



SELBY DISTRICT COUNCIL – ENVIRONMENTAL HEALTH TEAM

LICENSING ACT 2003 – RESPONSIBLE AUTHORITY REPRESENTATION

Acting in the capacity of a responsible authority, on behalf of Selby District Council's Environmental Health's Team, I wish to submit a representation to support the review application served by North Yorkshire Police in relation to premises licence number LN/000004820 (Bay Horse Hotel, 57-59 Micklegate, Selby).

The review application number is:

My representation relates to the below licensing objectives:

- The prevention of public nuisance
- Public safety
- Prevention of crime and disorder

Details of Responsible Authority Representation:

Name: _____

Capacity: Environmental Health Team Leader

Contact Details: Environmental Health Team, Selby District Council, Civic Centre, War Memorial Square, Doncaster Road, Selby YO8 9FT. Telephone: 01757 705101

Email: info@selby.gov.uk

Annexes attached to this representation:

- Annex A – Emails between _____, Licensing Manager and The Bay Horse Hotel
- Annex B – Statement of _____, Licensing Manager
- Annex C – Premises CV19 Leaflet
- Annex D – Fixed Penalty Notice (FPN)
- Annex E – Decision Note (FPN)
- Annex F – Statement of _____, Senior Enforcement Officer
- Annex G – Coronavirus Improvement Notice (CIN)
- Annex H – Decision Note (CIN)

1.0 Background Information

1.1 The Bay Horse Hotel is located in Selby Town Centre. The area has a mix of premises types including licensed premises, commercial premises, industrial premises and residential premises. Campey Estates Limited is the Premises Licence Holder (PLH), _____ is the Designated Premises Supervisor (DPS) for the purposes of the Licensing Act 2003. Campey Estates Limited is the PLH for several licenced premises in Selby District.

1.2 Since March 2020 the UK has been dealing with the impact of the global pandemic, Covid 19. Since that date the UK Government has introduced numerous regulations and issued guidance, the guidance has been updated regularly as knowledge about the virus improves, this updated guidance is readily available on the Government Website in an accessible sector specific format.

1.3 It is true to say that the guidance has changed regularly, largely due to an improved understanding of the virus, the message however, has remained unchanged and clear. The message is to break opportunities for the virus to transmit in order to reduce infection, save lives and support the NHS.

1.4 Public nuisance under the Licensing Act 2003 retains its broad common law meaning. Common Law Public Nuisance: *A public nuisance arises from an act that endangers the life, health, property, morals or comfort of the public or obstructs the public in exercise or enjoyment of rights common to all. A public nuisance is actionable in tort and can also be a criminal offence. R v Reington Goldstein 2005 W.L.R.982.* In relation to public safety licence holders have a responsibility to ensure the safety of those using their premises. In addition, the licence holder has to promote the licensing objective of the prevention of crime and disorder.

1.5 For the reasons that I will outline below I consider that the PLH has failed to promote the licensing objectives of Preventing Public Nuisance and public safety in the context described above. I can therefore confirm that I support the application for a review of this premises licence.

2.0 Details of Representation

2.1 On 1st July 2020 _____ Senior Environmental Health Officer and _____ Senior Enforcement Officer visited the Bay Horse Hotel by appointment to carry out an advisory visit. Advice was provided to _____, the DPS, _____ (the director of Campey Estates Limited) and _____ regarding their risk assessments and a premises walk around was conducted to provide advice in relation to meeting legal

requirements and guidance applicable at the time, _____ and _____ were advised that the guidance is subject to regular updates which they would need to familiarise themselves with, they were further advised to seek their own specialist advice if they felt that was necessary.

2.2 On 4th July 2020 _____ Senior Environmental Health Officer carried out an unannounced joint visit to the Bay Horse Hotel accompanied by _____, Licensing Manager, SGT _____ and PC _____. The purpose of the visit was to provide advice and to check compliance. It was noted that the premises appeared to be busy, _____ was provided with advice in relation to closing times and Covid related measures in place.

2.3 On 9th July 2020 _____ Senior Environmental Health Officer carried out an unannounced joint visit to the Bay Horse Hotel accompanied by _____ Licensing Manager, SGT _____ and PC _____. The purpose of the visit was to provide advice and to check compliance and to assess the suitability and sufficiency of the Covid risk assessments in place. During the visit it was noted that the risk assessments were generic in nature, basic and lacked detail and were not suitable and sufficient. As a consequence of the Covid 19 pandemic and the regulations licensed premises have had to change on several occasions and therefore require risk assessments to be updated and recorded to ensure staff and the public are in a covid safe environment. The issues were discussed with _____, the DPS.

2.4 On 3rd December 2020 at 10:10 _____ Senior Environmental Health Officer carried out an unannounced joint visit to the Bay Horse Hotel accompanied by _____ Licensing Manager, SGT _____ and PC _____. The purpose of the visit was to provide advice and to check compliance and to specifically offer advice in relation to the requirement to only serve alcohol if it is served as part of a table meal. This was important since there are no cooking facilities or food preparation facilities on site, the premises is generally considered to be a "wet pub". _____ the DPS was provided with advice, concerns were raised that at the time of the visit that "breakfast" was not available until approximately 90 minutes after the premises were open to serve alcohol. The concerns discussed were raised following the visit via email on 4th December 2020 at 09:03, the email is available at annex A. That email and subsequent emails make the requirements of the regulations clear, the replies received from _____ the DPS demonstrate an understanding of the regulations and explain how the requirements will be met.

- 2.5 On 9th December 2020, _____ Licensing Manager visited the premises and observed alcohol being served that was not part of a table meal.
- 2.6 On 11th December 2020 at 18:50 _____ Licensing Manager, and PC _____ carried out an unannounced joint visit to the Bay Horse Hotel, at the time of the visit _____ DPS was not present, _____ identified herself as being the person in charge. Several concerns were raised regarding compliance with Covid Regulations in relation to gatherings of people, not checking individuals as they entered the premises and serving alcohol that was clearly not part of a table meal. _____ Licensing Manager provided a statement which is included at annex B.
- 2.7 On 11th December 2020 after 22:00, _____ Senior Enforcement Officer, _____ Enforcement Officer and _____ Service Manager visited the Bay Horse Hotel. From the outside, the premises were noted as being busy and individuals were seen gaining access to the side door, at approximately 22:15 they were joined by _____ Licensing Manager and Officers from NY Police. The front door was locked and what appeared to be a party was noted. People could be clearly seen through the glass window to the snug area. On entering the Bay Horse Hotel, it was noted that very little food was evident, individuals appeared to be standing with pint glasses in their hand whilst watching football. _____ Licensing Manager provided a statement which is included at annex B. An information leaflet was left at the premises following the visit, the leaflet seeks to set out the requirements of the regulations and is available at annex C.
- 2.8 On 15th December 2020, following a review of the evidence available, including the statement at annex B, _____ Senior Environmental Health Officer, considered it proportionate to serve a fixed penalty notice on _____ DPS, which was for the prescribed sum of £1000. A copy of the fixed penalty notice is available at annex D and was for a breach of the regulations for failure without reasonable excuse, to prohibit the sale of alcohol for consumption on the premises unless served as part of a table meal, and the meal is such as might be expected to be served as breakfast, the main midday or main evening meal, or as a main course at such a meal. The decision note is available at annex E.
- 2.9 On 16th December 2020 at approximately 18:00, _____ Enforcement Officer, visited the Bay Horse Hotel accompanied by PC _____ following being made aware that football matches were being advertised on Facebook for viewing at the premises. On entry into the premises twelve people were noted within the snug, all of whom were sat down. Three tables were in

this area and there were twelve plates of a buffet style meal on the tables. Concerns were raised with _____ that this area was too crowded with little or no social distancing taking place. _____ removed a table and some of the customers sat within this area. It was recommended to _____ that two tables and a maximum of eight people would be acceptable in the snug area. Of those initial twelve people sat in the snug it was apparent that there were numerous "households" seated around the three tables. In short it was a group of friends that were out to have a few beers, a light bite to eat and to watch the football match.

2.10 _____ stated that she had asked several questions of those present and that they had assured her that only one household was seated at each table. A number of the individuals confirmed that these questions had been asked on entry and several openly admitted to lying to _____ regarding the household regulation to enter the premises. _____ was reminded that customers are required to wear a mask when moving around the premises, the majority were, however a couple of customers openly walked around the premises with no mask being worn. Some customers left via the front door as opposed to the side door which is marked as the exit. _____ was advised to place further signage on these doors to avoid any further confusion.

2.11 On 18th December 2020 at approximately 18:00, _____ Senior Enforcement Officer, _____ Enforcement Officer and _____, Enforcement Officer carried out an unannounced visit to check compliance and offer advice. During the visit _____ identified herself as being in charge that evening. Various issues were identified. _____ advised that she did not feel she was in control of people at the premises and she appeared to be overwhelmed with her responsibilities. _____ Senior Enforcement Officer provided a statement which is included at annex F.

2.12 On 21st December 2020, following a review of the evidence available, including the statement at annex E, _____ Senior Environmental Health Officer, considered it proportionate to serve a Coronavirus Improvement Notice (CIN), a copy of the CIN is available at annex G. The CIN required _____, DPS, to make improvements specified in the notice in order ensure customers remained seated and to ensure alcohol was only been served as part of a table meal. The decision note is available at annex H.

3.0 Summary and Other Matters

3.1 In order to reduce the risk of contracting or spreading coronavirus national guidance states that people should minimise time spent

with people they do not live with and when around other people ensure that they are two metres apart for anyone not in their household or support bubble. Social distancing is essential to stop the spread of the virus, as it is more likely to spread when people are close together. An infected person can pass on the virus through talking, breathing, coughing or sneezing even if they do not have any symptoms. Indoor gatherings that do not follow the national guidance presents ideal conditions for the spread of the virus between people.

3.2 Statistics obtained from Public Health at North Yorkshire County Council reveal:

The 7-day case rate per 100,000 in Selby District on 1st July 2020 was 5.5 cases per 100k

The 7-day case rate per 100,000 in Selby District on 1st December 2020 was 118.1 cases per 100k

The 7-day case rate per 100,000 in Selby District on 31st December 2020 was 321.1 cases per 100k

The figures show a significant prevalence of the virus in December when compared to July 2020.

3.3 Environmental Health and Enforcement have provided significant resources to the Bay Horse Hotel in terms of advice, visits and signposting in order to assist the business to follow the guidelines which are designed to stop the spread of the virus, protect the NHS and save lives. Despite these efforts the Bay Horse Hotel failed to follow the guidelines or meet minimum legal requirements to operate the premises in a covid secure way which has necessitated the need for enforcement action to be taken. Accordingly, there has been failure to operate the premises in accordance with the above licensing objectives.

3.4 Campey Estates Limited is the Licensee at several Licensed Premises in the Selby District, during the pandemic it has been necessary to serve two prohibition notices on Campey Estates Limited following complaints and visits from NYP. On 3rd April 2020, _____ was issued with a prohibition notice, and on 2nd June 2020 _____ was issued with a prohibition notice, both notices were in relation to operating in breach of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020.

3.5 The fixed penalty notice served on 15th December 2021 has not been paid, therefore the matter is being referred to the Crown Prosecution Service (CPS) for their consideration as to whether it is proportionate to initiate proceedings.

ANNEX A

From: _____
Sent: 08 December 2020 18:21
To: _____

Subject: FW: Concerns Bay Horse, Selby

Hi

Please see the confirmation below from the Bay Horse, Selby in regards to their change of food orders.

Thanks

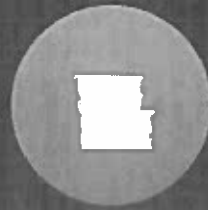
From: _____@live.co.uk>
Sent: 08 December 2020 17:34
To: _____@selby.gov.uk>
Subject: Re: Concerns Bay Horse, Selby

Hey _____

Please see attached confirmation of earlier delivery.

Kind regards

17:32



Fab xx

Yesterday 16:19

Hey is there any chance we could have our order at 9:30 from now on? Sorry to be a pain but licencing were concerned that the hour and a half wait was too long xx

From us opening at 9 I mean

I can try hunny, just depends on how busy the counter is, should be ok tho xx

Sent from my iPhone

On 7 Dec 2020, at 15:41, <[redacted]@selby.gov.uk> wrote:

Hi [redacted]

What's your mobile number please?

Thanks

[redacted]

Licensing Manager

t: 01757 705101

<[redacted]@selby.gov.uk>

w: www.selby.gov.uk

<imagecbadbe.PNG>

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From: <[redacted]@live.co.uk>

Sent: 04 December 2020 23:49

To: _____ @selby.gov.uk>
Subject: RE: Concerns Bay Horse, Selby

Good afternoon _____

No problem. We have all the procedures at the bay horse that the staff have signed if required along with risk assessments from ourselves and our caterers.

So, our opening times Monday to Sunday are 9am till 11pm (last orders between 9:30pm and 10pm) When our patrons arrive we ask them all the questions as stated (sign in, support bubble, tiers etc), we seat them at a table explaining that it is table service only and any alcoholic drinks must be consumed with a meal. We also remind them that masks are to be worn and then take the food order before we take the drinks order. We do not serve or take orders from the bar.

On a morning we then ring the orders through to _____ with _____. _____ then makes the food and brings it to us. We generally don't have anyone in until around 9:30am and the food arrives before 10:30am. We then put another order in at 10:30 to come. We do not reheat anything as it comes in an insulated box and on the plates. They hand them to the tables along with cutlery. Once the meal has been finished we remove the plates etc off the tables and ask the customer to drink up and leave. Once this has been done we clean the tables ready seat the next people. If we have no tables available we shut the door to allow time customers to leave for tables to be wiped as we do not let anyone in to wait as this would mean standing. Also we sometimes shut the doors if we feel like we will maybe struggle with anyone during busy periods. The door supervisors will also operate this on the weekends.

From 1pm our process is a little different as _____ at _____ comes and dishes up the meals using tongs, gloves, apron and a face mask. As soon as a table comes in, _____ prepares their meal and takes it straight to the table. _____ goes home every hour and a half and replenishes _____ stock so it is fresh, this takes around 20 minutes but leaves enough meals to see us through this gap. _____ again provides the cutlery and removes empty plates and we assist with removing the customers from the pub. Once it gets to 10pm all excess food is thrown away and we start removing it from the tables to ensure people leave with premises.

In-between serving we do half hour cleaning checks and clean all communal areas such as door handles, toilet flushes, sinks, taps, door locks etc. This is signed off by the staff doing the half hour clean downs. We also check that the hand sanitisers and soaps dotted around the pubs have been replenished every morning. We do not allow anyone in the rear beer garden at this time, not only because its freezing but also to reduce people wondering round where they cannot be seen. As you'll have already noticed all gaming machines have been taken away or solid wooden tops have been placed on top of them so these cannot be accessed at all.

We no longer offer pre-ordered takeaways and we do not take table bookings to avoid groups coming in and being disappointed when they have to leave after eating. We are simply opening for the our customers who rely on coming in for that human contact and most patrons are lonely single households so even though they cant sit together it gives these people a sense of belonging to venture out for an hour to see a happy familiar face at a safe distance. While the food orders and money is taken though our tills it is given to the caterers upon cashing up this is non profit for us and we then put their money in an envelope. (I have added the breakfast, lunch and dinner buttons to our till so this is traceable on receipts and we can keep a record; it is a smart till and I would be happy to show you if you ever required)

I have been contacting yourselves all through the last lockdown to ensure that I am doing things correctly and notifying you of our plans. We have provided CCTV footage to show no wrong-doing and I feel in control with the system we have laid out and don't have anything to hide or any concerns about it. We really are suffering because of the current climate and other town pubs haven't been following the regulations meaning a majority our patrons have been going there instead. We really want to work together with you guys to remain open and remain in employment.

I will be happy to assist in further spot checks or queries/concerns you may have. Unfortunately the guidelines are vague but all areas are being covered to my best abilities.

I will be attaching the food handling and hygiene certificates for myself, _____ at _____ and _____ at _____ in due course along with liability insurance documents. My aim for our next staff training meeting is to have all of my staff holding at least a level 2 in safe food handling in case we as bar staff need to be more hands on but at the moment we have been leaving it to our caterers.

I know you have given me until Monday but I just wanted to make sure that there isn't anything else I am missing so that I will have the chance to ping any further information over. Due to working split shifts both at the Bay Horse and the _____ over the weekend I don't want to miss getting anything back to you all as soon as I can.

Have a nice weekend all.

Kind regards,

Sent from Mail for Windows 10

From: _____
Sent: 04 December 2020 11:24
To: _____
Cc: _____@northyorkshire.pnn.police.uk)
Subject: RE: Concerns Bay Horse, Selby
Importance: High

Thank you for your email, however we do require a more in-depth description from start to finish.

I recommend that you start at the beginning, stating the opening times and how the whole process including how orders are taken, service, end of meal and how the deliveries work?

I would expect that you would have the majority of this written down as a procedure of opening for staff to follow?

You have until Monday to respond to this so, please ensure that everything is covered.

Kind Regards,

Licensing Manager

t: 01757 705101

_____ selby.gov.uk

w: www.selby.gov.uk

<image001.png>

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From: _____@live.co.uk>

Sent: 04 December 2020 10:49

To: _____@selby.gov.uk>

Subject: Re: Concerns Bay Horse, Selby

Morning _____

Our full step by step procedure when people arrive is to ask them to sign in to track and trace, ask them if they are in the support bubble and what tier they are in. If they are in tier 3 we are not letting them inside.

We then explain masks must be worn when moving around the pub, the customers have to be seated and them must order a substantial meal from us. If they don't want a meal there is NO service.

We have signs throughout the pub reminding people of the new procedures.

Once food has been eaten we are asking people to leave.

All the staff have had thorough training as well as our door staff which we have on Fridays and Saturdays.

The food is a full English breakfast till 1pm (we have this delivered and can have as many deliveries as we want but it's generally quiet until 12)

Then we hav _____ from _____ serving the food from 1pm onwards.

All food is served to the customers (they are not allowed to collect them selves) all knives and forks and disposable condiments are only given with the food so that they don't get contaminated on the tables. Once finished the food is removed and we tell the patrons to leave. We then sanitise all the tables and dettol the chairs.

Last orders for food and drinks is 10pm and out by 11pm.

Hope this clears things up. Have a lovely weekend.

Kind regards

Sent from my iPhone

On 4 Dec 2020, at 09:03, _____@selby.gov.uk> wrote:

Dear _____

Following the joint visit to the Bay Horse, Selby yesterday morning, by North Yorkshire Police Licensing and Selby Council Officers, concerns have been raised by all parties present in relation to how you are operating in regard to the following regulations:

'The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020

Restrictions on service of food and drink for consumption on the premises

13.—(1) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 2 area that falls within paragraph 15(2) and which serves alcohol for consumption on the premises may sell food or drink for consumption on the premises only if—

(a) the food or drink is ordered by, and served to, a customer who is seated on the premises, and

(b) the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(2) A person responsible for carrying on a restricted business, or providing a restricted service, in the Tier 2 area that falls within paragraph 15(2) and which does not serve alcohol for consumption on the premises may sell food or drink for consumption on the premises only if the person takes all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises.

(3) For the purposes of sub-paragraphs (1) and (2), an area adjacent to the premises of the restricted business or restricted service, where seating is made available for its customers (whether or not by the business or the provider of the service), or which its customers habitually use for consumption of food or drink served by the business or service, is to be treated as part of the premises of that business or service.

(4) If a business or service falling within paragraph 15(2) ("business A") forms part of a larger business ("business B")—

(a) sub-paragraph (1)(a) does not apply to the service of food or drink if the condition in sub-paragraph (5) is met, and

(b) the person responsible for carrying on business B complies with the requirement in sub-paragraph (1) or (2) if that person complies with the requirement in relation to business A.'

Can you respond to this email clarifying, step by step how you are complying with the regulations above at the Bay Horse, Selby by Monday 1700 hours at the latest.

Kind Regards

Licensing Manager

t: 01757 705101

selby.gov.uk

w: www.selby.gov.uk

<imagefca97d.PNG>

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Statement of _____

Over 18, Occupation Licensing Manger

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything, which I know to be false or do not believe to be true.

Dated 14th December 2020

Signature _____

I am the above-named person, and I am currently employed by Selby District Council, as the licensing Manger for the district. As part of my role, I oversee licensed premises.

I can confirm that The Bay Horse Selby holds a premises licence.

At 18.50 hours on Friday 11th December 2020, myself and _____, North Yorkshire Police Licensing Officer, visited The Bay Horse, Micklegate, Selby at 18:50 hours.

We entered through the main front door. I noticed a large group of young people, predominately male in the snug area to the right-hand side of the main door. All members of the group appeared to be drinking and a small paper plate was on a table.

We both turned left to walk into the larger area of the premises, it appeared to be very busy, all the patrons appeared to be seated and had alcohol, mainly pints. Each table appeared to have a group of people approximately 6, around it and on each table, there was one paper plate, usually in the centre of the table with very little food on it. None of the food I observed on the tables was a table meal for one person. I also noted that no table had empty plates, they simply the one paper plate. There was no sight of any on site caterer.

_____ and I asked if _____ was about, as we were both aware that she was the designated premises supervisor, she was not. We asked to speak to whoever was in charge. We spoke to _____ We advised her of the concerns we had witnessed, mainly the group in the snug and that each table appeared to be sharing a small plate of food. As we were talking to _____ another group of three males entered the premises through the main door and walked straight by the NHS QR code and book to add names and telephone numbers, at the entrance and went to join the group already in the snug area. The group was not stopped about this. _____ that she would pass this information on to _____. I left the paperwork which showed our concerns.

At approximately 22.15 hours I parked my vehicle in the Micklegate car park outside of the Bay Horse. My colleague _____ was already in attendance outside the Bay Horse. I went to meet with her, and she confirmed that the front door to the premises was locked and that 2 girls had just entered the premises via the side door. _____ and _____ were also in attendance. I could clearly see people through the glass window to the snug area, where it looked like a party was going on, several heads could be seen stood up, lots of laughter and talking. I took a photo at 22.21 hours of the snug window. The windows to this area were slightly ajar. We all agreed that we needed to enter the premises. I heard the lady behind the bar shout something about orders.

_____ flagged down a police van that was going by and asked the officers to go in with us. The police officers x 2 from the van were the first to enter the premises from the side door of the premises via the gate. We informed the bar staff why we were there. The SIA door person was stood speaking to the group in the snug. The police officers spoke to the large group of people in the snug area about leaving. _____ Senior Enforcement Officer counted out 20 leaving this area.

Looking around the premises there was very few food plates at this time. Patrons were predominately drinking up pints and watching the football. Three times I asked the lady behind the bar to tell a patron to sit down with their drink as they had begun to walk around with their pints.

Eventually the snug was cleared, and the bar staff were asking patrons to drink up to leave.

_____ telephoned the Designated Premises Supervisor _____ to advise her about what was happening and that we would be in touch next week.

When all the patrons had left the premises, we all left and advised that they could now lock the doors.



ANNEX C

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020

As you will be aware, Selby District was subject to the high-level coronavirus restrictions (tier 2) from Wednesday 2nd December. Although a number of these measures are similar to those previously placed on the hospitality sector, there are some significant new requirements for those carrying on a business of a public house, bar or other business involving the provision of alcohol for consumption on the premises.

Licensed premises must close unless they operate as a restaurant:

- a) This means serving a 'table meal' which is a meal a diner would expect to be served for breakfast, main midday or evening meal with alcohol only served to accompany such a meal.
- b) Not permitting customers to sit and drink multiple alcoholic drinks for a long time either side of a meal being ordered and consumed.
- c) As a guide allowing a maximum time of two hours for a meal of multiple courses, with a shorter amount of time for meals of one course and only permitting one further alcoholic drink to be ordered at the end of a meal.
 - **The guiding principle is that alcoholic drinks should be seen as secondary to the meal. Enforcement will be targeted at those premises allowing customers to stay well beyond the duration of a meal and in effect facilitating longer drinking sessions which present the greatest COVID 19 transmission risk.**

It is important that businesses that currently do not serve food and wish to begin have adequate facilities and procedures in place to produce food safely. If you have traditionally not served food please contact us and we will be able to advise you on how to do this safely.

Businesses that do not ordinarily serve food on their premises may do so (and remain open) by entering into a contracting arrangement with an existing food business to provide food for them.

- However, allowing customers to bring food into the premises that has been purchased elsewhere in order to consume drink is prohibited. If you invite a mobile catering trailer onto your premises then you must contact the planning department and it may also require a street trading permit.

Individuals can only meet in indoor settings with other members of their own household or support bubble.

- Businesses must only accept indoor bookings for individuals from one household or support bubble and must take reasonable steps to prevent individuals from separate households or bubbles from mingling with each other when indoors.

Please be advised that the relaxation of Coronavirus restrictions at Christmas do not apply to the hospitality sector in Tier 2.

Table service - in licensed premises, food and/or drink must be ordered from, and served at a table (both indoors and outdoors). Customers must also eat and drink at a table in any premises selling food and drink to consume on site. Payments should be made by card and at the table where possible. Where this is not possible, payments can be made at the bar provided additional measures are in place, such as ensuring social distancing between separate households is maintained.

Social distancing – Tables should be socially distanced at two metres or one metre with risk mitigation where two metres is not viable. Risk mitigation includes increasing ventilation, frequency of hand washing

and surface cleaning; keeping non-socially distanced activity time as short as possible; using screens or barriers to separate workers both from each other and customers; using back to back rather than face to face seating layouts; and reducing the number of people each person has contact with using fixed staffing teams.

Premises must be closed and vacated by 11pm - businesses selling food or drink (including cafes, bars, pubs, restaurants, social clubs etc.) must be closed between 11pm and 5am, with last orders for food and drink placed by 10pm. Delivery services (including drive-through service) are exempt and can continue after 10pm provided they are not allowing customers on the premises.

Test and Trace – Businesses must display an official NHS QR code poster at every entrance to their premises so that customers and visitors can 'check-in' using this option as an alternative to providing their contact details. Official NHS QR posters can be generated online at www.gov.uk/create-coronavirus-qr-poster. Where a customer is unable to scan the QR code a member of the party must provide their contact details for you to record by another secure method. Details of staffing rotas must also be recorded and kept for 21 days.

Face coverings - Customers must wear a face covering when indoors at pubs, bars, restaurants, cafes and any other premises providing hospitality except when seated at a table to eat and drink. This includes when entering/leaving the premises and visiting the toilet for example. Staff working in areas that are open to the public must also wear a face covering unless separated by a physical barrier.

Lower music and other background noise – Businesses must take reasonable steps to prevent shouting, singing and dancing in the venue by making sure music and broadcasts are played at a low volume.

In light of these requirements please ensure you review your Covid-19 Risk Assessment to ensure it remains comprehensive and relevant to the newly introduced measures. In addition the Covid 19 pub and restaurant guidance has once again been updated to reflect the new tiers and is available on the government website at <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

We know this has been and continues to be a challenging time for you and your business. We thank you for your continuing to play your part in helping to prevent the spread of the virus.

Civic Centre, Doncaster Road,
Selby, YO8 9FT.

info@selby.gov.uk

01757 705 101



**We must keep on
protecting each other.**

NHS



HANDS



FACE



SPACE



STAY ALERT CONTROL THE VIRUS SAVE LIVES

SELBY DISTRICT COUNCIL
REF/WK/20203559

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020
(SI. 2020: No. 1374)

FIXED PENALTY NOTICE

Date: 15th December 2020

Part A

To: _____

At: Bay Horse Hotel

Of: 57 Micklegate, Selby, North Yorkshire, YO8 4EA

Trading as: Bay Horse Hotel

This Fixed Penalty Notice is served under Regulation 11(1) of The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations (the Regulations).

The Regulations impose certain restrictions to protect against the risks to public health arising from coronavirus. Failure to comply with the requirements of the Regulations, without reasonable excuse, is a criminal offence.

I, _____ designated as an authorised person for the purposes of the Regulations by Selby District Council have reasonable grounds for believing that you have committed a criminal offence under the Regulations. I am issuing this Notice to offer the opportunity to discharge liability to conviction for the offence by payment of a fixed penalty.

Selby District Council may not take criminal proceedings against you in respect of the offence during the period of 28 days following the date of this Notice. Payment of the fixed penalty within that period means that you cannot be convicted in relation to the offence set out in Part C of this Notice.

Part B. Amount of Penalty and period to pay

The monetary penalty you must pay is: £1,000.00

Payment of the fixed penalty must be made within 28 days of the date of this notice.

The penalty must be paid to: Selby District Civic Centre, War Memorial Square, Doncaster Road, Selby YO8 9FT

DEBIT/CREDIT CARD: We accept payment by all major debit and credit cards. Please call 01757 705101 Monday/Tuesday/Thursday/Friday 9.30am to 4.00pm, Wednesday 10.00am to 4.00pm.

CHEQUE PAYMENT: Cheques should be made payable to **Selby District Council** and sent to **Selby District Council, Environmental Health, Civic Centre, Doncaster Road, Selby, YO8 9FT.** They should not be made payable to individual officers and post-dated cheques are not acceptable

Part C. Grounds for imposing the Penalty

Regulation contravened: Contrary to Regulation 8(2) of the Regulations, you have failed, without reasonable excuse, to prohibit the sale of alcohol for consumption on the premises unless served as part of a table meal, and the meal is such as might be expected to be served as breakfast, the main midday or main evening meal, or as a main course at such a meal.

Particulars of the offence: During a visit to the premises dated Friday 11th December 2020, customers were observed drinking alcohol in the absence of a table meal, and the very little food present was not such as might be expected to be served as breakfast, the main midday or main evening meal, or as a main course at such a meal.

Part D. Challenging this Fixed Penalty Notice

If you consider that the Notice should not have been issued, you can make representations to Selby District Council in writing outlining your reasons for challenging the Notice, within 14 days of the date on this Notice. Your challenge will be processed in accordance with Selby District Council's Complaint Procedure:

<https://www.selby.gov.uk/complaints-and-compliments>

Alternatively, you may challenge this Notice by way of Judicial Review. Should you wish to pursue this option, you may wish to consult a lawyer to obtain independent legal advice.

**This Notice remains in force even if you have raised a challenge.
Should the local authority's review of your challenge determine that the Notice should be revoked, you will be notified in writing that the Notice has been revoked.**

Part E. Consequences of non-payment/ continued non-compliance

Failure to pay fixed penalty within 28 days may lead to criminal proceedings being commenced against you in respect of the offence set out in Part C of this Notice.

Continued contravention of a requirement in the Regulations, without reasonable excuse, is an offence punishable by a fine on summary conviction in a Magistrates Court.

Signed:

Date:

Name in Capitals: _____

SENIOR ENVIRONMENTAL HEALTH OFFICER

Selby District Council, Civic Centre, War Memorial Square, Doncaster Road, Selby YO8 9FT
Telephone: 01757 705101 Email: info@selby.gov.uk

If you are not sure of your rights or the implications of this notice, you may want to seek independent legal advice

FPN Decision Note – Bay Horse Hotel

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 came into force on 2nd December 2020 and North Yorkshire is/was subject to Tier 2 restrictions set out within Schedule 2, one of which prohibits the sale of alcohol for consumption on the premises unless served as part of a table meal, and the meal is such as might be expected to be served as breakfast, the main midday or main evening meal, or as a main course at such a meal (14[2])

On 9th December 2020, _____ Licensing Manager attended premises in light of the new restrictions to see how the business was operating, and customers were observed consuming alcohol without a table meal

On 11th December 2020 several unannounced visits were made to licensed premises to check compliance with Coronavirus statutory provisions, including to Bay Horse Hotel, where _____ witnessed tables seating groups of six people consuming alcohol with nothing more than a small paper plate between them and containing very little food considered sufficient to feed only one person

Later that evening as customers were leaving the premises there were very few plates at this time and patrons were predominantly drinking alcohol

In serving the FPN, I considered what _____ witnessed on 11th December 2020, the reoccurrence of what was observed on 9th December 2020 and the seriousness of the contravention

Statement of Witness (CJ Act 1967,s9; MC Act 1980, ss5A(3)(a) and 5B, MC Rules 1981, r70)

STATEMENT OF _____

Age of Witness over 18:

Occupation of Witness: SENIOR ENFORCEMENT OFFICER

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

Signature _____

Dated the 21 December 2020

I am a Senior Enforcement Officer employed by Selby District Council. On Friday 18 December myself and my colleagues from the Enforcement team were tasked with visiting Licensed Premises within Selby Town centre to conduct Covid compliance checks.

On Friday 18 December 2020 at 18.55 hrs, I attended the Bay Horse on Micklegate, Selby with my colleagues Enforcement Officer _____ and Enforcement Officer _____

I walked to the front door of the premise and was greeted by a male SIA door supervisor. I introduced myself and my colleagues and advised we were attending licensed premises to conduct Covid compliance checks. I then walked through the front door and approached the bar and looked around to the left and saw the premises was very busy people seated and that all tables were in use. There was some evidence of food on the premises and the majority of people were drinking alcohol. I saw _____ behind the bar who came across to us, I advised her that we were conducting Covid compliance visits. _____ said that she wasn't in

charge that evening and introduced me to another female who advised me that her name was _____ and she confirmed that she was in charge that evening. I explained again that we were in the area conducting Covid compliance checks and I would need to go through some things with her. She said that was ok and came out from behind the bar to speak to me. We were stood next to a high table in the corner adjacent to the bar area and side door which is currently being used to exit the premise.

As I started speaking to _____ I noticed that a female bar staff was taking a payment from a female who had been seated in the snug area on the card machine stood at the other side of the table to where I was stood. I asked _____ about this and advised that all customers should be seated whilst in the premise and payments taken at the table. _____ said that they could not take payments from the table in the snug because the card machine did not work in that part of the premise.

I then saw a male approach the bar from the other room, he was not wearing a mask and was not challenged by any of the staff members who were working behind the bar at the time. I pointed this out to _____ and advised anyone who was walking around in the premise needed to be told that they must be wearing a mask unless they were exempt. _____ shrugged her shoulders and said that she knew this.

Enforcement Officer _____ then asked _____ if she knew how many people were allowed to be in the snug area. She said that twelve people were allowed to be seated in there. _____ then advised her that it had been agreed at a visit he had undertaken at the premises on Wednesday evening that the permitted number would be eight. _____ said that she was unaware of this. I asked if _____ had received any training regarding Covid compliance, she said no she hadn't, but she had

spoken to _____ about things, but it was all very confusing for her and all of the other staff members.

At that moment the exit door opened and a group of approximately six males walked through into the premise and passed us and walked around to the back of the premise. Not all of these males were wearing masks and at no point were any of them challenged by staff members. I asked _____ about this and she didn't know, she said that they might have had a table booked. I said well if that was the case, would they not be greeted at the door and shown to their table. I asked why they were coming through the exit door and was told the front door was locked because they were full.

Both _____ and myself gave advice that with there being only one door supervisor present who was attempting to manage both the entry and exit door and that I suggested that a second door person, one for each door would be advantageous to avoid people just walking in via the exit door and not being challenged.

Whilst _____ and I were speaking to _____ she had little or no control of those present with people walking around the premise unchallenged, some of whom we're not wearing masks, entry and exit flow was not being adhered to and when all these issues were pointed out to _____ she appeared almost tearful stating that she had received no training and was confused as to what was expected from her.

Although _____ was extremely pleasant and polite, and she stated she had worked at the premise for six years and knew many of the customers, _____ stated that she could not control all those present to adhere to current legislation.

In the opinion of both _____ and myself _____ seemed overwhelmed in her responsibilities of what is required to adhere to current legislation.

Signature _____

The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020

Coronavirus Improvement Notice

To _____

Of Bay Horse Hotel
57 Micklegate
Selby
North Yorkshire
YO8 4EA

TAKE NOTICE that under the provision of The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020, Selby District Council ("the Council") is satisfied that you are contravening one or more of the relevant Coronavirus statutory provisions, and the requirements of the notice are necessary and proportionate to ensure that the contraventions are ended or remedied.

Contrary to Regulation 8(2) of The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020, you have failed, without reasonable excuse, to prohibit the sale of alcohol for consumption on the premises unless served as part of a table meal, and the meal is such as might be expected to be served as breakfast, the main midday or main evening meal, or as a main course at such a meal.

During a visit to the premises dated Friday 18th December 2020, you had failed to take all reasonable steps to ensure that the customer remains seated whilst consuming food or drink on the premises. Specifically, the payment card machine did not extend to some areas of the premises and customers were making payment at the bar.

Selby District Council **HEREBY REQUIRE YOU** as the persons responsible for the contravention, the occupier of the premises from which the contravention relates, to take all reasonable steps to ensure that the customer remains seated whilst consuming food or drink on the premises, and also **HEREBY PROHIBIT** its recurrence.

IF without reasonable excuse you contravene or fail to comply with this notice you will be guilty of an offence under Regulation 6 of The Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020 and on summary conviction will be liable to a fine, and also may result in the serving of a Coronavirus Immediate Restriction Notice or a Coronavirus Restriction Notice.

The person served with this notice may appeal against the notice to a magistrates' court within 28 days beginning with the date of service of the notice.

DATED: 22nd December 2020 13:00

Signed:

MSc MCIEH

(Designation) Senior Environmental Health Officer
(The officer appointed for this purpose)

Address for all communications: Department of Environmental Health
Selby District Council
Civic Centre
Doncaster Road
YO8 9FT

CIN Decision Note – Bay Horse Hotel

The Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020 came into force on 2nd December 2020 and North Yorkshire is/was subject to Tier 2 restrictions set out within Schedule 2, one of which requires a business to take all reasonable steps to ensure that customers remain seated whilst consuming food or drink (13[1][b])

A FPN was served on 15th December 2020 in relation to alcohol sales in the absence of a table meal (refer to WK/202003559).

On 18th December 2020 several unannounced visits were made to licensed premises to check compliance with Coronavirus statutory provisions, including to Bay Horse Hotel, where _____ Senior Enforcement Officer witnessed a customer making payment at the bar. When questioned, it was found that the card payment machine did not work in some areas of the premises which was resulting in customers making payment at the bar.

In serving the CIN, I considered the recent FPN, what _____witnessed on 18th December 2020, and accounted for the first offence in this regard, and concluded that there all reasonable steps were not being taken to ensure that customers remain seated whilst consuming food or drink.