

## 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 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**