

**Sefton, Helen**

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**From:** Golightly, Michael  
**Sent:** 02 August 2019 14:55  
**To:** EAP Licensing Unit  
**Subject:** Premises license application for 2 Cumberland Street, York, YO1 9SW

Dear All

Public Protection are objecting the above application on grounds of public nuisance.

**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 licenses the onus is on the premises license 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 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.

**The premises** is 2 Cumberland Street, York, YO1 9SW. This is a single glazed building with no acoustic lobby in the city centre within the CIA that already has 2 other bars opposite it. The CIA was reviewed in April 2018 and now includes a red hot spot zone within the CIA which represents an area in the City where there has been a increased number of crimes and anti social behaviour and noise related incidents.

There are also residential dwellings within close proximity. In terms of its previous use as a restaurant Public Protection have received a noise complaint in 2012 about loud amplified music and people noise.

There was a previous premises license, however, this has now lapsed and so this application should be regarded as a new application for a new premises license within the CIA.

**The proposed license** in the application is to be one for “a restaurant serving food from 12 – 10:30pm” that will be licensed to be open to the public until 2:30 am and 3:30am on New years eve and Bank Holiday Sundays. The license proposes live music until 11pm and recorded until 2am.

### **My concerns**

**The Application:** The agent has stated that the premises will be predominantly food led, however, The Play house web page is advertising events that appear to be more resembling those held at bars and night clubs with “Vice City Saturday’s” and “Play House Friday’s” the latter of which includes Live music and DJ’s 7- late. These are advertised as regular events and the web page includes other events on Sundays and Thursdays.

The Applicants have not offered conditions that are appropriate for a bar with live and recorded music and during negotiations have not even offered or agreed to some of the conditions that public protection proposed that were attached to the previous granted premises license such as "Alcohol will only be served to patrons who are seated at tables and as ancillary to a meal" or "A documented noise management plan shall be submitted to and approved by the City of York Council within two months of the licence being granted, once approved it shall be implemented. The noise management plan will also include a procedure for investigating noise complaints." The application alludes to a family friendly restaurant, with games appropriate for children under 16, however, the plan is that of a bar/ pub and the hours are way too late to be a family friendly establishment.

The times of operation: The applicant has proposed the hours of operation to run until 2:30am which is well in excess of other restaurants in the surrounding area. The serving of food is to be stopped at 10:30pm and then there would be 4 hours for the restaurant to remain open with the sale of alcohol and live and recorded music which can include DJ's. This would significantly change the character of the premises from a restaurant to that of a bar/ night time club and would be an intensification of bars in the area and may result in a risk of more noise complaints by local residents due to loud amplified music and noisy customers at the premises.

I am also concerned about the applicants ability to control noise from the premises. The conditions that have been offered by the applicant of a noise limiting device would not work in this instance. When setting levels for noise limiting devices where there is no acoustic lobby the levels would have to be set whilst the doors are open which would mean that the set level would be either too low to enjoy in the premises or too loud and pose a threat of causing a noise nuisance to surrounding residential dwellings. The lobby to the front of the premises is not a double set of doors ( i.e. a set of doors a space between and a second set of doors) and therefore will not stop noise from music and customers escaping out of the premises whilst customers are entering and leaving. I have advised that the applicants should consider reducing the hours to 11pm which is more in line with a restaurant and would mean that noise from loud amplified music, live music would no longer be a concern after 11pm and would therefore not be required to be mitigated after those times. (Note: Noise nuisance can occur at any time of day and would still need to be mitigated during the day). I have also proposed a condition for a noise management plan but this has been rejected by the applicants.

### **Conditions agreed with applicant:**

1. Notices shall be placed on exit doors and staff to remind customers that there are residential premises in the area and to be quiet when leaving the property.
2. Bottle bins are only to be emptied between the hours of 9am and 9pm Monday to Sunday.
3. Children will only be allowed on the premises if accompanied by adults and will not be allowed to remain after 21:00 hours.

4. The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo (until other effective identification technology e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder).
5. 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.
6. A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken people as well as incidents of any anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority and will be kept for at least one year.
7. When used door supervisors shall use their best endeavours to ensure that customers leaving the premises do so quickly and quietly without loitering outside.
8. An adequate number (at least one) of SIA licensed Door Supervisors shall be provided at the premises from 21:00hrs until the venue closes for business, on the following occasions:-

Friday and Saturday evenings, the evening preceding a Bank Holiday, any day when York race meetings are held, except for the first May meeting and the Sunday meeting in September.

**Conditions we would still like to see attached to the premises license**

1. The hours of operation: I would like the hours of operation to be restricted to 11pm if the premises is to be used as a restaurant.
2. A documented noise management plan shall be submitted to and approved by the City of York Council within two months of the licence being granted, once approved it shall be implemented. The noise management plan will also include a procedure for investigating noise complaints.
3. Alcohol will only be served to patrons who are seated at tables and as ancillary to a meal.

This application seeks to change the character of the use of the premises after 10:30pm (and 7pm on event nights) from a restaurant which it was previously into a fun bar/ DJ bar style licensed premises within the red zone of the Cumulative Impact Area where the Council should refuse all applications unless the applicants can show how their application would not lead to an increase in

the impact of licensed premises in that area. The applicants have not demonstrated how they will control noise from the premises and have not accepted all of the conditions that were proposed by public protection in order to prevent noise from the premises affecting surrounding residents. I would therefore advise the members of the committee that unless either the hours are restricted to 11pm or all of the above conditions are attached to any premises license that they refuse this application on grounds of public nuisance.

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

Regards

Michael Golightly  
**Technical Officer**

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