:00	
Thur	08:00	03:00	<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	08:00	03:00	
Sat	08:00	03:00	
Sun	08:00	03:00	

**D**

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

## E

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of live music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	08:00	03:00	<b>Please give further details here</b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	08:00	03:00			
Wed	08:00	03:00	<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<b>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</b> (please read guidance note 6)		
Sat	08:00	03:00			
Sun	08:00	03:00			

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b>Will the playing of recorded music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon	08:00	03:00			
Tue	08:00	03:00			
			<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
Wed	08:00	03:00			
Thur	08:00	03:00			
			<b><u>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</u></b> (please read guidance note 6)		
Fri	08:00	03:00			
Sat	08:00	03:00			
Sun	08:00	03:00			

**G**

Performances of dance Standard days and timings (please read guidance note 7)			Will the performance of dance take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	08:00	03:00	<u>Please give further details here</u> (please read guidance note 4)		
Tue	08:00	03:00			
Wed	08:00	03:00	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
Thur	08:00	03:00			
Fri	08:00	03:00	<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	08:00	03:00			
Sun	08:00	03:00			

**H**

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 1)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b>Please give further details here</b> (please read guidance note 4)</p>		
Wed					
Thur			<p><b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 5)</p>		
Fri					
Sat			<p><b>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</b> (please read guidance note 6)</p>		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	23:00	05:00	<b>Please give further details here</b> (please read guidance note 4)  24Hr Room Service to Hotel		
Tue	23:00	05:00			
Wed	23:00	05:00	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5)		
Thur	23:00	05:00			
Fri	23:00	05:00	<b>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</b> (please read guidance note 6)  24Hr Room Service to Hotel		
Sat	23:00	05:00			
Sun	23:00	05:00			

J

Supply of alcohol Standard days and timings (please read guidance note 7)			<u>Will the supply of alcohol be for consumption</u> – <u>please tick</u> (please read guidance note 8)	On the premises	<input type="checkbox"/>
Day	Start	Finish		Off the premises	<input type="checkbox"/>
Mon	08:00	03:00	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 5)	Both	<input checked="" type="checkbox"/>
Tue	08:00	03:00			
Wed	08:00	03:00			
Thur	08:00	03:00	<u>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</u> (please read guidance note 6)		
Fri	08:00	03:00			
Sat	08:00	03:00			
Sun	08:00	03:00			

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):

<b>Name</b>	Stephanie Powell
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b>	138130
<b>Issuing licensing authority (if known)</b>	Manchester

**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).**

No adult entertainment or services will take place while any under 18 are allowed in that area.  
Challenge 21 policy is adopted

Forms of entertainment that may only occur to an over 18s 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 only to the age appropriate audience

**L**

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5)
Day	Start	Finish	
Mon	06:00	03:30	Restaurant / Bar times shown on left 24Hr to Hotel Guests  <b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 6)  Restaurant / Bar times shown on left 24Hr to Hotel Guests
Tue	06:00	03:30	
Wed	06:00	03:30	
Thur	06:00	03:30	
Fri	06:00	03:30	
Sat	06:00	03:30	
Sun	06:00	03:30	

**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)**

As Attached Operating Schedule

**b) The prevention of crime and disorder**

As Attached Operating Schedule

**c) Public safety**

As Attached Operating Schedule

**d) The prevention of public nuisance**

As Attached Operating Schedule

**e) The protection of children from harm**

As Attached Operating Schedule

**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.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [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).</li> <li>• 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</li> </ul>
--------------------	--

	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	Aaron Mellor
Date	11th December 2020
Capacity	Managing Director

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> 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)			
Tokyo Industries (Yorkshire) Ltd i/as IMPOSSIBLE MOTEL 1 City Road East			
Post town	Manchester	Postcode	M15 4PN
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			



**THE IMPOSSIBLE MOTEL, 5 St Helens Square, York. YO1 8QN  
Suggested Enhanced Condition Schedule considering CIZ / CIA**

**Annex 1 – Mandatory Conditions**

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

Retained as Standard.

**Annex 2 – Conditions consistent with the operating schedule**

**Licensing Objectives**

**General**

1. The premises shall trade predominantly as restaurant and cocktail bar, with a hotel above and guest 'vault' rooms to the basement.
2. There shall be 50 (minimum) chairs/seats for customer use inside the premises at all times the venue is open for usual operation (Covid social distancing may temporarily reduce this number)
3. All staff shall undergo relevant training prior to the initial opening of the premises and thereafter there shall be ongoing regular training. Full and detailed training manuals shall be available for inspection.

**Prevention of Crime & Disorder**

3. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
4. All Off-Sales shall be made in sealed containers, save for those sales specifically for consumption in any outside drinking areas attached to the premises.
5. If the premises open after 02:00 hours, SIA Door Supervisors shall be employed in adequate numbers at the venue from 21:00 hours until the venue has closed for business on Friday, Saturday and Sunday evening preceding a bank holiday and, on any day, when York race meetings are held.

6. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of Door Supervisors should the need arise at other times.
7. Seating shall be provided for customers using the outside terrace and outside drinking area.
8. A zero tolerance towards illegal drugs will be enforced at all times.
9. All instances of crime and disorder will be reported to the police and will be kept in an incident log book.
10. The Premises Licence Holder is required to join the York Pubwatch scheme.
11. The venue shall partake in the York Nightsafe Night-time Economy radio system.
12. The Premises Licence Holder will comply with any instructions issued by the Police regarding closure on race days and/or other sporting events.
13. The Premises Licence Holder shall ensure so far as possible that when an exclusion order is made, the person subject to the order is denied access to the premise.

#### **Public Safety**

14. A Health and Safety Policy is in place.
15. This policy is fully briefed and trained to all management and staff. Continued training of staff is undertaken to the standards required by relevant legislation.

#### **Public Nuisance**

16. All music in the premises shall be played via a digital noise limiter, to be agreed with City of York Council's Environmental Protection Unit.
17. A Noise Management plan shall be submitted to and approved by the City of York Council within two months of the license being granted, once approved it shall be implemented. The Noise Management Plan will also include a procedure for investigating noise complaints received from the premises and a map identifying the sound check locations following any such complaint.
18. The use of the roof top terraces should cease at 1am nightly, excepting to close of trade on New Years Eve.

19. During regulated entertainment, the main doors shall be kept closed at all times, other than for ingress or egress.

20. Notices are displayed at all exits asking customers to respect neighbours when leaving the premises.

21. No noise nuisance is to be caused by amplified noise emanating from the premises at the nearest residential property.

22. All doors and windows shall be closed after 23:00 hours when regulated entertainment is taking place.

**Protection of Children from Harm**

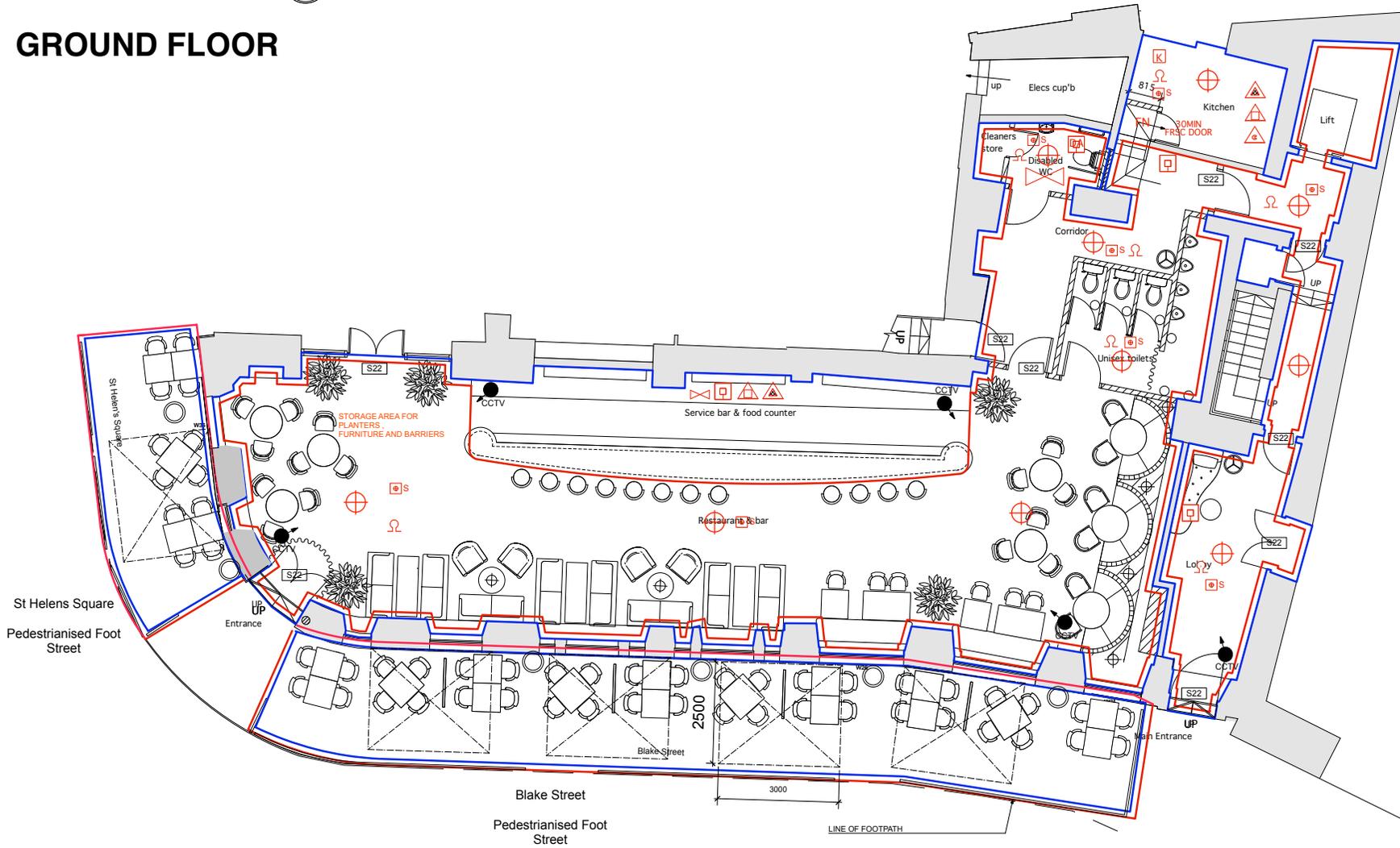
23. The premises shall operate a 'Challenge 21' policy. Any person requesting alcohol who appears to be under 21 shall be required to produce only Government issued photo ID, PASS Card or any other form or ID approved by the police.



**THE IMPOSSIBLE MOTEL**

571/P/019

**GROUND FLOOR**



**LICENSING SYMBOLS**

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC		
			Door Fitted With Panic Ironmongery		

**LICENSING ZONES KEY:**

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.

**GROUND FLOOR PLAN**

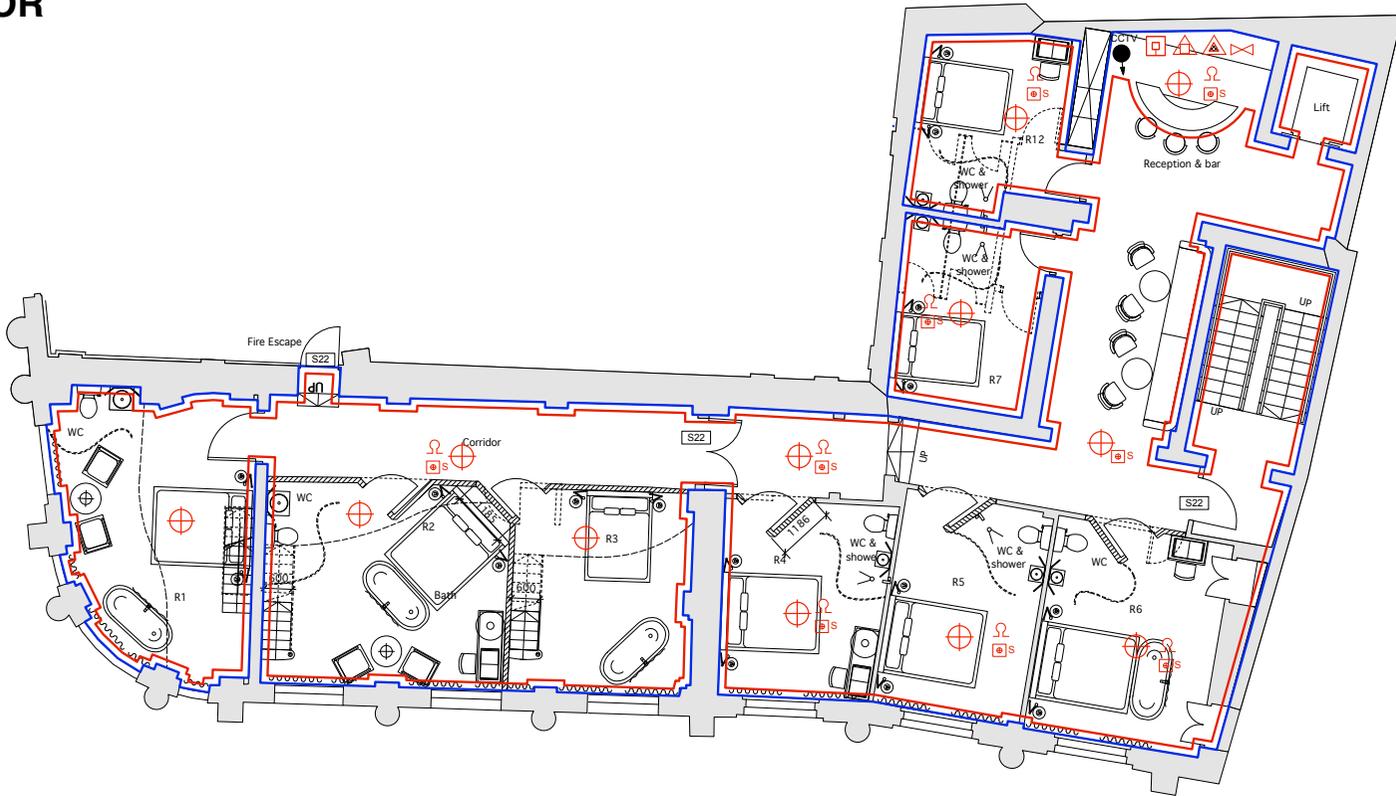


**JULIAN**  
JULIAN SYSTEMS LTD 01273 811111

Project: IMPOSSIBLE (YORK)  
 Area: Tolo Industries  
 Room No: Ground Floor - Licensing Plan  
 Licence No: 571/P/0227  
 Date: \_\_\_\_\_  
 Author: \_\_\_\_\_  
 Status: \_\_\_\_\_

This plan is the property of JULIAN and must not be used or reproduced without the written consent of JULIAN SYSTEMS LTD. It is to be used for the purposes only for which it is issued.

FIRST FLOOR



FIRST FLOOR PLAN



LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC Door Fitted With Panic Ironmongery		

LICENSING ZONES KEY:

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.

**JULIAN**  
Licensing Consultants

Client: IMPOSSIBLE (YORK)  
 Address: 1000 Industries  
 Licence No.: 1st floor - Licensing plan  
 Licence No.: 571/P/026  
 Date: 11/08/23  
 Author:  
 Approver:  
 Version:

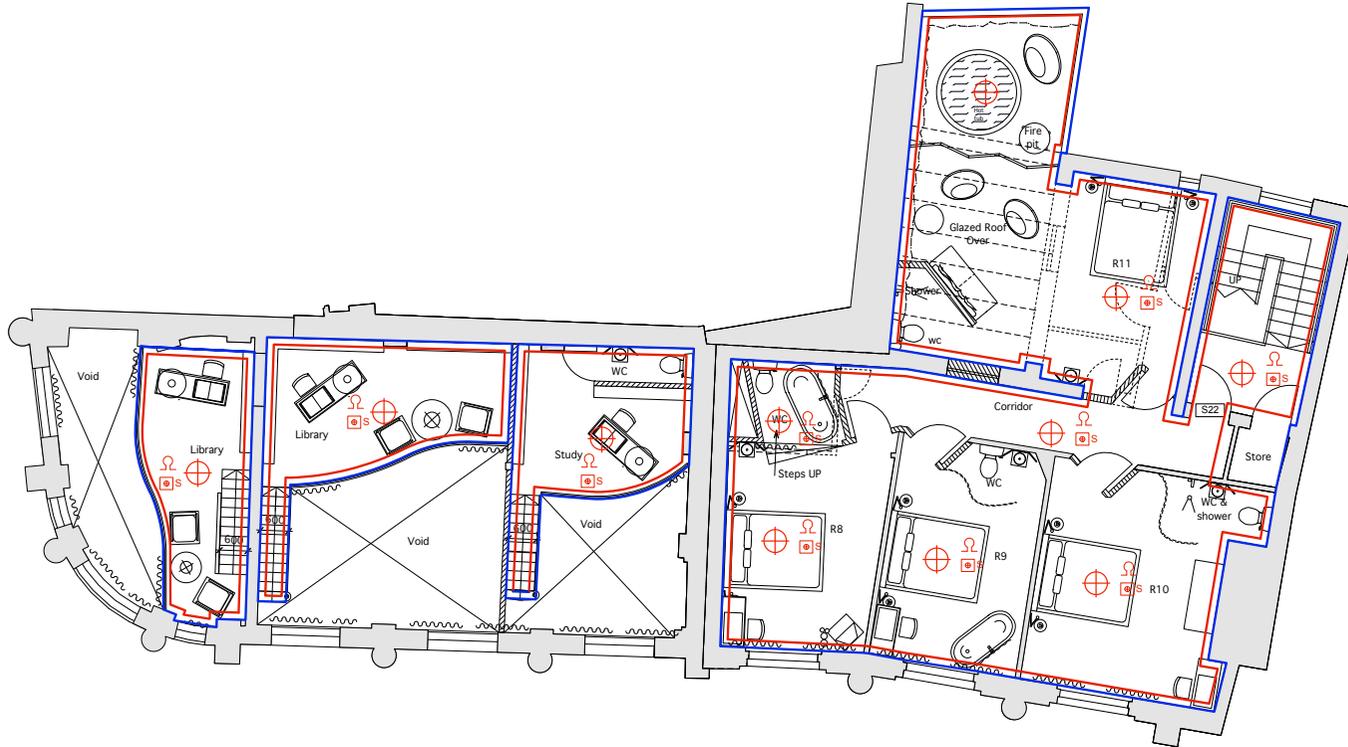
By the use of this plan the licensee shall ensure that the premises are licensed in accordance with the Licensing Act 2003 and the Licensing Regulations 2004. It is the licensee's responsibility to ensure that the premises are licensed in accordance with the Licensing Act 2003 and the Licensing Regulations 2004.

THE IMPOSSIBLE MOTEL

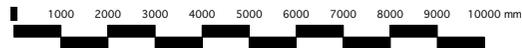
571/P/025



SECOND FLOOR



SECOND FLOOR PLAN



LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC Door Fitted With Panic Ironmongery		

LICENSING ZONES KEY:

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.

**JULIAN**

IMPOSSIBLE (YORK)

Toko Industries

2nd floor - Licensing plan

571/P/025

11/08/23

Scale:

Author:

Checker:

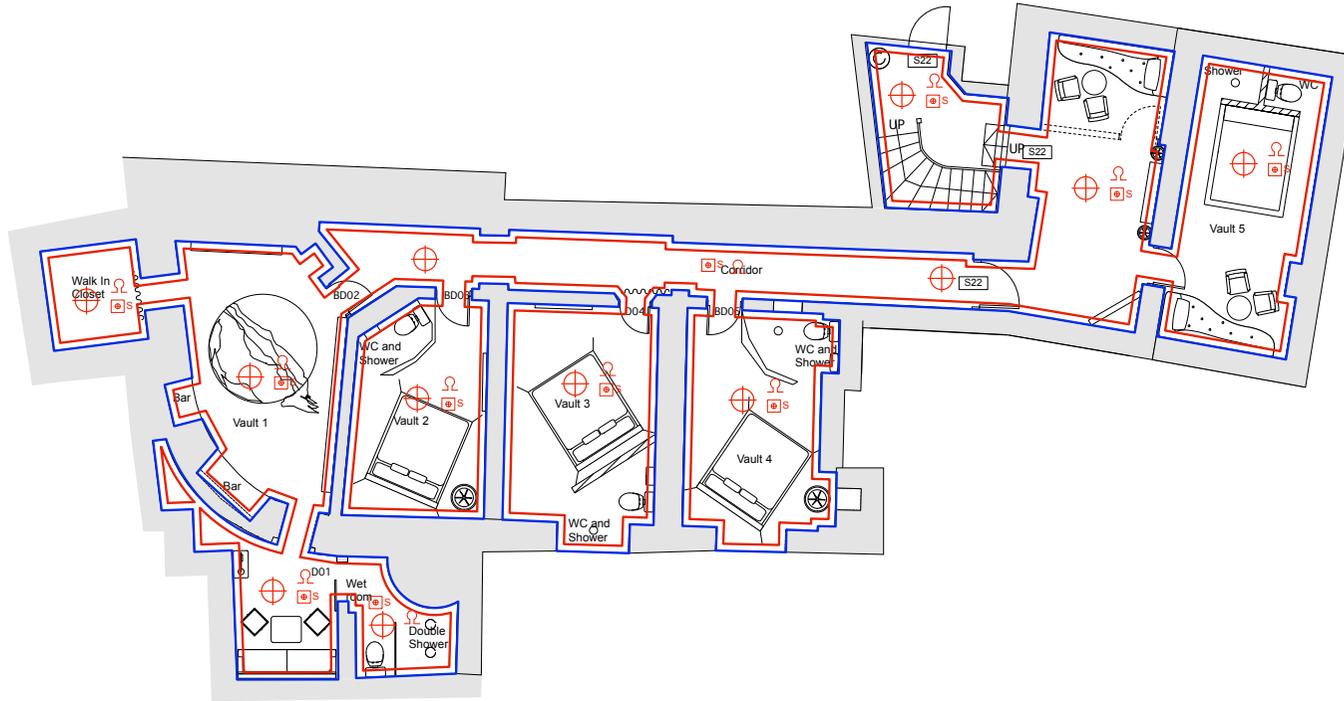
Approved:

By: [Signature]

Date: [Date]



# BASEMENT VAULTS



BASEMENT PLAN



**LICENSING SYMBOLS**

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC Door Fitted With Panic Ironmongery		

**LICENSING ZONES KEY:**

	LICENSED AREA (Use for consumption of Alcohol)
	DEMISE OF UNIT TO BE OCCUPIED.

**JULIAN**  
Sole Licensee

Address: IMPOSSIBLE (17000)  
 Area: 1000 Industries  
 Activity: Basement - Licensing Plan  
 License No: 571/P/027  
 Issue: 11/01/2024  
 Validity: 12 months  
 Status: Active

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## 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 authorisation<sup>18</sup>) 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 workplace<sup>26</sup> 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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**THE IMPOSSIBLE MOTEL, 5 St Helens Square, York. YO1 8QN  
Suggested Enhanced Condition Schedule considering CIZ / CIA**

**Annex 1 – Mandatory Conditions**

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

Retained as Standard.

**Annex 2 – Conditions consistent with the operating schedule**

**Licensing Objectives**

**General**

1. The premises shall trade predominantly as restaurant and cocktail bar, with a hotel above and guest 'vault' rooms to the basement.
2. There shall be 50 (minimum) chairs/seats for customer use inside the premises at all times the venue is open for usual operation (Covid social distancing may temporarily reduce this number)
3. All staff shall undergo relevant training prior to the initial opening of the premises and thereafter there shall be ongoing regular training. Full and detailed training manuals shall be available for inspection.

**Prevention of Crime & Disorder**

3. CCTV will be installed to cover the premises and will include all areas (including outside areas) to where the public have access. It will be maintained, working and recording at all times when the premises are open. The recordings shall be of sufficient quality to be produced at Court or other such Hearing. Copies of the recordings will be kept available for any Responsible Authority for 28 days.
4. All Off-Sales shall be made in sealed containers, save for those sales specifically for consumption in any outside drinking areas attached to the premises.
5. If the premises open after 02:00 hours, SIA Door Supervisors shall be employed in adequate numbers at the venue from 21:00 hours until the venue has closed for business on Friday, Saturday and Sunday evening preceding a bank holiday and, on any day, when York race meetings are held.

6. The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of Door Supervisors should the need arise at other times.
7. Seating shall be provided for customers using the outside terrace and outside drinking area.
8. A zero tolerance towards illegal drugs will be enforced at all times.
9. All instances of crime and disorder will be reported to the police and will be kept in an incident log book.
10. The Premises Licence Holder is required to join the York Pubwatch scheme.
11. The venue shall partake in the York Nightsafe Night-time Economy radio system.
12. The Premises Licence Holder will comply with any instructions issued by the Police regarding closure on race days and/or other sporting events.
13. The Premises Licence Holder shall ensure so far as possible that when an exclusion order is made, the person subject to the order is denied access to the premise.

#### **Public Safety**

14. A Health and Safety Policy is in place.
15. This policy is fully briefed and trained to all management and staff. Continued training of staff is undertaken to the standards required by relevant legislation.

#### **Public Nuisance**

16. All music in the premises shall be played via a digital noise limiter, to be agreed with City of York Council's Environmental Protection Unit.
17. A Noise Management plan shall be submitted to and approved by the City of York Council within two months of the license being granted, once approved it shall be implemented. The Noise Management Plan will also include a procedure for investigating noise complaints received from the premises and a map identifying the sound check locations following any such complaint.
18. The use of the roof top terraces should cease at 1am nightly, excepting to close of trade on New Years Eve.

19. During regulated entertainment, the main doors shall be kept closed at all times, other than for ingress or egress.

20. Notices are displayed at all exits asking customers to respect neighbours when leaving the premises.

21. No noise nuisance is to be caused by amplified noise emanating from the premises at the nearest residential property.

22. All doors and windows shall be closed after 23:00 hours when regulated entertainment is taking place.

### **Protection of Children from Harm**

23. The premises shall operate a 'Challenge 21' policy. Any person requesting alcohol who appears to be under 21 shall be required to produce only Government issued photo ID, PASS Card or any other form or ID approved by the police.

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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:

<b>Postal Address of premises or club premises:</b> Impossible Motel 5 St Helens Square	
<b>Post town:</b> York	<b>Post code (if known):</b> YO18QN

**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 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 hotel and restaurant/bar in York's Cumulative impact assessment area for licensable activities i.e sale of alcohol, plays, performances of dance, films, indoor sporting events, adult entertainment, recorded music and live music 0800hrs-0300hrs, late night refreshment 0800-0500hrs 7 days a week with hours open to the public 0600hrs-0330hrs and includes an outside area (which on the plans attached has seating capacity for 52 persons).

The premises sits within York's CIA (Cumulative impact assessment area) 'Red 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 in to effect on 21st March 2019 and runs until 2024; it states:

'9.13 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.

9.14 A red zone has also been identified in this area due to the high concentration of licensed premises, the impact of

which have led to a high level of occurrences in relation to crime and disorder related issues. Therefore, the Council should refuse all applications within the red zone where relevant representations are received, unless the applicant can show how their application would not lead to an increase in the impact of licensed premises in this zone. A map showing the red zone can be found in the assessment.'

Furthermore the CIA policy states:

7. An applicant wishing to obtain a new licence or vary a licence for premises, within the cumulative impact area, 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.

On 02/12/20 North Yorkshire Police met with the applicant at the premises to view and discuss the proposed plans for the new licence application prior to this application being submitted.

It was explained that the premises is to join the Impossible tea rooms/bar next door (3 St Helens Square) and be used as a ground floor restaurant and bar with a hotel on the two floors above and the basement and an outdoor seating area at ground floor level from St Helens Square on to Blake Street.

The proposed operating schedule offers that 'The premises shall trade predominantly as restaurant and cocktail bar, with a hotel above and guest 'vault' rooms to the basement' and that 'There shall be 50 (minimum) chairs/seats for customer use inside the premises at all times the venue is open for usual operation'. It also offers a challenge 21 policy and that 'roof terrace' area's shall be closed at 0100hrs with New Years Eve as an exception wishing for this to be extended to the close of business.

Suitable doorstaff have also been offered and shall be employed from 2100hrs when the premises is open passed 0200hrs Friday, Saturday, Sundays leading into a bank holiday and days where race meetings are held at York racecourse as well.

Though the conditions offered in the operating schedule are appreciated it is felt that the timings and conditions are not consistent with a food led premises or restaurant to the ground floor and as such do not suitably consider the special policy in this area or risks associated with the adding of a further licensed premises. For example no offer of alcohol being ancillary to the sale of food has been offered or a suitable number of table covers within the ground floor restaurant, instead only seating for 50 has been offered throughout the whole premises and a challenge 21 policy when York's statement of licensing policy states that a challenge 25 policy will adopted for city centre venues and especially with the application of adult entertainment in the venue.

It is believed that the applicant has not suitably considered and shown how the restaurant/bar area of this premises will not impact on crime and disorder and public nuisance in this area and further that they have not shown how this will not impact the protection of children from harm given the range of licensable activities and adult entertainment applied for in this application.

North Yorkshire police would ask members of the committee to consider the implications of allowing non-residents to use the venue until 3am, with persons then dispersing onto the street and the potential for disorder in an area already experiencing issues due to the volume of licensed premises in the vicinity.

North Yorkshire Police would not oppose an application for a hotel and food led premises within the CIA area with timings and robust enforceable conditions ensuring the promotion of the 4 licensing objectives and which would not add to the cumulative impact of crime and disorder in the area and to not cause an unnecessary public nuisance to residents living in the area.

It is felt that this application does not take measures to mitigate associated risks with the adding of another alcohol led establishment.

It is the position of North Yorkshire Police that the applicant has not demonstrated how the adding of this licensed premises will not adversely impact on the night time economy in this area.

Members of the Committee, it is the view of North Yorkshire Police that this application should be refused. The above highlights that the applicants have not considered the special policy area carefully and the timings and lack of enforceable conditions in the operating schedule are felt will have a negative impact on the crime and disorder and public nuisance in the area.

North Yorkshire Police are working hard with key stake holders and partners within the City of York to tackle Alcohol fuelled disorder and I would ask members to also consider their obligations under Section 17 of the Crime and Disorder Act "it shall be the duty of each authority to which this section applies to do all it reasonably can to prevent crime and disorder in its area.

Signature: K. Hollis

Date: 11/01/2021

Contact name: Kim Hollis PC 1671

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**

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## Annex 7

### Representation by Public Protection, 5 St Helen's Square

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

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

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

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

### The licence application

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

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

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

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

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

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

### **Noise from the premises**

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

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

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

### **Noise from the roof top terrace.**

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

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

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

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

### **The external seating area**

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

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

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

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

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

09:00 hours – 17:00 hours each day.

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

### **Protection of children from harm**

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

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

### **In summary**

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

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

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

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

Regards

Michael Golightly  
**Technical Officer**

## Annex 8

### Representation by the Licensing Authority, 5 St Helen's Square

I write to make representation on behalf of the Licensing Authority in relation to the grant of a premises licence for the above premises. Due to the Christmas period and work demands I have not had the opportunity to discuss the application with the applicant.

This application relates to the grant of a premises licence for a boutique hotel with restaurant/bar and pavement terrace, for licensable activities to take place seven days a week. Requested activities and hours as follows:

- Regulated entertainment (plays, films, indoor sporting events, live music, recorded music and performance of dance) to take place from 08:00hrs – 03:00hrs
- Late night from refreshment 23:00hrs to 05:00hrs (24hr room service hotel)
- Supply of alcohol from 08:00hrs to 03:00hrs (restaurant/bar times 24hrs for guests)
- Opening hours to the public from 06:00hr to 03:30hrs

The proposed licensed areas are over located over four floors, from the plans the hotel accommodation is located in the basement (5 bedrooms) on the first (8 bedrooms) and second (4 bedrooms, and 3 mezzanine levels) floors, a bar area is also proposed on the first floor. The restaurant/bar are located on the ground floor along with an outdoor seating area which is located on the public highway on St Helen's Square and Blake Street.

The seating capacity for the restaurant/bar, as indicated on the plans, is for approximately 74, 12 of which are at the bar, the seating capacity for the outdoor area is 52.

This premises is located in York city centre in close proximity to a number of licensed premises (bars, restaurants, cafes and takeaways), residential premises, churches (including York Minster) and the Mansion House. The premises is also located within York's Cumulative Impact Assessment (CIA) area 'red zone', this area has been identified by the Council within the Statement of Licensing Policy (the Policy) as being under the most stress from crime and disorder and public nuisance related issues due to the high concentration of licensed premises.

The Policy came into effect in March 2019, it 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

9.13 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.

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

The Policy also states:

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.

The Policy and CIA can be found at: <https://www.york.gov.uk/LicensingPolicy>

Within the proposed operating schedule (suggested enhanced conditions schedule considering CIZ/CIA) the applicant has offered conditions relating to CCTV, door supervisors and noise management, they have also offered a minimum number of chairs/seats inside the venue at all times as 50, none of which seem adequate for a premises located within the CIA red zone.

Within the proposed operating schedule the applicant also make reference to the roof top terraces. A roof terrace is not clearly identified on the plans for this application.

As detailed above this premises is located in an area identified by the Council as being under the most stress due to crime and disorder and public nuisance, already having a high level of licensed premises. I do not believe that the applicant has demonstrated through the hours applied for and the operating schedule how the granting of a licence for this restaurant/bar will not impact this area.

Even though the applicant has stated within the application that this premises is to be a restaurant/bar and hotel, I would ask Members to take into consideration that there is nothing within the proposed operating schedule to prevent this premises from just operating as a bar, with outdoor area, from 08:00hrs – 03:00hrs seven days a week over more than just the ground floor.

An application for a food led premises (restaurant) and hotel with reasonable timings for licensable activities and enforceable conditions which are robust and ensure the promotion of the four licensing objectives and not add to the cumulative impact of crime and disorder and public nuisance within the CIA red zone may not be opposed by the Licensing Authority.

The Licensing Authority do not believe the applicant has fully considered the Policy and CIA, and therefore has not demonstrated through the application and proposed operating schedule how the granting of this licence will not add to the cumulative impact already being experienced.

The Licensing Authority cannot support his application as it is within the CIA red zone, and respectfully ask members to refuse the application.

Kind regards

*Lesley*

Lesley Cooke | Licensing Manager

t: 01904 551515 | e: [licensing@york.gov.uk](mailto:licensing@york.gov.uk)

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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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**MANDATORY & PROHIBITED CONDITIONS – PREMISES LICENCE  
LICENSING ACT 2003**

**MANDATORY CONDITIONS WHERE LICENCE AUTHORISES SUPPLY OF ALCOHOL**

1. In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
2. The first condition is that no supply of alcohol may be made under the premises licence -
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises –
  - (a) games or other activities which require or encourage, or are designed to require or encourage individuals to –
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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

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

7. The responsible person must ensure that –

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

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

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

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

### **MANDATORY CONDITION: ALCOHOL PRICING**

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

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

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

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

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

where –

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

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

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

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

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

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

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

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

**MANDATORY CONDITION: DOOR SUPERVISION**

1. In accordance with section 21 of the Licensing Act 2003 (as amended by section 25 Violent Crime Reduction Act 2006), where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must -
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of that Act.
2. But nothing in subsection (1) requires such a condition to be imposed -
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to -
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence, or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section -
  - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act), and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

**MANDATORY CONDITION: EXHIBITION OF FILMS**

1. In accordance with section 20 of the Licensing Act 2003, where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where -
  - (a) the film classification body is not specified in the licence, or
  - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section - 'children' means persons aged under 18; and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

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# Annex 11 - Map of area



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**Date:** 18 Jan 2021

**Author:** n/a

**Scale:** 1:2,500



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**Licensing Hearing 8 April 2021**  
**Additional documents submitted by the Licensing Officer /**  
**Applicant for 5 St Helen's Square**

Updated report from the Licensing Officer, with the following attached:

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

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## 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 Motel & Restaurant, 5 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-67636
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
<del>Plays (indoors and outdoors)</del>	<del>0800 – 0300 everyday</del> <b>Changed to:</b> Removed from application
<del>Films (indoors)</del>	<del>0800 – 0300 everyday</del> <b>Changed to:</b> Removed from application
<del>Indoor Sporting events</del>	<del>0800 – 0300 everyday</del> <b>Changed to:</b> Removed from application

<del>Live music (indoors)</del>	0800 — 0300 everyday <b>Changed to:</b> Removed from application
Recorded music (Indoors)	0800 to 0300 everyday <b>Changed to:</b> 0800 to 0100 0800 to 0300  Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day
Performance of dance (indoors)	0800 to 0300 everyday <b>Changed to:</b> 0800 to 0100 0800 to 0300  Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day
Late night refreshment (indoors and outdoors)	2300 to 0500 everyday 24 hours room service to Hotel
Sale of alcohol (on and off sales)	0800 to 0300 everyday <b>Changed to:</b> 0800 to 0100 0800 to 0300  Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day  24 hours for hotel guests
Opening times	0600 to 0330 everyday <b>Changed to:</b> 0600 to 0130 Sun to Fri 0600 to 0330 Sat  Until 0300 on any day proceeding a Bank Holiday, Good Friday and Boxing Day  24 hours for hotel guests

## **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 included in the additional papers.
7. The premises is described in the application as a boutique hotel with ground floor restaurant/bar and pavement terrace.
8. An overview of the circumstances in which entertainment activities are not licensable can be found at **Annex 2**.

## **Promotion of Licensing Objectives**

9. 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 'The Impossible Motel, 5 St Helens Square, York, YO1 8QN Suggested Enhanced Condition Schedule considering CIZ/CIA which appears in full at Annex 3.**
10. General  
See Annex 3.
11. The Prevention of Crime and Disorder  
See Annex 3.
12. Public Safety  
See Annex 3.
13. The Prevention of Public Nuisance  
See Annex 3.
14. The Protection of Children From Harm  
See Annex 3.

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.

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**

15. 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 4**. Section 9 of the Statement of Licensing Policy which deals with Cumulative Impact can be found at **Annex 5**.

### **Consultation**

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

### **Summary of Representations made by Responsible Authorities**

18. 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.
19. The Police representation is attached at **Annex 6**.

20. 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.
21. The Public Protection representation is attached at **Annex 7**.
22. 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.
23. The Licensing Authority representation is attached at **Annex 8**.

### **Summary of Representations made by Other Parties**

24. There have been no other representations received from other persons.
25. A map showing the general area around the venue is attached at **Annex 11**.

### **Options**

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

### **Analysis**

31. The following could be the result of any decision made this Sub Committee:-
32. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
33. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
34. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
35. Option 4: 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:**  
Helen Sefton  
Senior Licensing Officer  
  
Tel No. 01904 551526

**Chief Officer Responsible for the report:**  
Mike Slater  
Assistant Director for Planning and Public Protection.

**Report  
Approved**



**08/01/2021**

**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** - Overview of Circumstances in which Entertainment Activities are not Licensable
- Annex 3** - Operating Schedule
- Annex 4** - Cumulative Impact
- Annex 5** - Licensing Policy Annex
- Annex 6** - North Yorkshire Police Representation
- Annex 7** - Public Protection Representation
- Annex 8** - Licensing Authority Representation
- Annex 9** - Legislation and Policy Considerations
- Annex 10** - Mandatory Conditions
- Annex 11** - 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



**CITY OF YORK COUNCIL**  
Licensing Services, Hazel Court EcoDepot, James Street,  
York, YO10 3DS

**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   Tokyo Industries (Yorkshire) Ltd  

*(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

IMPOSSIBLE MOTEL & RESTAURANT (Formally MARCHBRAE / TSB BANK)  
5 ST HELENS SQUARE

<b>Post town</b>	YORK	<b>Postcode</b>	YO1 8QN
------------------	------	-----------------	---------

Telephone number at premises (if any)	
---------------------------------------	--

Non-domestic rateable value of premises	£ 109,000
---	-----------

**Part 2 - Applicant details**

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

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
- i as a limited company/limited liability partnership  please complete section (B)
- ii as a partnership (other than limited liability)  please complete section (B)
- iii as an unincorporated association or  please complete section (B)

- iv other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- 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 type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/>		Please tick yes	
<b>Nationality</b>					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see					

note 15 for information)

**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		<input type="checkbox"/>	Please tick yes
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(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.**

<b>Name</b>	Tokyo Industries (Yorkshire) Ltd
<b>Address</b>	1 City Road East Manchester M15 4PN
<b>Registered number (where applicable)</b>	06608845

Description of applicant (for example, partnership, company, unincorporated association etc.)	
Limited Company	
Telephone number (if any)	OR FOR PUBLIC DISPLAY
E-mail address (optional)	OR PUBLIC DISPLAY

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD	MM	YYYY
A	S	P

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY
N	/	A

Please give a general description of the premises (please read guidance note 1)

Boutique Hotel with  
Ground Floor Restaurant / Bar & Pavement Terrace

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

N / A
-------

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)

- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

**A**

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of a play take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon					
Tue					
Wed			<b>State any seasonal variations for performing plays</b> (please read guidance note 5)		
Thur					
Fri			<b>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</b> (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	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 4)		
Tue					
Wed			<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 5)		
Thur					
Fri			<b>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</b> (please read guidance note 6)		
Sat					
Sun					

**C**

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

**D**

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

**E**

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)			
Mon						
Tue						
Wed			<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 5)			
Thur						
Fri						
Sat						
Sun			<b><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></b> (please read guidance note 6)			

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon	08:00	01:00			
Tue	08:00	01:00			
Wed	08:00	01:00	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
Thur	08:00	01:00			
Fri	08:00	01:00			
			<b><u>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</u></b> (please read guidance note 6)		
Sat	08:00	03:00	Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		
Sun	08:00	01:00			

**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of dance take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Please give further details here</b> (please read guidance note 4)		
Mon	08:00	01:00			
			<b>State any seasonal variations for the performance of dance</b> (please read guidance note 5)		
Tue	08:00	01:00			
			<b>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</b> (please read guidance note 6)		
Wed	09:00	01:00			
			Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day		
Thur	08:00	01:00			
Fri	08:00	01:00			
Sat	08:00	03:00			
Sun	08:00	01:00			

**H**

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b>                  Standard days and timings (please read guidance note 2)</p>			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<p><b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b><u>Please give further details here</u></b> (please read guidance note 4)</p>		
Wed					
Thur			<p><b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)</p>		
Fri					
Sat			<p><b><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></b> (please read guidance note 6)</p>		
Sun					

**I**

<b>Late night refreshment Standard days and timings (please read guidance note 7)</b>			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)</b>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u> (please read guidance note 4)</b>		
Mon	23:00	05:00	24Hr Room Service to Hotel		
Tue	23:00	05:00			
<b>Wed</b>	23:00	05:00	<b><u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5)</b>		
Thur	23:00	05:00			
<b>Fri</b>	23:00	05:00	<b><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)</b>		
Sat	23:00	05:00	24Hr Room Service to Hotel		
Sun	23:00	05:00			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)		
Mon	08:00	01:00	Resturant / Bar times shown on left 24Hr to Hotel Guests		
Tue	08:00	01:00			
Wed	08:00	01:00			
Thur	08:00	01:00	<b>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</b> (please read guidance note 6)		
Fri	08:00	01:00	Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day  Resturant / Bar times shown on left 24Hr to Hotel Guests		
Sat	08:00	03:00			
Sun	08:00	01:00			

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):

<b>Name</b>	Stephanie Powell
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b>	138130
<b>Issuing licensing authority (if known)</b>	Manchester

**K**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

**L**

<p><b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)</p>			<p><u>State any seasonal variations</u> (please read guidance note 5)</p> <p>Resturant / Bar times shown on left 24Hr to Hotel Guests</p>
Day	Start	Finish	<p><b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 6)</p> <p>Until 03:00 on anyday proceeding a Bank Holiday, Good Friday and Boxing Day</p> <p>Resturant / Bar times shown on left 24Hr to Hotel Guests</p>
Mon	06:00	01:30	
Tue	06:00	01:30	
Wed	06:00	01:30	
Thur	06:00	01:30	
Fri	06:00	01:30	
Sat	06:00	03:30	
Sun	06:00	01:30	

**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)**

As Attached Operating Schedule

**b) The prevention of crime and disorder**

As Attached Operating Schedule

**c) Public safety**

As Attached Operating Schedule

**d) The prevention of public nuisance**

As Attached Operating Schedule

**e) The protection of children from harm**

As Attached Operating Schedule

**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.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [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).</li> <li>• 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</li> </ul>
--------------------	--

	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	 Aaron Mellor
Date	11th December 2020 (Revised 23 Feb 2021)
Capacity	Managing Director

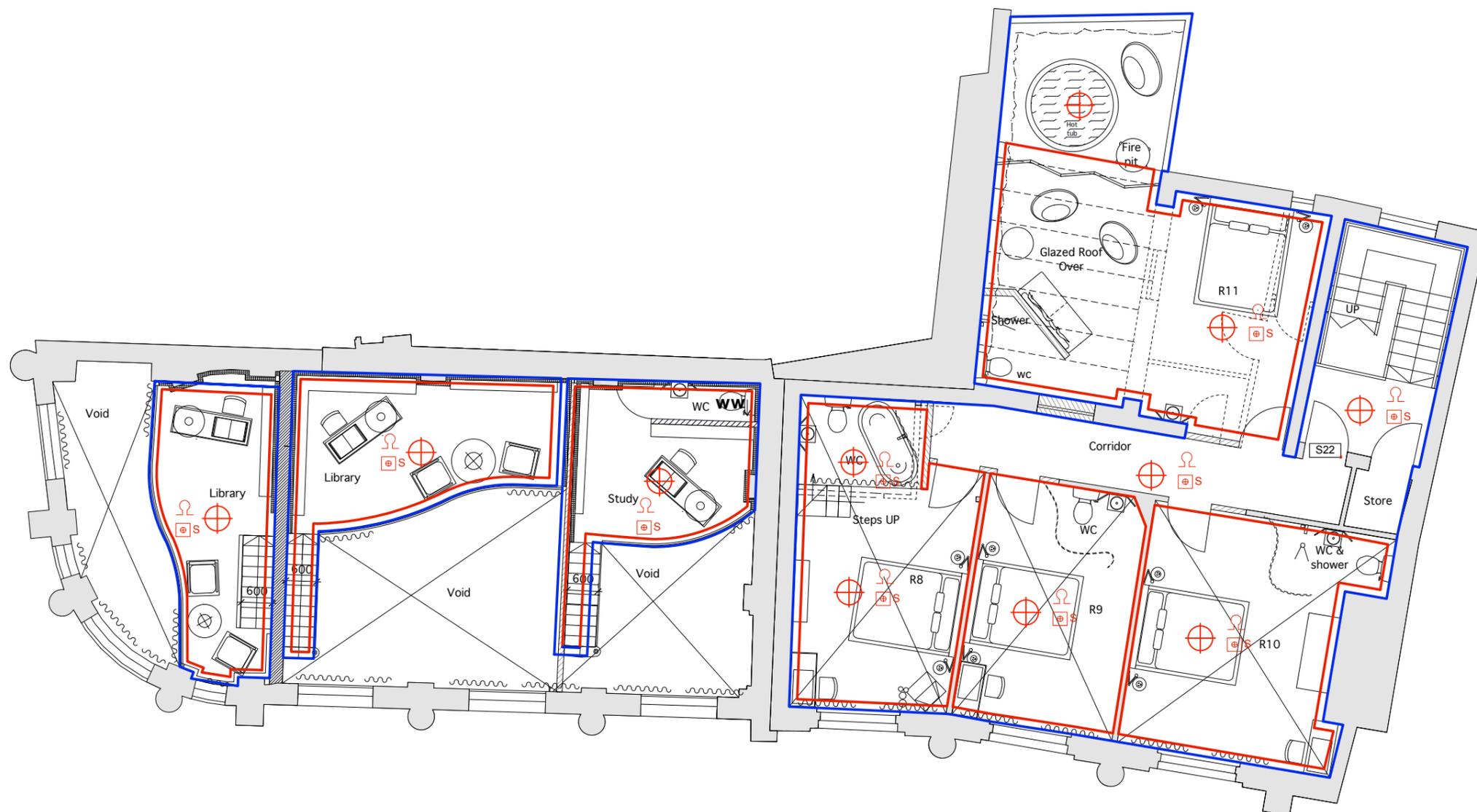
**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Tokyo Industries (Yorkshire) Ltd t/as IMPOSSIBLE MOTEL 1 City Road East			
Post town	Manchester	Postcode	M15 4PN
Telephone number (if any)		OR PUBLIC DISPLAY	
If you would prefer us to correspond with you by e-mail. your e-mail address (optional)			OR PUBLIC DISPLAY



# SECOND FLOOR



SECOND FLOOR PLAN



### LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC		Door Fitted With Panic Ironmongery

### LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.

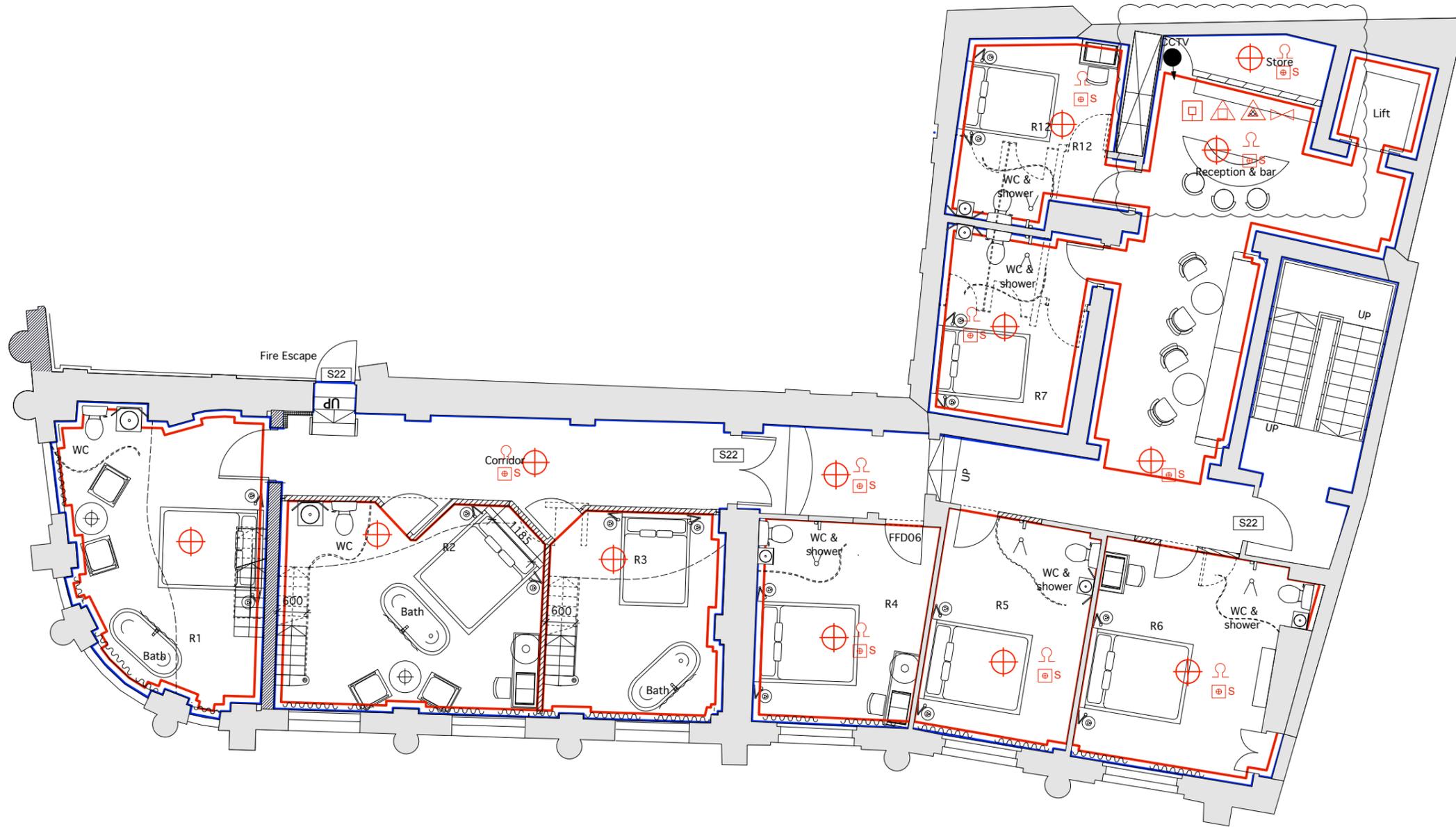
**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: IMPOSSIBLE (YORK)  
Client: Tokyo Industries  
Drawing Title: 2nd floor - Licensing plan  
Drawing Number: 571/P/025  
Scale: 1:50@A1  
Revision: -  
Drawn by: -  
Checked by: -

Revision	Date	Comments

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# FIRST FLOOR



FIRST FLOOR PLAN



### LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		FN Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		VP Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC Door Fitted With Panic Ironmongery		

### LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.

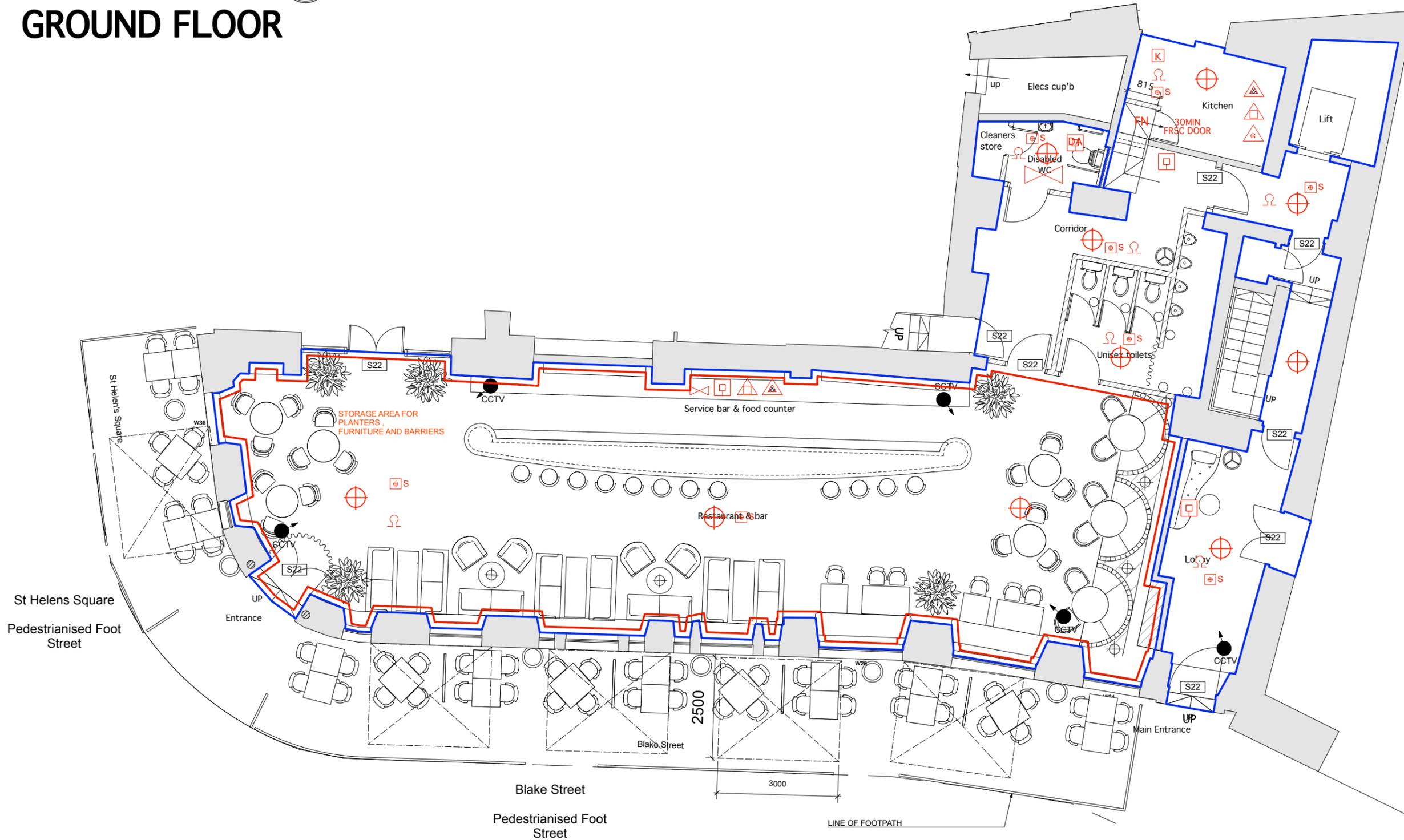
**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: IMPOSSIBLE (YORK)  
Client: Tokyo Industries  
Drawing Title: 1st floor - Licensing plan  
Drawing Number: 571/P/026  
Scale: 1:50@A1  
Revision: -  
Drawn by: -  
Checked by: -  
Approved by: -

Revision	Date	Comments

The Best Check Here 28 Whitaker Road Bexley ME17 6AA  
Tel: 01754 512321 Fax: 01754 512322  
Email: julian@julian-taylor.co.uk  
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# GROUND FLOOR



### LICENSING SYMBOLS

	Visual Warning Detector		Water Fire Extinguisher		Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		Door Fitted With Panic Ironmongery		

### LICENSING ZONES KEY:

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.

### GROUND FLOOR PLAN

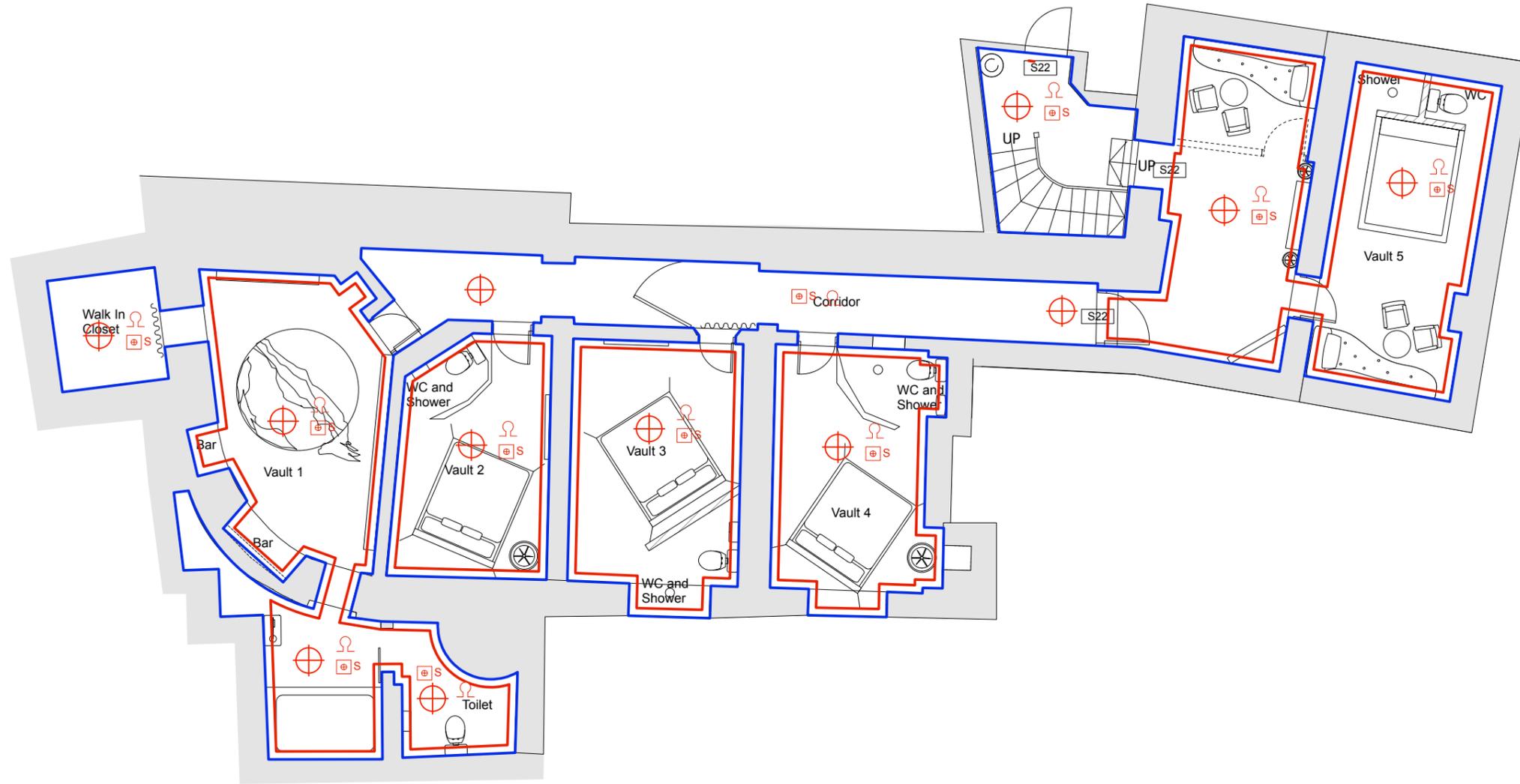


## JULIAN

JULIAN TAYLOR DESIGN ASSOCIATES

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Client:	Tokyo Industries
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Drawing Number:	571/P/027
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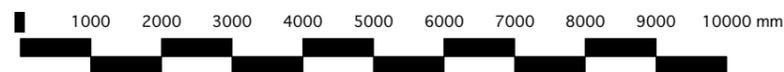
**LICENSING SYMBOLS**

	Visual Warning Detector		Water Fire Extinguisher		FN Fire Notice
	Smoke Detector		Carbon Dioxide Fire Extinguisher		VP Vision Panel 30mins Fire Glass
	Heat Detector		Foam Fire Extinguisher		Emergency Lights
	Illuminated 'EMERGENCY EXIT' Sign (Directional when prefixed with AD)		Dry Powder Fire Extinguisher		Disabled Alarm Call Point
	Fire Alarm Sounder		Fire Blanket		CCTV
	Emergency Break Glass Call Point		PANIC Door Fitted With Panic Ironmongery		

**LICENSING ZONES KEY:**

	LICENSED AREA
	DEMISE OF UNIT TO BE OCCUPIED.

**BASEMENT PLAN**



**JULIAN**  
JULIAN TAYLOR DESIGN ASSOCIATES

Project: IMPOSSIBLE (YORK)  
Client: Tokyo Industries  
Drawing Title: Basement - Licensing Plan  
Drawing Number: 571/P/027  
Scale:  
Revision:  
Drawn by:  
Checked by:

Revision	Date	Comments

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## **Noise Management Proposal for Impossible bar & restaurant, 3 St Helen's Square, York, and the Impossible Motel, 5 St Helen's Square, York.**

by Dr Douglas Doherty of DACS Ltd

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## Introduction

Impossible is a previously licensed restaurant/tea rooms/speakeasy at 3 St Helen's Square, York and a proposed hotel & restaurant at 5 St Helen's Square, York.

Number 3 St Helen's Square is the old Terry's Building, and 5 St Helen's Square is the old TSB bank that traded last as a failed retail store 'Marchbrea'.

The area is "located in a prominent location in the middle of one of York's central historic squares frequented by both locals and tourists and already has a number of other licensed premises on the square itself that close between midnight and 1am. The area is a mix of restaurants, bars, business premises and residential premises at the roof top level."<sup>1</sup>, a statement which is a little misleading as the adjacent Hawkers holds 3am licensed nights and both Revolution and Pitcher hold nightly 3am licenses albeit that the latter are located off the 'Square' but the only customer entrance/exit is directly via the 'Square'

This report will assess the likely impact of both developments at 3 and 5 St Helen's Square.

## Elements to be considered

1. Ground Floor: tea rooms and a restaurant with existing licensed external seated area
2. First Floor: cocktail club with live music
3. Rear Ground & First Floor: 'Speakeasy': cocktail bar, lower rooftop terrace
4. Second Floor existing licensed Private Dining Room & upper rooftop terrace

## Ground Floor

Internally the music system is very low power and designed for background reproduction only.

## First Floor 'Cocktail / Supper Club'

The First Floor has a small 'Line Array' system of speakers, 'Line Array' speakers are expensive specialist which are purposefully very directional and focussed. They are placed facing into the bar, and we had them operating for 4 weeks (Dec 2<sup>nd</sup> to 30<sup>st</sup> 2020) without complaint. When music is being played the windows are closed. It should be noted that the façade is facing away from the nearby residences, so minimising any likelihood of nuisance. Although glazing exists along the rear of one side this is away from residential and into a commercial alleyway to the adjacent late licensed bar

---

<sup>1</sup> From Premises Licence Grant by Michael Golightly

## **First Floor ‘Speakeasy’**

There are three main elements to the ‘Speakeasy’:

- Internal bars
- Lower Rooftop Terrace
- Upper Rooftop Terrace

The internal bars will have background music at low levels. This will be contained within the fabric of the building. The lower terrace faces a residence around 14m from the closest point. The upper terrace is around 40m from the residences opposite McDonalds. Each will have a maximum of 60 people due to their single means of fire escape.

## **Proposals for Both Ground Floor Bar/Restaurants**

### **Proposals for First Floor**

- Level management on the sound system to maintain the volume at or below an agreed level with the environmental health officer – we would consider a maximum of 100dBA as a sensible limit
- The use of a Sound Processor to physically limit the amplified noise output - this system will be locked to ensure DJs or Managers are unable to exceed this level
- When music is being played the windows to the outside will be closed
- Regular noise checks to take place around the external property to ensure no amplified noise can cause nuisance to the closest residential property.

### **Proposals for First / Second Floor Hotel**

- The Basement, First and Second floors of 5 St Helens Square are hotel rooms, no significant volume will be permitted in these rooms
- The hotel rooms actively add an important layer of self-policing to the restaurants below and adjacent supper club and roof terraces – these rooms will effectively become the nearest noise sensitive premises, and management will be required to control noise to prevent discomfort to their own hotel guests.

### **Proposals for ‘Speakeasy’ & Roof Terraces**

- Level management on the sound system for all areas to maintain the volume at or below an agreed level with the environmental health officer – we would consider a maximum of 80dBA to 85dBA as a sensible limit
- The use of a Sound Processor to physically limit the amplified noise output - this system will be locked to ensure DJs or Managers are unable to exceed this level
- Lower terrace – erect a solid noise barrier 2.2m high which will provide a reduction of 25dB; if the terrace has 60 people all talking, the level produced is 83dB LAeq
- The suggestion that this terrace ceases regular activity at 23:00hrs, a time which is generally accepted as the watershed between daytime and nighttime sound levels.

**Lower terrace reduction with distance** **Resulting LAeq value (dB)**

Normal speaking voice at 1m	65dB
Noise level of 60 people	83dB
Level at windows opposite assuming 14m distance	58dB
Transmission loss to residential windows	-24dB
a dimension of terrace	1.5
b dimension of terrace	4

- The resultant maximum level at the façade of the nearby residence would be 58dB less the barrier reduction and the smaller reduction from the overhead canopies and would certainly be less than the 50 -55dBLAeq recommended by the WHO for daytime levels in gardens/outdoor areas.
- Upper terrace – the nearest residence is opposite McDonalds, 40m away from the terrace. As can be seen from the calculation below, the maximum level at their windows is 49dB. This does not allow for any reducing effect of the partial barrier of the hotel roof. It should also be noted that McDonalds opposite is open 24 hours, and has people queuing up outside so generating considerable noise which will be reflected between the façades of the buildings.
- The level at the residence will again be less than the 50 -55dBLAeq recommended by the WHO for daytime levels in gardens/outdoor areas.

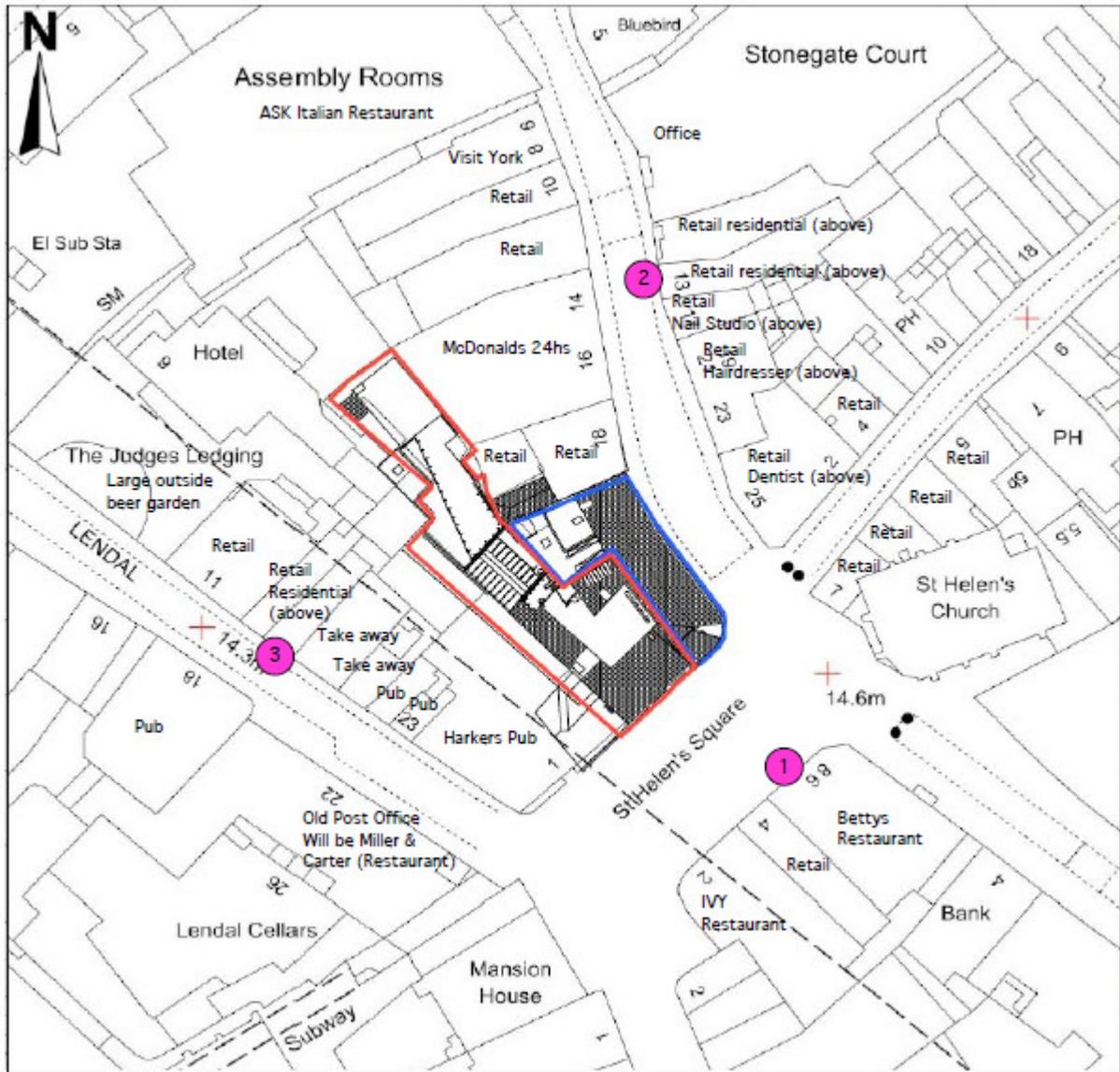
**Upper Terrace reduction with distance** **Resulting LAeq value (dB)**

Normal speaking voice at 1m	65dB
Noise level of 60 people	83dB
Level at windows opposite McDonalds assuming 40m distance	49dB
Transmission loss to residential windows	-34dB
a dimension of terrace	1.5
b dimension of terrace	4

## Proposals for general management of sound levels

- Managers will have an app on their phones to measure sound pressure levels. Though not laboratory accurate each manager's phone will be tested using a class 1 measuring device (see Appendix 1) and results noted. In general, these devices are accurate enough for indicative readings to alert for deviations from specified levels. Several positions for managers to check levels will be prepared eg on first floor at bar, outside in front of 3 St Helen's Square. Where there are noise levels above the expected, the managers will take steps to correct them. Below is a map indicating what we consider to be the three most sensitive points in the area that will be monitored by management.

Map indicating sensitive points (1, 2 and 3) to be monitored



- Managers, Security and door staff will be briefed on their specific duties regarding noise control
- Any complaints will be dealt with following a procedure that will include an immediate reduction of any noise causing a nuisance, a detailed description of the problem, and proposals to ensure it is not repeated
- Any noise complaints will be logged; any repeated complaints will be escalated to senior management for investigation and resolution.

## Calculation for sound level reduction over distance

The calculation for the reduction in sound level is based on the size of the 'source', which we have reckoned to be 1.5m high and 4m wide. Where a = height, and b = width, and r = the distance from the source to the nearest residence, the calculation is:

No reduction between 1m to  $a/\pi$

Line source between  $a/\pi$  and  $b/\pi$

Point source between  $b/\pi$  and r

Sound Level at nearest residence =  $83\text{dBA} - 10 \times \log_{10}((b/\pi)/(a/\pi))^2 - 20 \times \log_{10}(r/(b/\pi))^3$

## Noise Levels in the context of PPG24, WHO recommendations and BS8233

The standards above (PPG24, the World Health Organisation and BS8233) recommend similar sound pressure levels in gardens during the day (7am – 11pm), of between 50dBLAeq and 55dBLAeq.

The noise from the terraces will be below the minimum recommended level in both cases so will not constitute a nuisance.

Dr Douglas Doherty, DACS Ltd  
3/2/2021

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<sup>2</sup> Line source calculation

<sup>3</sup> Point source calculation

## Appendix 1

### ***Equipment used***

#### # Hardware Configuration

Device Info:	XL2, SNo. A2A-04060-D1, FW2.10
Mic Type:	NTi Audio M2210, S/N: 1578, Factory adjusted
Mic Sensitivity:	19.9 mV/Pa

#### XL2 + M2210:

- Class 1 frequency response according IEC 61672, IEC 60651
- Type 1 frequency response according ANSI S1.4

#### Conforms with Standards:

- IEC 61672, IEC 60651, IEC 60804, IEC 61260 class 0, ISO 2969
- China: GB/T 3785:2010, GB/T 3241, GB 3096-2008, GB 50526, GB-T\_4959-1995
- Germany: DIN 15905-5, DIN 45645-2, optional: DIN 45645-1
- Japan: JIS C1509-1:2005, JIS C 1513 class 1, JIS C 1514 class 0
- Switzerland: SLV 2007
- US: ANSI S1.4, ANSI S1.43, ANSI S1.11-2004 class 1
- International IEC standards are adopted as European standards and the letters IEC are replaced by EN. XL2 conforms to these EN standards.

## Appendix 2

### ***Acoustic Terms***

#### **dB(A)**

The human ear does not hear all frequencies with the same intensity. It is most sensitive to sounds in the 500Hz-8kHz range. Above and below this range the ear becomes progressively less sensitive. To compensate for this, sound level meters incorporate electronic filtering to correspond with the varying sensitivity of the ear. This filtering is called **A-weighting** and Sound Pressure Levels obtained with this weighting are referred to as **A-weighted** and signified as **dB(A)**.

#### **dB<sub>L<sub>Aeq(t)</sub></sub>**

This figure is the equivalent continuous sound pressure level. It is an average of the total sound energy measured over a specific time period.

#### **dB<sub>LA10</sub> and dB<sub>LA90</sub>**

These indicate the level exceeded for 10% and 90% of the time respectively. These statistical parameters can tell us a lot about the nature of the sound. The LA10 figure is mainly used to measure road traffic noise, reflecting as it does infrequent noise sources. The LA90 figure is usually used to measure environmental background noise. Where the LA90 figure is low it indicates irregular and variable background noise, and where close to the LAeq figure, it indicates a fairly constant background.

## **TL**

**Transmission Loss (TL)** is a figure which rates the ability of a material to block sound. It is usually measured in 1/3 octave band intervals. Mathematically it is defined as the ratio of the sound energy transmitted through a material to the sound energy incident on the material.

The Transmission Loss (TL) of a material is measured by mounting a sample of the material in an opening of a wall separating two reverberant test rooms. Broadband noise is played in one room (source). The difference between the sound levels in the source room and the other (receiving) room is defined as the **Noise Reduction (NR)**. As the frequency and/or density increases the Transmission Loss also increases. The density of the material is directly related to Transmission Loss.

## **SRI**

The ASTM (American) 1/3rd octave Sound Transmission Losses measured above are referred to by the European ISO standards as **Sound Reduction Indices (R)**. ISO 717/1 defines a standard contour and a procedure for fitting the contour to the measured sound reduction indices to determine a single-number rating of a sound transmission loss spectrum. This rating is called the **Weighted Sound Reduction Index (R<sub>w</sub>)**. Unlike the STC contour, the R<sub>w</sub> contour is defined over a slightly lower frequency range of 100 Hz to 3.15 kHz.

The contour fitting procedure requires that:

- The sound reduction values be determined to one decimal place
- The contour be raised in 1 dB increments to a point where the average deficiency over the contour frequency range is as close to, but not exceeding, 2.0 dB.
- If an 8dB or larger deficiency exists in the sound reduction index data, then the deficiency amount in dB and the frequencies at which they occur must be reported.
- The average deficiency is the sum of all deficiencies in all frequency bands divided by 16, the number of 1/3rd octave frequency bands spanned by the contour.
- The actual R<sub>w</sub> value is equal to the fitted contour value at 500 Hz.

**It should be noted** that the SRI value has been developed to approximate the performance of a material in reducing the transmission of speech. The SRI value obtained from the TL data is useful for a quick comparison of materials but does not give a true idea with respect to non-speech sounds such as music, traffic, trains, aircraft etc.

## **STC**

STC is the American ASTM, standard E413, equivalent of SRI and is based on the averaged sound insulation achieved between 125Hz and 4kHz. As before, the standard defines a procedure for determining the STC rating for a TL spectrum by fitting a contour to the 1/3rd octave data. This procedure involves raising or lowering the contour following these rules:

The contour may not be raised above the point at which the TL in any 1/3rd octave band falls more than 8dB below the contour.

The contour may not be raised above the point at which the total number of deficiencies is greater than 32dB.

A deficiency occurs when the TL data in any 1/3rd octave band falls below the contour by 1dB.

The STC rating resulting from the contour fitting procedure is the TL value of the contour at 500Hz.

**It should be noted** that the STC value has been developed to approximate the performance of a

material in reducing the transmission of speech. The STC value obtained from the TL data is useful for a quick comparison of materials but does not give a true idea with respect to non-speech sounds such as music, traffic, trains, aircraft etc.

**NRC**

The Noise Reduction Coefficient defines how much sound specific materials absorb. It is the average sound absorption between 250Hz - 2kHz rounded to the nearest 0.05.

This is analogous to a room's finishes. Just as various colors of paint, or textures, visually alter a room, various materials with different NRC ratings, such as carpet or tile, audibly alter a room. A material with a low NRC rating (tile) absorbs little sound and a material with a higher NRC rating (carpet) absorbs more sound.

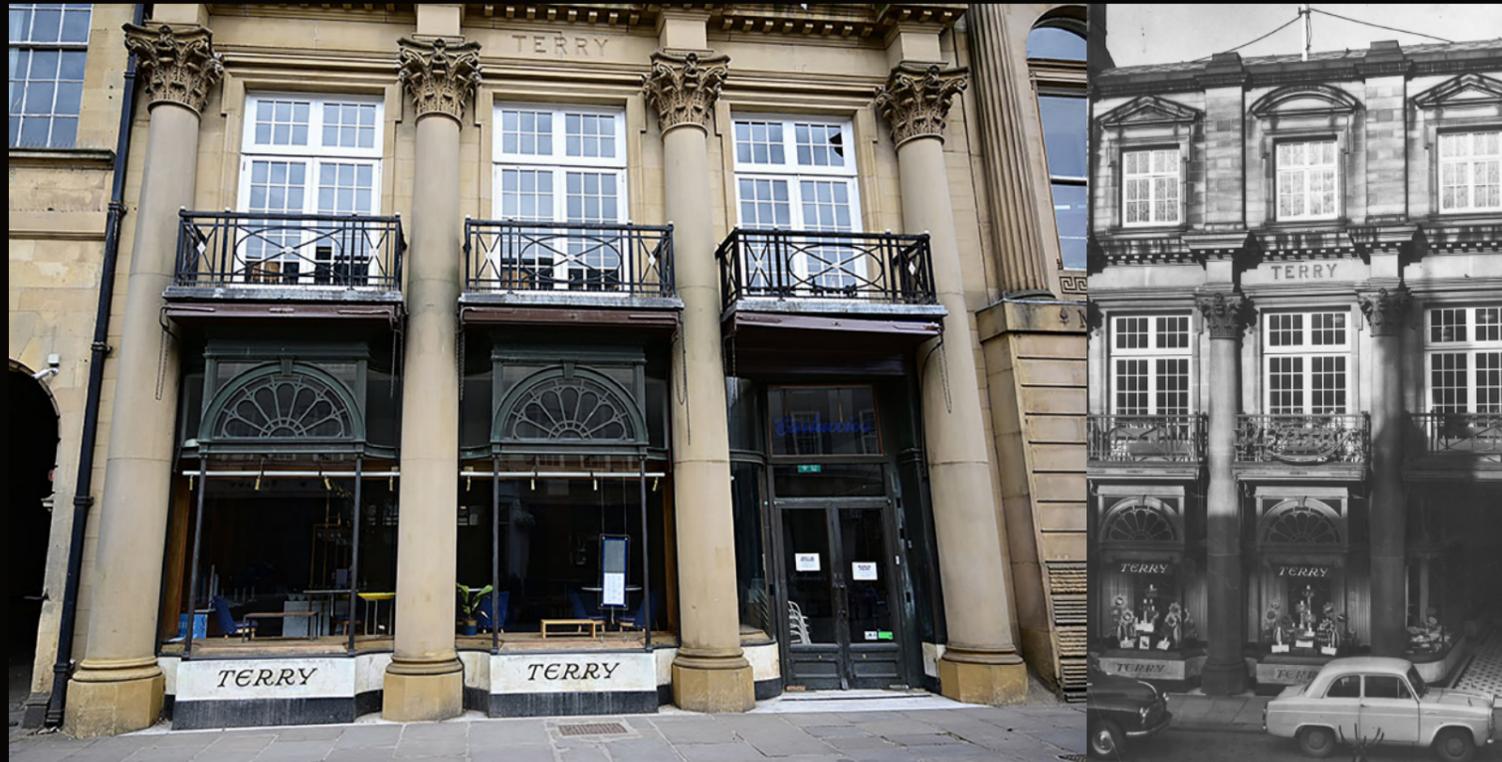
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## LICENSING APPLICATIONS



This is a set of TWO Licensing Applications:

- (a) Impossible Restaurant, Supper Club and Speakeasy**  
3 St Helens Square and currently licensed as Carluccios.
- (b) Impossible Hotel and Restaurant**  
5 St Helens Square, York and was previously Marchbrea Kilt shop  
and before that TSB Bank & Offices.



## Joseph Terry & Sons

TERRY'S OF YORK, the confectioner and chocolatier, was founded in 1767 at Bootham Bar selling cough lozenges and lemon and orange sweets initially called Baydon & Berry. Joseph Terry was born in 1793 and came to York to serve as an apprentice apothecary in either Stonegate or Surrogate. In 1823 he married into the Baydon & Berry family. In 1825, following the death of Robert Berry, Terry agreed a new partnership and renamed as Terry & Berry, two years later Berry left the business and Terry became the sole owner. The company operated in York until 2005 when production moved to Kraft Foods 'Suchard' factory in Belgium and other EU countries.

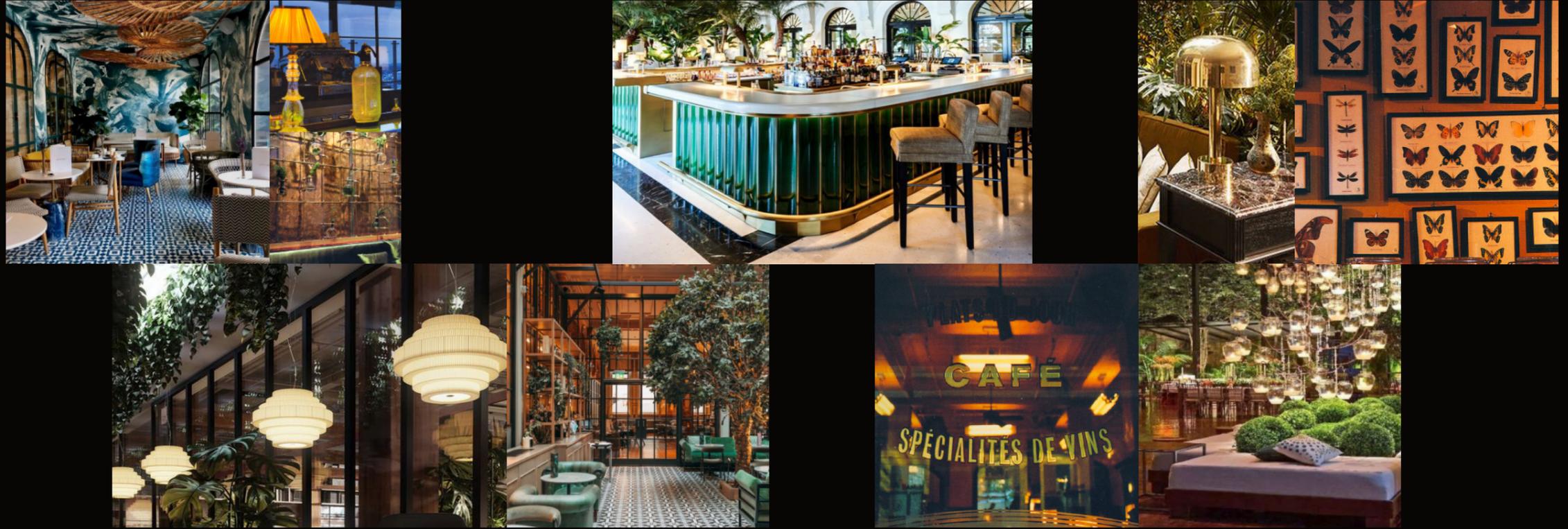
The business was based in St Helens Square as early as 1818 in a building that served as both shop and factory until 1864 when production was moved to Clementhorpe. The St Helens Square building was remodelled into the present day shop, restaurant and ballroom in 1922 when the present day Ashlar Stone and Corinthian columns were added which still bear the Terry's name inscription.

The Restaurant and Ballroom closed in 1981 when the building was sold to the adjacent TSB Bank who converted the restaurant into offices, before reopening as a Carluccio's restaurant in March 2017.

The famous 'Terry's Chocolate Orange' was introduced at this site in 1932, with Terrys All Gold also being introduced here in the mid 1930s.

We are told that the incredible wood panelling, the sweeping staircases, and Venetian dome were built by the same people who built the Titanic.

The property was GRADE II Listed in 1974 and stands at the centre of York's most impressive square. The building was awarded its BLUE PLAQUE by York Civic Trust in August 2017 being unveiled by Anthony Terry the 'great-great-great grandson' of Joseph Terry.



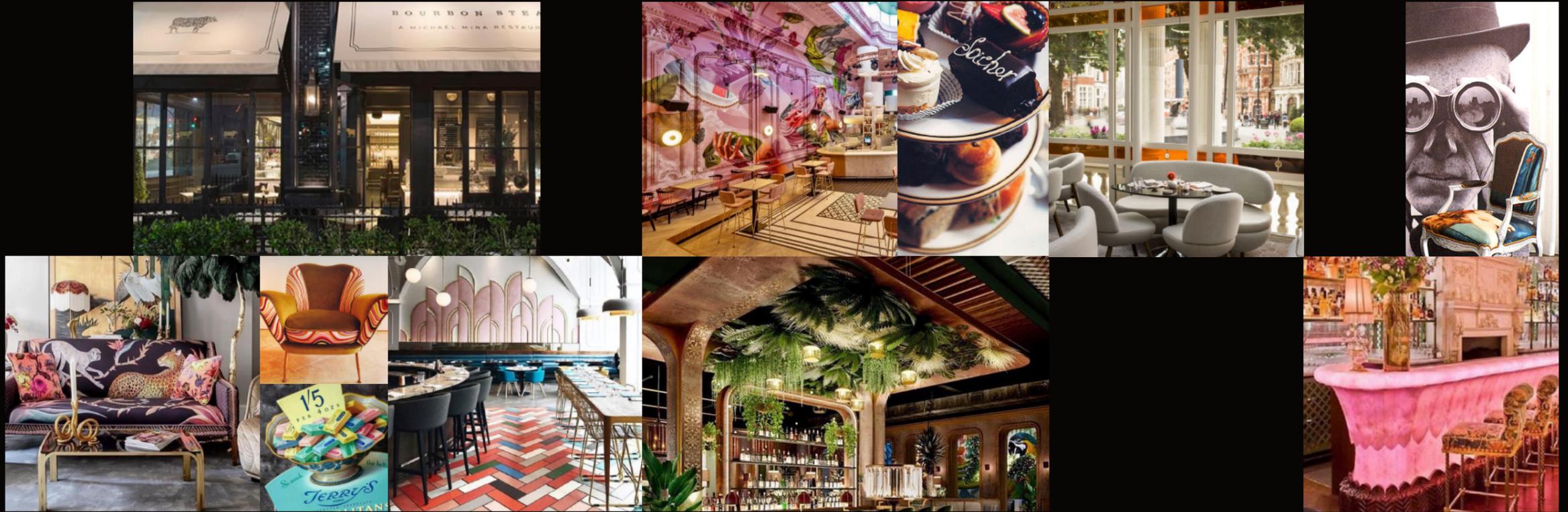
## Our Vision LICENCE A – The Former Carluccio’s

Carluccio’s just did not work, it felt like a national corporate brand was being forced into this beautiful historic building. York as a city demands a more independent, bespoke and quirky business that compliments the building and locality perfectly.

We have developed that spirit of ‘Impossibility’, that pride and vision both within the building and in York itself. We believe that Joseph Terry would be delighted with our reimagining of the building - housing its historical grandeur in a modern context.

The property is one of significant size - only a fraction of the space was used or seen by Carluccio’s.

It is a warren of corridors and space, which is why it is best to consider this side of the property in three separate phases.



## Phase I Tea Rooms / Restaurant and Supper Club

This essentially is the space already licensed by Carluccio's - we see the space as an all day, all evening and then transforming into the late night establishment.

The front area is an all day Tea Rooms and chocolatier overlooking the impressive square - all cakes, pastries and nibbles.

Up the short steps you will find the ground floor restaurant with its open gallery kitchen and impressive central island bar with an incredible brass and glass chandelier gantry.

Moving up the sweeping staircase with its impressive wood panelling brings you back to the ballroom. We will retain the original sprung dancefloor with a new horseshoe gallery bar with a second opulent brass gantry. This will deliver high quality cocktails to an evening dining audience moving to a supper club and jazz band accompaniment.

The oversized seating booths and central booth island are part of the licensing requirement and will remain as detailed - only the tall pedestal tables to the dancefloor / stage area may be moved for busier nights, weddings or corporate functions.



## Phase II The Boardroom & Roof Terrace

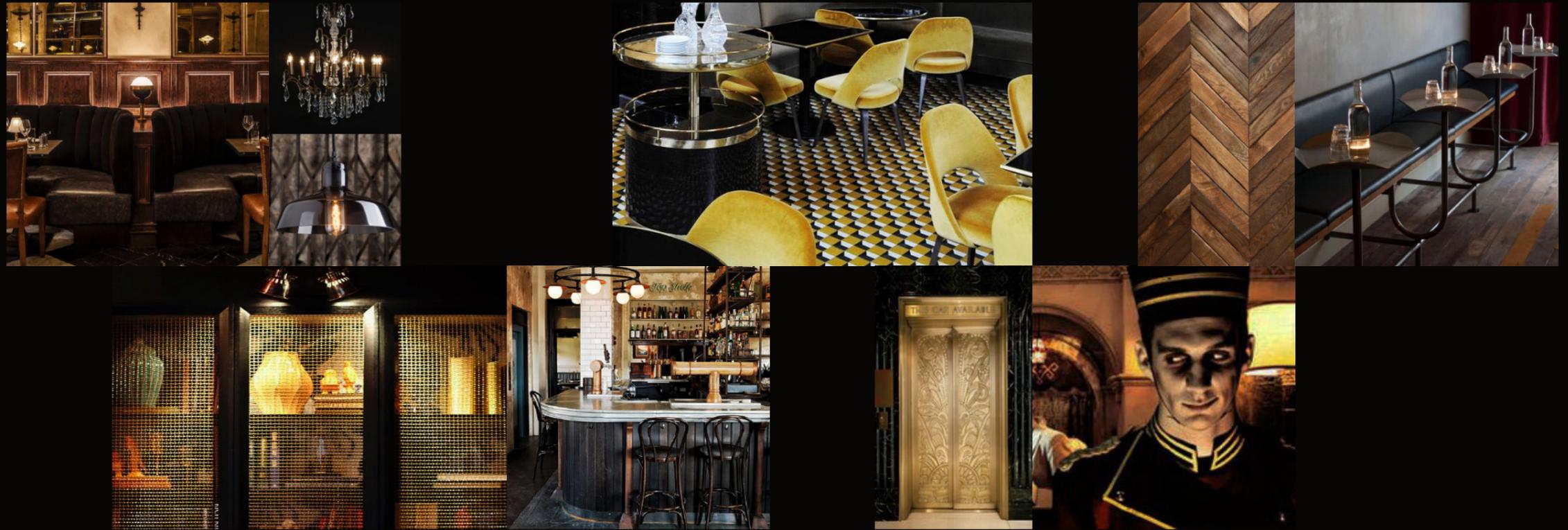
Above the incredible ballroom is another fantastical timber staircase that takes us up to an incredible 'Hogwarts style' boardroom with stone fireplace and original herringbone oak flooring. Our vision for this room is PDR (Private Dining Room) and function room for weddings and corporate events.

Although this room is currently licensed under the Carluccio's licensed plans - it was used as the only fire exit that was a difficult bridge over and through Harkers, which is not acceptable according to modern regulations. To enable this room to be lawfully occupied we have devised a new gantry and external staircase which forms new exit stairs

into the passageway / bin store area between ourselves and Harkers next door.

A second staircase then takes us up off the same gantry to a roof terrace with amazing 'Dickensian' 360 views of the 'Mary Poppins' chimney pots over the city and on towards an amazing view of the York Minster in all of its beauty. The space on the rooftop is limited to 60 people due to its single means of escape - with seating and fire pits and small outdoor cocktail bar.

These carefully considered exit and roof interventions require planning and Listed Building Consent which are both currently in their application processes.



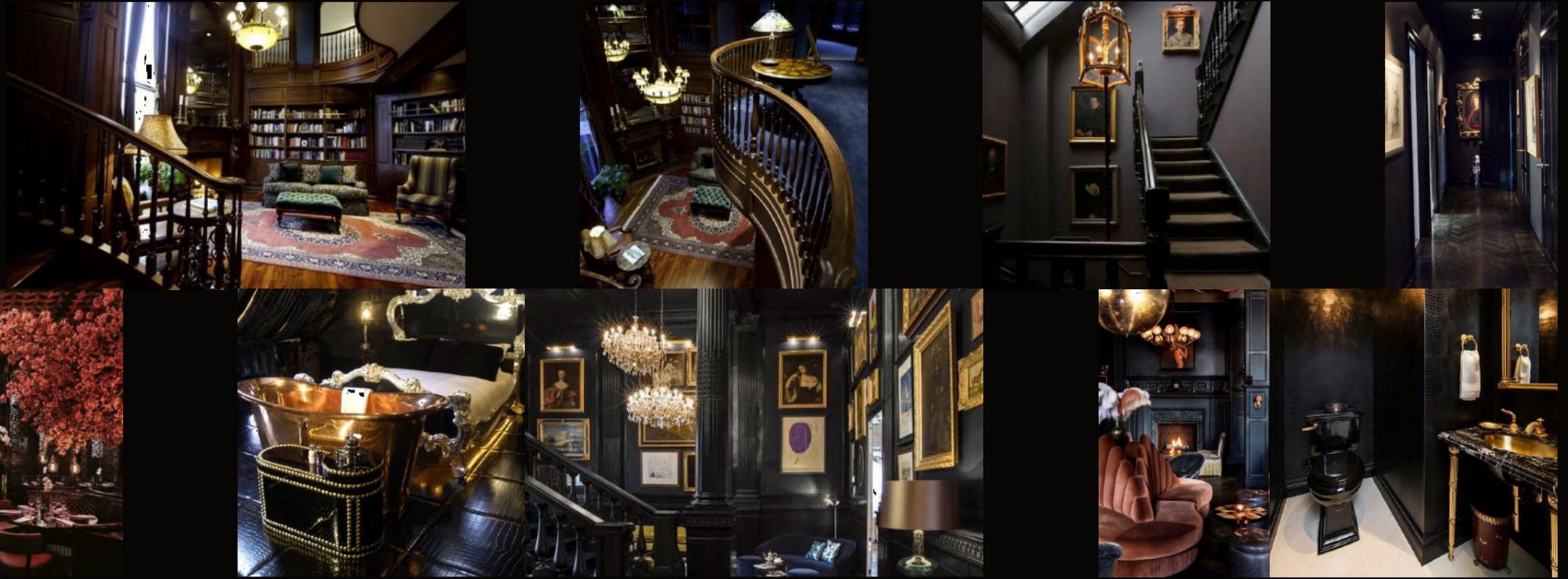
## Phase III Apothecary & Speakeasy

To the right hand side of the building is an incredible stone archway with real gas fired lamp leading to an alleyway and bin storage which urgently needs tidying up with our new storage solution under the new rooftop fire escape stairs. The winding alley takes adventurers down a winding glazed brick alleyway to the rear of the building and into what was previously the main Bank Vault door of the Yorkshire & Trustee Savings Bank - a new glazed courtyard and up to secret apothecary setback in time.

Speakeasies were secret hidden drinking dens in New York during 'prohibition' when alcohol was illegal so moonshiners would illegally distill their own alcohol - it tasted horrible so the taste would be hidden using overly powerful fruits and other flavours and medicines - the creation of the 'cocktail' being a cocktail of ingredients and the apothecary skills that Joseph Terry would be familiar with.

We have based our vision in 1930s New York - around a 'speakeasy' we love called 'Death&Co' in the Lower East Side. Low overly comfortable small seating with tiny tables and almost totally

candle lit - no lights and the cities best bartenders using traditional apothecary methods and their own imaginary cocktail stories.



## Our Vision LICENCE B – The Former York Savings Bank

The second licence is the conversion of what was last the Marchbrae Scottish Kilt retail store, and historically the TSB and before that York County Savings Bank.

Only the ground floor was used for the last retail use - our vision hopes to bring the full property back into use and back into the Rating system generating income back into the city. Empty Listed Buildings do not pay 'Empty Rates' so the upper floors currently hold no financial contribution back to the city.

Our vision is for a super-boutique hotel - ridiculously over the top ostentatious rooms - copper bath tubs, four poster beds, gallery library and sitting room, all based around hotel concepts we love like 'Crazy Bear' and 'The Bells Leeds' upstairs of first and second floor.

With a very different approach to the historic bank vaults in the basement - these will be left raw, almost untouched and sold as experience rooms, sleeping in the haunted 1818 old English bank vault in the centre of our historic city.

A separate hotel entrance to Blake Street is manned by a traditional Bell Boy during the day who will help collect your bags from the turning circle to the top of Blake Street when the 'Walking Street' is active before 8pm daily, leading up to a first floor reception by stairs or historically refurbished lift, following check-in you will be shown to your quirky room selection - be that either upstairs in one of our 12 individual and unique suites or down into the depths of one of our 5 haunted basement bank vaults. Either way, the experience is one-off, original and full of imagination. Just how York should be.

## Investment

After one of the most hostile years we have all experienced - especially for retail and hospitality - now we are seeing closure of bars, restaurants and retail nationally at an alarming pace. Carluccio's and Marchbrae both went into administration during the first lockdown and could have stood empty for some time.

We are investing £3.5m to create an independent and bespoke offering for York - generating employment for 120 people and returning these otherwise empty properties back into full commercial use, and in doing so adding two listed buildings back into the Rating system.

## Special Considerations

We understand the property sits within the Cumulative Impact Area and the duty is to ensure we add no further burden to that stress area.

We believe that 3 St Helens Square was purpose built as a Ballroom in 1922 and under the council's own policy should have been considered capable of inclusion to the CIA stress area - we also contend that since the CIA policy was introduced a great deal of premises have permanently closed or have been redeveloped away from licensed use, so overall capacity has reduced.

We asked initially for 3am on all nights - but after consultation with Police and EHO we have a reduced this request to 1am with a single weekly Saturday night until 3am to allow us to establish our venture as a high-end over 30s operation. We also contend that the nature of the opulent adjacent hotel creates a self-regulatory issue with regards to noise and local disturbance - we are essentially our own nearest sensitive property.

Other nearby residential properties are located next to a very busy 24hr McDonald's. Between us and those businesses, we received no objections or complaints during our one month operation in December 2020. And there were no residential or commercial objections to the applications.

We ask the committee to welcome new investment to the city and grant our reduced application.

## Accreditations

Tokyo Industries operate 45 restaurants, bars and live music venues throughout the UK, with International venues in Los Angeles, Palm Springs, Dubai, Croatia and Ibiza.

Tokyo Industries founder Aaron Mellor was a founding director of the NIGHT TIME INDUSTRIES ASSOCIATION [www.NTIA.co.uk](http://www.NTIA.co.uk). The Government & ACPO advisory group for late night leisure in the UK, & largely responsible for the creation of the 'Night Czar' roles in London and Manchester.

Aaron Mellor sits on UK Government DCMS & BEIS Select Committee for LATE NIGHT LEISURE in the COVID strategy groups.

Holding membership and board positions within UKHOSPITALITY (Formally ALMR) and BEDA (British Entertainment and Dance Association)

Aaron has been awarded a coveted 'Leader in Residence' title at the UCLan and is the founder and course lecturer for Msc Music Industry Management at UCLan.

## National & International Awards

### NATIONAL & INTERNATIONAL AWARDS

UK Hospitality INDUSTRY ICON 2018 / ALMR  
LIFETIME ACHIEVEMENT AWARD (Aaron Mellor)  
Restaurant Awards: Innovator of the Year 2018 (Aaron Mellor)  
International Licensed Trade Awards: Best Multiple Operator 2018  
UKHospitality Best New Venue 2018 (Impossible Manchester)  
Publican Awards: Best New Bar 2018 (Impossible Manchester)  
Best Bar None: Various winners across numerous venues

Europe Best Festival Production 2017 (LOST VILLAGE FESTIVAL)  
Europe Best Boutique Festival 2017 (LOST VILLAGE FESTIVAL)  
Restaurant & Bar Design Awards - Acclaimed 2017 (Get Baked Leeds))

DJ Mag 11th Best Club in the World 2016 (DIGITAL Newcastle)  
UKHospitality Best UK Entertainment Operator 2016 (Tokyo Industries)

Class Magazine Bar Tender of the Year 2012 (TOKYO Newcastle)  
DJ Mag Best of British: Best Small Venue 2011 (DIGITAL BRIGHTON)  
Theme Magazine Best New Bar 2010 (TOKYO Newcastle)  
DJ Mag Best of British: Best Large Venue 2010, (DIGITAL Newcastle)  
Bar Design Awards - Winner 2009/10 (theCUT Newcastle)

BEDA Awards UK Best SoundSystem 2006 (DIGITAL Newcastle)  
PNN Most Consistent Promoter 2005 (Stonelove Newcastle)  
Theme Best New Bar North 2002 (STEREO Newcastle)  
BEDA Awards UK Best Nightclub 2002 (Atomic Ashton)

New York Times: Voted 7th Best 'Must Visit Places' in Europe  
(Factory Manchester)

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**Licensing Hearing 8 April 2021**

**Additional documents submitted by Public Protection for 5 St  
Helen's Square**

- Additional representations

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**Additional representation for the Premises License application for 5  
St Helen's Square, York**

Further to my previous representations in relation to 5 St Helens Square, York, I am submitting additional information to support my representation on the grounds of public nuisance. A planning application for the change of use of the premises and a listed building application have been made and these have not yet been decided.

There is an expectation when premises license applications are made that planning permission has already been obtained. This is important as the planning decision may restrict the type and amount of mitigation that can be implemented. It also helps to guide us in recommending appropriate licensing conditions for noise control. This is an old listed building and the sound insulation properties of the building envelope may not be suitable for controlling the breakout of noise from the licensable activities and we are awaiting further information for the planning applications in relation to this. Consequently until the planning decisions are made, I am unable to recommend appropriate licensing conditions in terms of controlling noise from music.

Michael Golightly  
**Technical Officer**

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