

## **AGENDA SUPPLEMENT**

### **Licensing/Gambling Hearing**

**To:** Councillors Hook, Knight, and Nicholls

**Date:** Tuesday, 6 May 2025

**Time:** 11.00 am

**Venue:** West Offices - Station Rise, York YO1 6GA

The Agenda for the above meeting was published on **Friday, 25 April 2025**. The attached additional documents are now available for the following agenda item:

7. **The Determination of an Application by Helen Heraty for (Pages 3 - 80) Variation of a Premises Licence [Section 35(3)(a)] in respect of Grays Court Hotel, Chapter House Street, York, YO1 7JH (CYC-18630)**
  - i. Additional documents submitted by the Applicant

This agenda supplement was published on  
**Thursday, 1 May 2025**

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**Licensing Hearing 6 May 2025****Grays Court Hotel****Additional documents submitted by Applicant,**

- List of awards and nominations for Grays Court Hotel (pages 5-6)
- Freedom of Information (FOI) results regarding noise complaints in the last three years, following a request on 10 April 2025 (pages 7-8)
- Sample Menus (pages 9-14)
- Drinks List (pages 15-22)
- Wine List (pages 23-32)
- Signage displayed at access points from and to the garden (pages 33-40)
- Temporary signs on the gate to the driveway (pages 41-42)
- Copy screen shot from Grays Court's receptionist's computer reference complaint of noise being too loud on 9 July 2022 (pages 43-44)
- Copy of a screen shot from Grays Court's receptionist's computer reference complaint of music on 27 May 2023 being too loud (pages 45-46)
- Emails referencing a disturbance in December 2021, accompanied with a photograph (pages 47-50)
- Email confirming no audio visual equipment was hired by Grays Court during April 2022 (pages 51-52)
- Case of Taylor and Manchester Council (pages 53-80)
- Videos showing:
  - i. How to get from Grays Court's garden to the courtyard  
Link to video: [https://youtube.com/shorts/1y\\_YLW0S2Mk](https://youtube.com/shorts/1y_YLW0S2Mk)
  - ii. How to get to Grays Court's garden via the house  
Link to video: <https://youtube.com/shorts/u28RuI9IJyM>

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## **Grays Court Hotel, Chapter house Street, York, YO1 7JH**

### **Awards / Nominations**

#### **The Hotel:**

1. Visit York Hotel of The Year – 2019 / 2020 / 2021 / 2022
2. Welcome to Yorkshire – Best Small Hotel of The Year 2019 / 2020
3. Visit England Awards for Excellence Best Small Hotel of the Year – 2020
4. Twice nominated for York Press Retail, Leisure and Tourism Business of the Year – 2019 / 2021
5. Editors Choice in the Good Hotel Guide
6. AA Quality Inspected 2025 – Accreditation of Quality Assessed

#### **Bow Room Restaurant:**

1. Visit York – Taste of England Award – Best Restaurant – 2022
2. Michelin Guide Listed – 2021 / 2022 / 2023 / 2024 / 2025
3. 3 AA Rosettes – 2021 / 2022 / 2023 / 2024 and 2025
4. AA Breakfast Award
5. Shortlisted as Boutique Hotel Restaurant of the Year – 2022
6. Certificate of Achievement from Harden's 2025 Diner Survey "Very high quality food"
7. 360 Eat Guide Two Sustainability Circles for 2025

#### **Helen Heraty:**

1. Boutique Hotelier – Awarded in Top 10 Business Leaders in the country - 2021
2. Independent Hotelier – Independent Hotelier of the Year Shortlisted – 2022

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**From:**  
**Sent:** 29 April 2025 12:48  
**To:**  
**Cc:** Information Governance – CYC <i

**Subject:** RF-14089 - FOI - Service due date 6 May 2025 Gray's Court

Dear Mr Smith,

We have received one complaint of loud music in the past 3 years, in July 2024.

If you are dissatisfied with our response you have the right to ask for an independent review of how your enquiry was handled and responded to. This can be done by contacting us at [information.governance@york.gov.uk](mailto:information.governance@york.gov.uk) within 40 working days of receiving your response, stating your reason(s) why you are dissatisfied.

If you remain dissatisfied following the internal review response you can contact the Information Commissioner, contact details below:  
Tel: 0303 123 1113 or via their [live chat](#).

Their normal opening hours are Monday to Friday between 9am and 5pm (excluding bank holidays).

You can also report, enquire, register and raise complaints with the ICO using their web form on [Contact us | ICO](#)

Yours sincerely,

Environmental Protection Manager

**From:**  
**Sent:** 10 April 2025 10:13  
**To:**

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## A La Carte Menu

### Starters

Confit St Ewe Egg Yolk, Grilled & Fresh Salad, Potato Broth – 17

Pan Roasted Scallop, Carrot & Oyster Sauce, Milk Bread – 20

Wye Valley Asparagus, Puffed Barley, Onion Foam – 17

### Mains

Roasted Lamb Saddle, Parsnip, Green Garlic & Minted Lamb Jus – 36

Pan Roasted Monkfish, Purple Sprouting Broccoli & Shellfish Velouté – 36

Handmade Tagliatelle with Wild Mushrooms – 27

### Sides

Buttered Seasonal Vegetables – 8

Garden Salad - 6

Buttered Jersey Royals – 8

### Desserts

Compressed Apple, Caramelised Oats, Apple & Marigold Granita – 14

Poached Rhubarb, Honey Ice Cream, Whipped White Chocolate Ganache – 16

Chocolate Marquise, Raspberry, Vanilla Ice Cream – 16

Selection of British Cheeses, Pumpkin Seed Crackers – 20

## Grays Court Lunch Menu

### Snacks

- Gordal Olives, Lemon Zest 6  
Smoked Almonds or Salted Nuts 4.5  
C&S Sourdough & Olive Oil 5.5

### Small Plates

- Truffle & Parmesan Frites 7.5  
Cheese & Jalapeño Melts, Branston Pickle 8  
Seafood Arancini (Squid, Scallop & Lobster) and Salad 9.5  
Braised Beef Tacos 12  
Monkfish Tacos 12  
Avocado Tacos 11

### Larger Plates

- Seafood Chowder, Homemade Milk Bun 16  
Vegetable Chowder, Homemade Milk Bun 14  
Chicken Salad, Crispy Croutons, Garlic Dressing 16.5  
Isle of White Tomato and Burrata Salad, EVOO & Balsamic 16  
Smoked Salmon Open Sandwich, Dill Crème Fraîche 16  
Welsh Rarebit, Salad 11  
Welsh Rarebit with Bacon, Salad 13

### Dessert

- Cheese Selection, Crackers, Chutney 18.5  
Chocolate Marquise Cake, Vanilla Ice Cream 12

A discretionary 12.5% service charge will be added to all bills. All of which is shared equally between the staff.  
Please let a member of our staff know if you have any allergies or dietary requirements.



## Sample Spring Sunday Lunch

### Starters

Ham Hock Terrine, Apple Purée, Salad – 12

Seafood Arancini & Salad – 9.5

Asparagus, Poached Egg, Wild Garlic Pesto & Hollandaise– 13

### Mains

Traditional Sunday Lunch

Salt Aged Sirloin – 25

Chicken Supreme – 23

*or*

Grilled Hispi Cabbage – 19

*All Sunday Roast mains are served with a Yorkshire Pudding, Roast Potatoes, Roast Root Vegetables, Cauliflower Cheese & Buttered Greens*

Lemon Sole, Jersey Royals, Brown Butter, Capers – 24

### Desserts

Chocolate Marquise, Vanilla Ice Cream, Raspberries – 12

Poached Rhubarb, White Chocolate Ganache & Rhubarb Granita– 13

Cheese Board & Pumpkin Seed Crackers – 20



Sample Spring Menu

Kale, Angelica  
Lamb Tartare, Wild Garlic

Stout & Irish Treacle Bread  
*Cultured Butter*

Grilled & Fresh Salad  
*Brassicas & Caviar*

Wye Valley Asparagus  
*Mussel, Seaweed*

Scallop  
*Carrot & Oyster*

Lamb  
*Liver & Onions*

Optional Cheese Course  
*(£20.00 Supplement)*

Apple  
*Caramelised Oats, Marigold*

Poached Yorkshire Rhubarb  
*Honey, White Chocolate*

*Tasting Menu £130 Per Person*

A discretionary 12.5% service charge will be added to all bills. All of which is shared equally between the staff.  
Please let a member of our staff know if you have any allergies or dietary requirements.





Westwell Pelegrim NV  
England (Salad)

Lyrarakis Voila Assytriko 2023  
Greece (Asparagus)

Essence Riesling 2023  
Germany (Scallop)

Taaibosch Crescendo 2020  
South Africa (Lamb)

La Fleur d'Or Sauternes 2021  
France (Rhubarb)

Wine Pairing £75 per person

A discretionary 12.5% service charge will be added to all bills. All of which is shared equally between the staff  
Please let a member of our staff know if you have any allergies or dietary requirements.

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GRAYS COURT  
YORK

## Drinks List

### Cocktails

#### Smokey Rosemary Negroni

Roman Fruit Gin  
Cocchi Vermouth Rosso  
Rinomato Bitter  
Rosemary  
16

#### Aperitif Blanc

Calvados  
Briottet Fig Liqueur  
Vermouth Ambrato  
16

#### Umeshu Sour

Plum Sake  
Sloe Gin  
Sherry  
Cranberry  
16

#### Skol

Bourbon  
Mead  
Lemon  
14

#### Granny Spritz

York Gin  
Apple  
Limoncello  
Soda  
16

### Mocktails

#### Bramble Fizz

Blackberry  
Lime  
Cranberry  
Soda  
12

#### Apple & Ginger Spritz

Apple Juice  
Ginger Syrup  
Lemon  
Soda  
12

*Classic Cocktails available, do not hesitate to ask one of our staff  
members*

*Prices may vary*

A discretionary 12.5% service charge will be added to all bills. All of which is shared equally between the staff.  
Please let a member of our staff know if you have any allergies or dietary requirements

## Drinks List

### Beers & Ciders

#### Rudgate Brewery

-York-

*Jorvik Blonde 4.6%*

*Battleaxe Bitter 4.2%*

*Valkyrie American Pale 5%*

*Ruby Mild 4.4%*

*Chocolate Stout 5%*

*Pilsnor 4.7%*

*Hus Lager 4%*

*500ml Bottle*

8

#### Peacock Cider

-Kent-

*Apple 4.8%*

*500ml Bottle*

8.5

*Mango & Lime 4.0%*

*500ml Bottle*

9

# Drinks List

## Gin

### York Gin Range:

*London Dry*

*Rhubarb*

*Roman Fruit*

*Old Tom*

*Mediterranean Lemon*

25ml 7    50ml 11

### Bobby's Schiedam Dry Dutch

25ml 8    50ml 14

### Bols Genever Amsterdam

25ml 7    50ml 12

## Tequila

### Terralta Blanco

25ml 10    50ml 16

### Terralta Extra Anejo

25ml 10 50ml 16

## Vodka

### Edwards Potato

25ml 8    50ml 14

### Edwards Rhubarb

25ml 8    50ml 14

### Zubwrowka Bison Grass

25ml 6    50ml 10

### Tito's Handmade Vodka

25ml 6    50ml 10

## Rum

### Equiano Original Dark Rum

25ml 10    50ml 16

### Embargo Blanco Anejo Rum

25ml 8    50ml 12

### Spirited Union Good Spiced

25ml 7    50ml 12

### Spirited Union Organic Coconut

25ml 8    50ml 14

## Drinks List

### Whisk(e)y

#### From UK & Ireland

Filey Bay Single Malt

25ml 10 50ml 18

Filey Bay Peated Finish

25ml 11 50ml 19

Filey Bay Moscatel Finish

25ml 11 50ml 19

Glenmorangie Nectar d'Or

25ml 15 50ml 28

Seventeen Black Scottish Blend

25ml 18 50ml 34

Ballyhoo Irish Whiskey

25ml 8 50ml 14

Connacht Irish Whiskey

25ml 14.00 40ml 26.00

#### From U.S.A.

Four Roses Small Batch Bourbon

25ml 7 50ml 12

Four Roses Bourbon Single Barrel

25ml 10 50ml 18

James E. Pepper 1776 Rye

25ml 8 50ml 13

Westward American Single Malt

25ml 15 50ml 26

#### From Japan

Nikka From the Barrel

25ml 15 50ml 28

Suntory Hibiki Harmony

25ml 18 50ml 34

Yamazaki 12Yr

25ml 20 50ml 37

# Drinks List

## Liqueur

Filey Bay Irish Cream  
50ml 12

Cointreau  
25ml 6 50ml 10

Drambuie  
25ml 8 50ml 14

Grand Marnier  
25ml 7 50ml 12

Tossolini Expre Espresso  
25ml 8 50ml 14

Tossolini Saliza Amaretto  
25ml 8 50ml 14

Tossolini Fragola Strawberry  
25ml 8 50ml 14

Fernet Branca  
25ml 7 50ml 12

Chambord  
25ml 6 50ml 10

Black Gold Coffee Tequila  
25ml 6 50ml 10

## Vermouth

Bianco Mancino  
25ml 7 50ml 11

Rosso Amaranto Mancino  
25ml 7 50ml 11

Secco Dry Mancino  
25ml 7 50ml 11

## Cognac & Apple Brandy

Tesseron Lot 90  
25ml 11 50ml 18

Tesseron Lot 76  
25ml 19 50ml 32

Tesseron Lot 53  
25ml 43 50ml 75

Bas-Armagnac XO Mousquetaire du Roy  
25ml 16 50ml 30

Dupont VSOP Calvados  
25ml 16 50ml 28



# Drinks List

## Soft Drinks

Coca Cola  
Diet Coke  
330ml Bottle

4

Tonic  
Elderflower Tonic  
Ginger Ale  
Lemonade  
Soda  
200ml Bottle

3

Big Tom Spiced Tomato Juice  
250ml Bottle

4.00

Fresh Orange Juice

4.00

**Frobishers Range:**  
*Orange & Passion Fruit*  
*Simply Elderflower*  
*Sicilian Lemonade*  
*Apple & Elderflower*  
*Apple & Raspberry*  
*Apple & Mango*  
275ml Bottle  
4.50

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*Welcome...*

...to one of the most historic buildings in England. Grays Court was the home of the Treasurers of York Minster from 1091 until 26th May 1547 when William Clyff surrendered the Treasurership to the Crown.

Gifted to Edward Seymour, Duke of Somerset by his nephew King Edward VI the house has subsequently had many illustrious owners including Sir Thomas Fairfax Lord General of the New Model Army, John Aislabie Chancellor of the Exchequer, two Archbishops' Robert Holgate and Thomas Young. Eventually providing home and sanctuary to the Gray Family for whom the house is named.

Settle into our Jacobean Long Gallery and explore the specially selected wines chosen to compliment the great British food on our menus. With seasonal ingredients sourced from the highest quality suppliers, supplemented with produce from our own gardens, our innovative team of chefs guarantee a dining experience like no other.



## CHAMPAGNE DRAPPIER

Family owned since 1808, the Drappier family are viticulturists as well as handcrafting Champagnes for 8 generations. Based in Urville in the Aube, where Pinot Noir is king, the Drappier family has 212 years of history and experience in Champagne making. Today, Charline, Hugo and Antoine along with their father Michel, still craft complex Champagnes from their unique calcareous terroir and still cultivate the forgotten grapes of Champagne.

Sustainability pioneers, the Drappiers have been investing for over 10 years to massively reduce their carbon foot print and protect their soils for the coming generations. Today, they are the leaders in sustainability and are Champagne's first and only, carbon neutral certified house. Terroir driven, while practicing minimal intervention and minimal dosage, Champagne Drappier is a new wave producer keeping the champagne dream alive.

### DRAPPIER CHAMPAGNE

- |   |   |
|---|---|
| <p>1 <b>Drappier Carte d'Or Brut</b> 89<br/>Champagne, France<br/>A Pinot Noir-based Champagne of style and finesse. Carte d'Or effervesces with aromas of white peach, quince and a touch of spice. The dry, elegant palate shows an impressive degree of concentration, along with fine bubbles and a crisp finish.</p> | <p>3 <b>Drappier Millésime Exception</b> 112<br/>Champagne, France 2018<br/>Both fresh and opulent, this vintage champagne shows classic aromas of brioche, hazelnut and citrus, with a great creamy texture on the palate, very fresh finish and a long, dry finish.</p>   |
| <p>2 <b>Drappier Brut Nature Zero Dosage</b> 100<br/>Champagne, France<br/>A blanc de noirs of compelling purity, elegant and bone dry, with delicate mineral and lemon notes lifted by flavours of pear and peach.</p>   | <p>4 <b>Drappier Grande Sèndrée</b> 191<br/>Champagne, France 2012<br/>Impeccably elegant and pure, Drappier's flagship wine shows complex, mature notes of dried fruit, toast and wax, alongside vivid stone fruit and citrus flavours. The palate is graceful, supple and elegant, with an extremely long finish.</p> |

### DRAPPIER ROSÉ CHAMPAGNE

- |   |
|---|
| <p>5 <b>Drappier Rosé de Saignée Brut</b> Champagne, France 100<br/>A beautifully balanced style of rosé Champagne: elegant yet full of character. Pretty red berry aromas lead to a delicate palate with subtle hints of citrus, finishing on a dry and refreshing note.</p> |
|---|

 Champagne available by the glass

## CHAMPAGNE

### Our Selection

- |   | Butle |
|---|-------|
| 6 <b>Pol Roger Brut Reserve</b> Champagne, France NV<br>Beautiful yellow straw colour, as well as abundant and fine bubbles. With a powerful and attractive nose, the light flavours of honey, apple and white jasmine, lingering on vanilla and brioche notes.   | 100   |
| 7 <b>Ruinart Blanc de Blancs</b> Champagne, France NV<br>Characteristic of Chardonnay, this is a beautiful golden yellow in colour with an abundance of foamy apricot, peach and pineapple whilst remaining light and fresh.  | 167   |
| 8 <b>Dom Pérignon</b> Champagne, France 2013<br>Striking a perfect balance between refined and rich with notes of marabulle, plums, apricots and orange blossom, along with pepper, cardamom and liquorice and ending with saline and toasty notes.   | 316   |
| 9 <b>Pol Roger Cuvée Sir Winston Churchill</b> Champagne, France 2015<br>Old gold hue with stream of lively fine bubbles. The nose excites generous aromas of pastry with hints of vanilla and brioche, followed by subtle fragrances of sweet spice as it opens up. The wine is lively giving way to an attractive and opulent texture with a lovely balance. Well-structured with a superb aromatic persistence, the 2015 is remarkable for its complexity and power. | 334   |

## SPARKLING WINE

### Our Selection

- |  | 900ml |
|--|-------|
| 10 <b>Rotari Cuvée 28+</b> , Mezzacorona Trentino-Alto Adige, Italy<br>Impressive traditional method sparkling wine with great depth of flavour, pure apple fruit and a fine, crisp finish to the extended ageing.                       | 47    |
| 11 <b>Rotari Brut Rosé</b> , Mezzacorona Trentino-Alto Adige, Italy<br>Elegant traditional method rosé, showing the delicious red berry fruit of cool-climate Pinot Noir.  | 50    |
| 12 <b>Crémant de Bourgogne, Brut Reserve Marsigny</b> Burgundy, France<br>The perfect balance of fruit and acidity, with notes of pear and apple, leading to a fresh, refreshing and lively, and freshness with a little touch of honey. | 52    |
| 13 <b>Nyetimber Classic Cuvée</b> West Sussex & Hampshire, England<br>Lovely pale gold and golden fine bubbles, lively, airy and complex aromas showing wonderful development after more than three years on lees in this cellar.        | 89    |
| 14 <b>Nyetimber Blanc de Blancs</b> West Sussex & Hampshire, England 2014<br>Light gold hue and fine bubbles, the aromas of lemon, apricot, honey and vanilla, with a delicate pastry and vanilla characteristics.                       | 91    |

 Wine available by the glass

We are delighted to offer you this selection of wines served by the glass. All the wines featured here are also available by the bottle, the details of which are listed further on in this menu.

### Champagne by the Glass

1	<b>Drappier Carte d'Or Brut</b> Champagne, France A Pinot Noir-based Champagne of style and finesse. Carte d'Or offers delicate aromas of white peach, quince and a touch of spice. The dry, elegant palate shows an impressive degree of concentration along with fine bubbles and a crisp finish.	125ml	16.5
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### Sparkling by the Glass

10	<b>Cuvée 28+, Rotari</b> Trentino-Alto Adige, Italy Impressive traditional-method fizz with great depth of flavour. Pure apple fruit and a fine mousse allows the extended ageing.	125ml	9.5	47
11	<b>Rotari Brut Rosé, Mezzacorona</b> Trentino-Alto Adige, Italy Elegant traditional-method rose, showing the delicious red berry fruit of cool-climate Pinot Noir.	125ml	10	50
12	<b>Crémant de Bourgogne, Brut Reserve Marsigny</b> Burgundy, France The notes of citrus fruits and ripe apples and pears on the mid-palate give way to a crisp finish, marrying drinkability and freshness with no hint of sugar or residue.	125ml	10.5	52

Please note that vintages may vary.

-  Wine available by the glass
-  Organic wine
-  Biodynamic wine

### Whites by the Glass

	125ml	175ml
17 <b>Riesling Grand Cru Clos St Landelin, Muré</b> Alsace, France 2020 A dry Riesling of great character, layering concentrated lime juice with warm minerality, rich yet incisive on the palate.	18.5	23.5
31 <b>Casal di Serra Verdicchio di Castelli di Jesi Classico Superiore, Umani Ronchi</b> Marches, Italy 2023 Resplendent with flavours of peach, apricot and apples against delicate hints of wild flowers. The palate is rich and textured, with a fresh acidity and saline note as a counterpoint to the ripe fruit.	9.5	12.5
36 <b>Chablis La Boissonneuse, Julien Brocard</b> Burgundy, France 2022 The vivid aroma of honey, candied peel and warm stones continues into the dynamic, multi-layered palate, which finishes long and mineral. Truly a cracker.	16	20
34 <b>Dog Point Sauvignon Blanc</b> Marlborough, New Zealand 2023 Vibrant and perfumed - characterised by freshly squeezed citrus and dried herbs. The wine's juicy palate and fresh acidity up front is followed by a soft, round texture.	11	14.5
35 <b>Sancerre La Croix du Roy, Crochet</b> Loire, France 2023 Notes of citrus fruits, blossom, peach and pear on the nose. Nice pure entry, fruitily and crisp on the palate. Good length and class. Fine structure.	14	18
37 <b>Conde Valdemar Rioja Blanco Finca Alto Cantabria</b> Rioja, Spain 2021 A successful blend of modern fruit and traditional oak ageing: lemon, smoke and vanilla-scented, with subtle aromas of peaches and apricot - beautifully balanced.	13.5	17
40 <b>Gavi di Gavi La Melara, Brogila</b> Piedmont, Italy 2023 Great texture and precision, with distinctive greengage and almond notes. Fresh, dry and characterful.	10	13.5
41 <b>Roserock Chardonnay, Drouhin</b> Oregon, USA 2022 Notes of white flowers and lemon meringue on the nose are followed by a taut, citrusy palate, combining an alluring texture with a buoyant streak of acidity.	18	23

### Reds by the Glass

	125ml	175ml		125ml	175ml
21 <b>Brunello di Montalcino, Pian delle Vigne, Antinori</b> Tuscany, Italy 2019 Complex, generous nose with ripe aromas of cherries and raspberries, light tobacco notes and hints of coffee and cocoa powder. Multi-layered structure with a nicely rounded texture and elegant fruit leading to a very long finish.	22	29	54 <b>Norton Privada Malbec</b> Mendoza, Argentina 2022 Complex notes of ripe red fruit, cassia and hints of black pepper. Rich with elegant and finely grained tannins contributing to a plush, harmonious and long finish.	14	18.5
23 <b>Gevrey-Chambertin 'Regnard', Hubert Lignier</b> Burgundy, France 2021 Bursting with aromas of plums, peonies, warm spices and soil tones. Its charming and vibrant, medium to full-bodied, velvety and concentrated, with powdery tannins and a long, spicy finish.	38	48	63 <b>Roserock Pinot Noir, Drouhin</b> Oregon, USA 2022 Dark fruit jumps out on the nose, whilst the palate is rich and spicy, with more fresh black fruit and a fine, taut structure.	16.5	22.5
52 <b>Rioja Reserva, Finca Valpiedra</b> Rioja, Spain 2016 That rare thing, a single-vineyard Rioja, offering a powerful expression of black fruit, white chocolate, plums and spices. These aromas are perfectly combined with the smokiness provided by French oak barrels. Round and full-bodied.	13.5	17.5	65 <b>Xinomavro, Thymlopoulos</b> Macedonia, Greece 2021 Belying the pale colour, this wine packs in plenty of character, offering dark fruit, tobacco	9	11.5
53 <b>Xisto Ilimitado Douro Tinto, Luis Seabra</b> Douro, Portugal 2021 A modern Douro red of striking delicacy, Xisto Ilimitado offers aromas of the local herbs and bushes, fresh red fruit and spices notes. The initial fullness of the palate is quickly overlaid with mineral/ some smoky characters, combining density and freshness.	10.5	14.5	66 <b>Fleurie La Madone, Dubouef</b> Beaujolais, France 2022 This famous cru lives up to its name with a smooth, elegant floral wine of feminine charm.	11	15

### Rose by the Glass

	125ml	175ml
46 <b>Château La Coste Rosé</b> Provence, France 2023 A vibrant and delicate rose, with fresh summer berries and melon apparent on the nose. Nectarine and citrus lead the palate with some textural richness permitting this wine to work well with food, as well as on its own.	12.5	16.5



PLEASE CONTINUE  
TO DISCOVER OUR  
FULL WINE SELECTION  
BY THE BOTTLE...

## Fine Wine Selection

### The Whites

Bottle

- 15 **Lucia Chardonnay, Pisoni** 118  
California, USA 2022  
Wonderfully succulent and yet with a refreshing seam of acidity, this complex Chardonnay offers aromas of citrus blossom, lemon oil, stone fruit and a faint hint of vanilla. The palate balances its generosity of texture with a savoury undertow, and the finish is refreshingly dry.
- 16 **Xisto Cru Douro Branco, Luis Seabra** 103  
Douro, Portugal 2022  
A fascinating blend of subtle, subtly firm and racy notes of white flowers, citrus fruit and gunpowder. The palate shows the depth of old vines; this is a wine that will continue to unfold for several years.
- 17 **Riesling Grand Cru Clos St Landelin, Muré (Biodynamic)** 99  
Alsace, France 2020  
This renowned vineyard produces dry Riesling of great character, layering concentrated lime juice with warm minerality, rich yet incisive on the palate.
- 18 **Petrács Dry Furmint, Oremus** 182  
Tokaj, Hungary 2020  
Crystalline and pure, with flavours of apples, spices and white flowers. The palate is refreshingly dry with a waxy texture and fine, well-meshed tannins. One of the best whites we've ever tried.
- 19 **Puligny-Montrachet, François Carillon** 240  
Burgundy, France 2022  
Combining richness with crisp apple fruit, this unfolds on the palate to reveal notes of jasmine and low-sour apple with a real creaminess on the long finish.
- 20 **Corton-Charlemagne Grand Cru, Girardin** 300  
Burgundy, France 2016  
A powerful yet reserved white, exhibiting spice-tinged peach, apple and lemon flavours with a silky undertow. The vibrant structure keeps the palate taut, while the finish is long, evoking peach, mineral and spice notes.



## Fine Wine Selection

### The Reds

Bottle

- 21 **Brunello di Montalcino, Plan delle Vigne, Antinori** 120  
Tuscany, Italy 2019  
Complex, generous nose with ripe aromas of cherries and raspberries, light tobacco notes and hints of coffee and cocoa powder. Multi-layered structure with a nicely rounded texture and elegant fruit leading to a very long finish.
- 22 **Hermitage Les Miaux Rouge, Ferraton** 141  
Rhône, France 2021  
Bursts with fruit flavours like a ripe orange with a hint of apricot and a touch of red fruit. Medium-bodied with supple tannins and a very spicy finish.
- 23 **Gevrey-Chambertin 'Regnard', Hubert Lignier** 193  
Burgundy, France 2021  
Bursting with aromas of plums, peonies, warm spices and soil tones. It's charming and vibrant, medium to full-bodied, velvety and concentrated, with powdery tannins and a long, spicy finish.
- 24 **Château Grand-Puy-Lacoste, Pauillac** 192  
Bordeaux, France 2014  
This wine has an enticing, dark and very intense, ruby colour. The bouquet reveals aromas of ripe black fruit and cassia complemented by spicy notes with great freshness. The palate is precise and dense, evolving into charming and well-rounded tannins with good length and structure. The overall impression is one of purity and elegance.
- 25 **Barolo Bussia, Prunotto** 157  
Piedmont, Italy 2019  
Imposing single-site Barolo. On the nose, an intense perfume of plum and ripe cherry with hints of flowers and spicy aromas. On the palate, powerful and profound with a firm texture and a long finish.
- 26 **Vega Sicilia Valbuena 5ª** 293  
Castilla y León, Spain 2019  
From Spain's most iconic winery, Valbuena is the purest expression of red wine at Vega Sicilia and is aged for ten years in French oak barrels and bottles. The finish is name to the end product: Valbuena 5ª.
- 27 **Corton Grand Cru Cuvée du Bourdon, Domaine Ponsot** 346  
Burgundy, France 2017  
A markedly earthy nose features notes of very ripe dark currant, game and leather hints. Here too there is a lovely sense of energy and punch to the muscular but not really rustic tannins. The palate features a fine, supple texture with a very good and sensuous mid-palate concentration leading to a long and elegant finish.
- 28 **Ridge Monte Bello** 368  
California, USA 2011  
The wine that put California on the world map as a top-quality wine producing region, famously ranking at the first growths of Bordeaux in the Judgement of Paris tasting 1976. Rich, full-bodied yet with surprising elegance. A truly outstanding wine.

## White Wine Selection

	Bottle
29 <b>Qualis' Gate Chardonnay</b> Okanagan, British Columbia, Canada 2022 Medium bodied, but with a real ripeness, the palate shows a combination of white stone, melon and tropical fruits with subtle notes of toast and vanilla, enriching the mouthfeel.	73
30 <b>Lugana Cabulliano, Pratiello</b> Lombardy, Italy 2024 Open and expressive on the nose, with notes of citrus, apple and herbs. The palate is more reserved, gently packed with a fine line of acidity that provides a very elegant finish.	49
31 <b>Casal di Serra Verdicchio di Castelli di Jesi Classico Superiore, Umani Ronchi</b> Marches, Italy 2023 Rustic and vibrant with flavours of peach, apricot and apples against delicate hints of wild flowers. The palate is rich and textured with a fresh underlying acidity and a subtle saline note as a counterpoint to the ripe fruit.	53
32 <b>Lethbridge Dr Nadeson Riesling</b> Victoria, Australia 2023 This is a thrilling Riesling, from the immediacy of the succulent peach, lime and blood orange through the full-on edge of acidity of the palate to the long, penetrating finish. Another total package from Lethbridge.	67
33 <b>Vermentino di Bolgheri, Guado al Tasso Antinori</b> Tuscany, Italy 2023 This shows the combination of crispness and breadth that marks Vermentino, with engaging citrus flavours and a long mineral finish.	62
34 <b>Dog Point Sauvignon Blanc, Marlborough (Organic)</b> South Island, New Zealand 2023 Classic citrus and crisp apple aromas, with some gentle tropical undertones on the nose. The palate combines fresh citrus and lemon peel, with a saline acidity and a subtle smokiness on the finish.	58
35 <b>Sancerre La Croix du Roy, Crochet</b> Loire, France 2023 Notes of citrus fruits, blossom, peach and pear on the nose. Nice pure entry, fruity and crisp on the palate. Good length and classic mineral flavours.	68
36 <b>Chablis La Boissonneuse, Julien Brocard</b> Burgundy, France 2022 A spectacular Chablis that punches way above its weight in terms of complexity and depth. The vivid aroma of honey, candied peel and warm stones continues into the dynamic, multi-layered palate, which finishes long and mineral-rich.	72
37 <b>Conde Valdemar Rioja Blanco Finca Alto Cantabria</b> Rioja, Spain 2021 A successful blend of modern fruit and traditional oak ageing; lemony, smoke and vanilla-scented, with subtle aromas of peaches and apricot - beautifully balanced.	65



38 <b>Pecorino Vellodoro, Umani Ronchi</b> Abruzzo, Italy 2023 A refreshing, light-to-medium-bodied Pecorino, combining tangy green apple fruit flavours with hints of herbs, stones and almonds. The lively acidity lifts the palate, giving a lively finish and a long, elegant finish.	47
39 <b>Corralillo Riesling, Matetic</b> Aconcagua, Chile 2024 Notes of citrus fruits, blossom, peach and pear on the nose. Nice pure entry, fruity and crisp on the palate. Good length and classic mineral flavours.	46
40 <b>Gavi di Gavi La Meirana, Broglio</b> Piedmont, Italy 2023 Great texture and precision, with distinctive greengage and almond notes on the palate. Fresh, dry and particularly characterful.	55
41 <b>Rosebrook Chardonnay, Drouhin</b> Oregon, USA 2022 Notes of wild flowers and lemon essence on the nose are followed by a lean, citrusy palate, combining an alluring texture with a buoyant streak of acidity.	81
42 <b>Finca La Colonia Colección Grüner Veltliner, Norton</b> Mendoza, Argentina 2024 Crisp fruit and peach flavours are followed by floral notes and that distinctive white pepper spice, so typical of this variety. Crisp, light and fruit-forward, a crowd-pleasing interpretation of Austria's signature white grape.	41
43 <b>Regaleali Bianco, Tasca d'Almerita</b> Sicily, Italy 2023 Delicately fruity nose with apple, peach and pink grapefruit notes. The palate is lively and crisp with plenty of fresh fruit flavours.	39

Orange Wine Selection

	Score
44 Qvevris Rikatsiteli, Tbilvino Kakheti, Georgia 2021 This wine has rich spicy flavours alongside notes of beeswax and walnuts. The finish contains a lovely acidity with a slight tannin grip, making it the perfect accompaniment to food.	48
45 Esoterico Orange Wine, Unico Zelo South Australia 2022 A complex blend, combining aromatic rose petal and bitter marmalade notes with honey and a dry, slightly bitter finish.	46



Rose Wine Selection

	Score
46 Château La Coste Rosé Provence, France 2023 A vibrant and delicate rose, with fresh summer berries and melon apparent on the nose. Nectarine and citrus lead the palate with some textural richness permitting this wine to work well with food, as well as on its own.	60
47 Calafuria Negroamaro Rosato, Tormaresca Puglia, Italy 2023 Peach petal pink in colour, this wine shows intense yet delicate fragrances of fresh peach and citrus. The palate is fresh and elegant with savoury notes and excellent aromatic persistence.	55
48 Regaleali Le Rose, Tasca Sicily, Italy 2023 A rich, full-bodied rose wine with a complex bouquet of red and white flowers, citrus and honey. The palate is full and rich with a long, elegant finish.	43



Wine available by the glass Organic wine



## Red Wine Selection

	Bottle
49 <b>Costasera Amarone Classico, Masi</b> Veneto, Italy 2019 Bright and intense on the nose with aromes of preserved cherries and dried plums together with hints of fruits of the forest and cinnamon. Good weight from the alcohol and structured on the palate, opening out to attractive aromes of cherries and vanilla.	102
50 <b>Ridge Three Valleys Zinfandel</b> California, USA 2021 Ripe red fruits on the nose. The medium-full palate is layered with hints of plums, wild berries, savoury herbs and black olives, with just enough tannin to add a pleasing grip.	84
51 <b>Buitenverwachting Christine</b> Constancia, South Africa 2017 An exquisite Bordeaux-style blend with rich red fruit characters reminiscent of ripe raspberry and blackcurrant, and undertones of dark chocolate and tobacco.	57
52 <b>Rioja Reserva, Finca Valpiedra</b> Rioja, Spain 2016 That rare thing: a single-vineyard Rioja, offering a powerful expression of black fruit, white chocolate, plums and spices. These aromas are perfectly combined with the smokiness provided by French oak barrels. Round and full-bodied.	69
53 <b>Xisto Ilimitado Douro Tinto, Luis Seabra</b> Douro, Portugal 2021 A modern Douro red of striking delicacy. Xisto Ilimitado offers aromas of the local herbs and bushes, fresh red fruit and spice notes. The initial fruitiness of the palate is quickly overlaid with mineral/some smoky characters, combining density and freshness.	58
54 <b>Norton Privada Malbec</b> Mendoza, Argentina 2022 Complexed mix of ripe red fruit, flowers and hints of black pepper. Rich with elegant and subtly spiced aromes contributing to a plush, full-bodied and lengthy finish.	74
55 <b>Corralillo Cabernet Sauvignon, Matetic</b> Central Valley, Chile 2020 A rich, classic style, with lifted menthol notes mingling with red berry fruit, as well as gentle smoke and spice hues. The palate is concentrated, with smooth tannins and long-lasting fruit on the finish.	56
56 <b>Villa Antinori Chianti Classico Riserva</b> Tuscany, Italy 2021 This is a rich, modern Chianti that marries beautifully ripe cherry fruit with well-judged smoky oak notes. The opulence on the palate is tempered by savoury notes of clove and a firm structure supporting the plump fruit.	74
57 <b>Reserve du Couvent Rouge, Château Ksara</b> Bekaa Valley, Lebanon 2020 Flavours of black cherries give way to a savoury, meaty notes on the mid-palate. The finish is layered with black pepper and vanilla and fine plucky, mouth-filling tannins add richness and texture.	48

	Bottle
58 <b>Tribut, Priorat, Scala Dei</b> Catalonia, Spain 2022 The focus here is the fruit and primary flavours. Concentrated berries and ripe plums on the nose are accented with black pepper and herbs. Light, velveteen tannins meet a youthful acidity.	61
59 <b>Tormaresca Nàprica Primitivo</b> Puglia, Italy 2023 Red fruits, black cherry and notes of liquorice. The palate is well-rounded, with soft, supple textures and a pleasantly fresh finish.	47
60 <b>Three Gardens Grenache Shiraz Mataro, Langmeil</b> Barossa Valley, Australia 2021 This classic blend shows lifted aromas of black cherry and blueberry with hints of mocha, spice and white pepper. The palate has luscious fruit contained within a refreshing, medium-bodied style.	50
61 <b>Côtes-du-Rhône Samoréns rouge, Ferraton</b> Rhône, France 2023 Medium to full-bodied, the bright, fresh cherry and berry fruit is followed by a savoury complexity lifted by herbal, peppery aromes. The tannins are silky and well-balanced and the finish is long.	46
62 <b>Regaleall Rosso Nero d'Avola, Tasca</b> Sicily, Italy 2022 Notes of cherry, mulberry, black cherry, blueberry, vanilla and sage on the nose. Velvety and balanced in the mouth.	41
63 <b>Roserock Pinot Noir, Drouhin</b> Oregon, USA 2022 Dark fruit jumps out on the nose, whilst the palate is rich and spicy, with more fresh black fruit and a fine, taut structure.	74
64 <b>Langhe Nebbiolo Occhettè, Prunotto</b> Piedmont, Italy 2022 This single-vineyard Nebbiolo offers an elegant nose with hints of raspberries and roses. On the palate it is full and harmonious with a long, positive finish.	59
65 <b>Xinomavro, Thymlopoulos</b> Macedonia, Greece 2021 Belying the pale colour, this wine packs in plenty of character, offering dark fruit, tobacco and a dark olive-flavoured zingy acidity and a bold tannic structure.	49
66 <b>Fleurie La Madone, Dubouef</b> Beaujolais, France 2022 This fantastic cru Beaujolais up to its name with a smooth, elegant finish of juicy cherry.	57



Measure £

- |   |   |  |
|---|---|--|
| 67  | <b>Buitenverwachting 1769 Muscat</b><br>Coastal Region, South Africa 2022 | 50cl Bottle <b>47</b><br>75ml <b>8.5</b> |
| Golden in colour, with flavours of apricots, oranges, cinnamon and spice. The finish has a balanced, but refreshing acidity which proves to be very firm from cloying. A stellar and great-value example of this historic Cape style.                       |   |  |
| 68  | <b>La Fleur d'Or, Sauternes</b><br>Bordeaux, France 2021                  | 1/2 Bottle <b>47</b><br>75ml <b>11</b>   |
| An immediately inviting nose, combining apricot fruit, creamy patisserie notes and a certain citrus brightness, leads to a sweet yet beautifully balanced palate. Luscious but never cloying.   |   |  |
| 69  | <b>Tokaji Late Harvest, Oremus</b><br>Tokaj, Hungary 2021                 | 50cl Bottle <b>66</b><br>75ml <b>13</b>  |
| Fruit-driven, with the perfect balance between tangy grapefruit, orange marmalade and ginger and spicy oak. It gives a lift out the finish by Fumini's fresh acidity.   |   |  |
| 70  | <b>Monteagudo Pedro Ximénez, Delgado Zúñiga</b><br>Andalusia, Spain       | 1/2 Bottle <b>45</b><br>70ml <b>9.5</b>  |
| Dark chestnut in colour, with strong raisin nuances, as well as prominent liquorice and coffee notes. On the palate it is very soft, warm and sweet, with an excellent balance between acidity and sweetness, lending it a great mouthfeel and persistence. |   |  |

## Port & Fortified

Measure £

- |   |  |                                       |
|---|--|---------------------------------------|
| 71  | <b>Pineau des Charentes Rouge 10 Ans d'Age, Château de Beaulon</b> France NV | Bottle <b>72</b><br>75ml <b>9.5</b>   |
| Extended barrel ageing has given this Pineau wonderful depth of black cherry, prune and blackcurrant aroma. The palate is rich yet savoury, with cinnamon and cocoa notes from the wood framing the cedary black fruit.                                     |  |                                       |
| 72  | <b>Pineau des Charentes Blanc 10 Ans d'Age, Château de Beaulon</b> France NV | Bottle <b>72</b><br>75ml <b>9.5</b>   |
| Full, delicate and mellow with notes of orange peel, peach, and apricot. The extended barrel ageing brings spry flavours of mango, peach, and bergamot to the elegant finish.   |  |                                       |
| 73  | <b>Ferreira LBV Port</b><br>Douro, Portugal 2020                             | Bottle <b>58</b><br>75ml <b>7.5</b>   |
| The intense aroma is dominated by very ripe black fruit (blackcurrant, blackberry and plum), along with chocolate, cocoa, floral aromatics, a slight hint of spices (pepper). In the mouth it is a full-bodied wine with great balance.                     |  |                                       |
| 74  | <b>Ferreira 10 Year Old Tawny Port</b><br>Douro, Portugal                    | Bottle <b>60</b><br>75ml <b>8</b>     |
| The nose is characterised by a very elegant balance between the floral and ripe fruit aromas of the grapes themselves and the spicy, dry fruit aromas of long ageing in barrel. The palate shows the classic 'fresh Ferreira style' achieving full balance. |  |                                       |
| 75  | <b>Ferreira Vintage Port</b><br>Douro, Portugal 2016                         | Bottle <b>121</b><br>75ml <b>16.5</b> |
| Clean, fresh and bursting with tasty red fruit and dark chocolate flavours. This is a very pretty single-quinta port with further complex balsamic and tobacco box notes, and firm yet silky tannins which carry on the long, dry finish.                   |  |                                       |



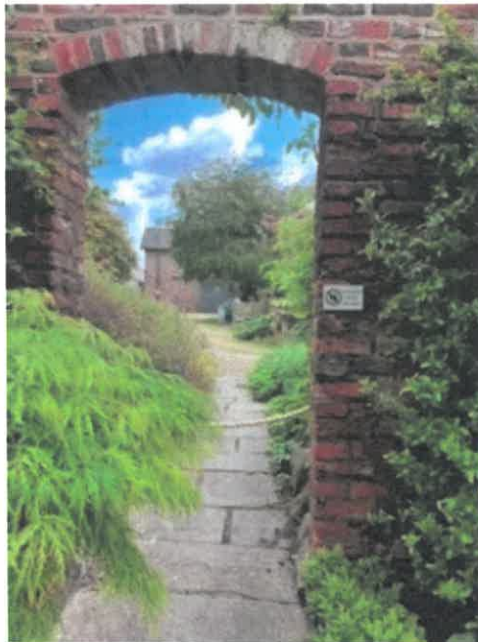




*Wine Selection*















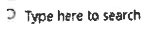




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Noise complaint



Reception

To

Reply

Reply All

Forward

Sat 27/05/2023 17:06

Hello

We had a noise complaint for the second time today from

She suggested that if we have live music, to have them facing away from the houses.

The second time rang was at approximately 16:40, and I rang back 5 minutes later to tell her that the band would be finishing within the next 10 minutes, but she never answered.

The band finished around 16:47.

Reception  
Grays Court Hotel & The Bow Room Restaurant  
Chapter House Street  
York  
YO1 7JH

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**Jonathan Smith**

---

**From:** Helen Heraty  
**Sent:** 13 November 2023 17:45  
**To:** Jonathan Smith  
**Subject:** FW: noise disturbance - FAO Gemma  
**Attachments:** - bedroom window.jpg

Hi Jonathan,

This was following a call from public protection in January following the complaint.

Best regards,  
Helen

-----Original Message-----

From: Helen Heraty  
Sent: 27 January 2022 10:48  
To: licensing@york.gov.uk  
Cc: Sarah Czarnecki  
Subject: FW: noise disturbance - FAO Gemma

Dear Gemma,

Thank you for letting me know about this latest complaint. I have attached a photograph from my phone which is of the bedroom in question, I do not usually take pictures of my neighbours house, but thought this time to have a record in case of an official complaint.

-----Original Message-----

From: Helen Heraty  
Sent: 28 December 2021 12:44

Subject: RE: noise disturbance

Dear [REDACTED]

Thank you for your email.

The hotel has actually been closed since 24th December, reopening yesterday, therefore no staff were present.

I did have my family visiting over the Christmas period, although I am surprised you were not informed of this by your partner [REDACTED]. On the night you refer to in your email my daughter [REDACTED] wished [REDACTED] a Merry Christmas after [REDACTED] shouted at us at 10:00 pm. At that point the window was fully opened, the curtains drawn, and the lights left on until the next morning.

Perhaps your young nieces, were kept awake in the room by your actions of leaving the window open and lights on.

Best regards

Helen

Helen Heraty

Proprietor  
Grays Court Hotel  
Chapter House Street  
York  
YO1 7JH

W: <https://link.edgepilot.com/s/01814ecc/xgVnlgLobkqwwJ-XVBOZPw?u=http://www.grayscourtyork.com/>  
T: 01904 612613

-----Original Message-----

From: [REDACTED]  
Sent: 27 December 2021 11:36  
To: Reception <[enquiries@grayscourtyork.com](mailto:enquiries@grayscourtyork.com)>  
Subject: [REDACTED] noise disturbance

Dear Helen

I am not sure that u are aware due to the fact that your living accommodation is away from the area of concern but over the last 4 nights we have had our young nieces staying over the festive period sleeping or trying to sleep in the bedroom adjacent to the office door way /bin store over several evenings past 11pm they have been disturbed by groups of individuals who I presume are staff team members and not hotel guests using the area to congregate after service has finished ie post 11.30 pm and indeed last night/ this morning at 4.40 am The congregation in turn activates the motion sensor on the spot light on the wall opposite the bedroom window causing noise and light nuisance .

W respectfully ask that u look into this and may consider your neighbours in asking team members to meet elsewhere in the garden area away from residential bedrooms of your neighbours Thank u in advance for your consideration in resolving this matter Regards [REDACTED]

Sent from my iPad



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**Sue Deacon**

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**From:** Helen Heraty  
**Sent:** 15 November 2023 17:28  
**To:** Jonathan Smith  
**Cc:** Sarah Czarnecki; Morgan Heraty-Wells  
**Subject:** FW: PA System hire at Grays Court York.

Hi Jonathan,

This came from John.

-----Original Message-----

**From:**  
**Sent:** 15 November 2023 08:23  
**To:** Helen Heraty  
**Subject:** PA System hire at Grays Court York.

To Whom it may concern,  
We supply Audio Visual Equipment to Grays Court, York.  
We can confirm that no equipment was hired to Grays Court during the month of April 2022.

Kind Regards

Big Media Co

<https://link.edgepilot.com/s/891b01f7/9OKqZylBgkSvHucpkbIS4Q?u=http://www.bigmedia.co.uk/>  
mail@bigmedia.co.uk

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Neutral Citation Number: [2012] EWHC 3467 (Admin)

Case No: CO/5736/2012

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**ADMINISTRATIVE COURT IN MANCHESTER**  
**(ON APPEAL FROM THE MANCHESTER AND SALFORD MAGISTRATES'**  
**COURT BY WAY OF CASE STATED)**

Leeds Combined Court  
1 Oxford Row, Leeds LS1 3BG

Date: 07/12/2012

**Before :**

**MR JUSTICE HICKINBOTTOM**

**Between:**

**MATTHEW TAYLOR**

**Appellant**

**- and -**

**(1) MANCHESTER CITY COUNCIL**  
**(2) TCG BARS LIMITED**

**Respondents**

**Jeremy Phillips (instructed by LR Law) for the Appellant**  
**Sarah Clover (instructed by Susan Orrell, City Solicitor, Manchester City Council)**  
**for the First Respondent**

**The Second Respondents were not represented and did not appear.**

**Hearing date: 26 November 2012**

**Approved Judgment**

**I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.**

\*\*\*\*\*

THE HON MR JUSTICE HICKINBOTTOM

**Mr Justice Hickinbottom:**

**Introduction**

1. When and to what extent, if at all, can an application to vary a licence under the Licensing Act 2003 be amended?
2. That is an important question in practice, because many applicants seek to change their proposed variation in the light of representations they receive objecting to it or some part of it. It is a question which, as I understand it, has never before been addressed by the courts.
3. The question comes before this court in the form of a case stated by Deputy District Judge Robinson sitting in the Manchester and Salford Magistrates' Court. On 8 and 9 March 2012, he heard an appeal by the Appellant Matthew Taylor against a decision of the Licensing Sub-Committee of the First Respondent Manchester City Council ("the Council"), taken on 7 October 2011, to grant a variation to a premises licence relating to premises known as Via in Canal Street, Manchester. The Second Respondents TCG Bars Limited ("TCG Bars") owned and operated Via, and were the premises licence holder.
4. As a preliminary issue, Mr Taylor contended that the Council had acted unlawfully because TCG Bars had significantly revised their application after the statutory period of advertisement and consultation had expired, meaning that responsible authorities (such as the Council's own Environmental Health Department) and local residents had no reasonable notice of the revision and no proper opportunity of making representations in respect of it.
5. The Deputy District Judge held that the Council did not act unlawfully, and Mr Taylor appealed that decision to this court by way of case stated dated 14 May 2012. In paragraph 52 of the Case Stated, the Deputy District Judge poses the following question for this court:

"Given the variance between the application to vary the premises licence originally advertised and the revised scheme, and the timing of those revisions, was I correct in ruling that it was lawful for [the Council] to proceed to determine [TCG Bars'] application in accordance with section 35 of the Licensing Act 2003?"

**The Licensing Act 2003**

6. In this judgment, all statutory references are to the Licensing Act 2003, unless otherwise indicated.
7. The Licensing Act 2003, which came into force on 24 November 2005, radically changed licensing in England and Wales. Until then, there had been a patchwork of licensing systems, under which alcohol licences were granted by licensing justices, reflecting their historical role in maintaining the peace; whilst other licensing functions, such as entertainment, were in the administrative province of local councils.

8. The 2003 Act created a single system, in which magistrates were relieved of their administrative licensing responsibilities, in favour of local authorities. The White Paper which led to the reforms ("Time for Reform: Proposals for the Modernisation of Our Licensing Laws" (Cm 4696) (April 2000)) identified three reasons for the transfer of all licensing functions to local councils, as follows (paragraph 123):

"...

- Accountability: we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken.
- Accessibility: many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.
- Crime and disorder: Local authorities now have a leading statutory role in preventing local crime and disorder, and the link between alcohol and crime persuasively argues for them to have a similar lead on licensing."

The first bullet point emphasises that licensing decisions were to be regarded as administrative decisions, taken in the public interest and subject to political accountability.

9. The role of a licensing authority under the 2003 Act was recently considered by the Court of Appeal in R (Hope and Glory Public House Limited) v City of Westminster [2011] EWCA Civ 31 ("Hope and Glory Public House"). Having rehearsed the history behind the Act, Toulson LJ, giving the judgment of the court, said (at [41]-[42]):

"41. ... [T]he licensing function of a licensing authority is an administrative function. By contrast, the function of the district judge is a judicial function. The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of a power delegated by the people as a whole to decide what the public interest requires....

42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the 'heads or

tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

That chimes with the White Paper, Toulson LJ again stressing the essentially evaluative nature of the decision making process in most licensing matters, which demands a complex balancing exercise, involving particularly the requirements of various strands of the public interest in the specific circumstances, including the specific locality. He also marked the fact that Parliament has determined that, in this context, local authorities are best placed to make decisions of that nature.

10. The administrative nature of a licensing authority's function is also emphasised by, e.g., regulation 23 of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) ("the Hearing Regulations"), which provides that the hearing of an application "shall take the form of a discussion led by the authority..." and forbids cross-examination except in limited circumstances.
11. However, the justices still have a role to play in the new scheme. The main sanction for those who fail to comply with the new licensing laws is criminal, and magistrates have retained responsibility for dealing with people charged with offences under the licensing laws, as well as having an appellate function from licensing decisions of the relevant local authority.
12. The basic mechanism for regulation of the relevant activities is as follows. By section 2 of the 2003 Act, "licensable activities" can only be carried on under and in accordance with a "premises licence" issued by a "licensing authority", defined in section 3(1) usually to be the relevant local council; and section 136 imposes a criminal sanction on those who carry on licensable activities otherwise than under and in accordance with such a licence. "Licensable activities" include the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment (section 1(1)).
13. Section 4 is also an important provision. Under it, a licensing authority must carry out its functions under the Act (and hence must determine any licensing decision it has to make) with a view to promoting the following "licensing objectives":
  - (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.

It is noteworthy that all of these objectives are essentially concerned with the public interest; although, of course, evidence of how a licence might affect individuals may be relevant to the assessment of that public interest.

14. By section 4(3), in exercising those functions, the authority must also have regard to both:
  - i) Guidance issued by the Secretary of State under section 182, which requires her to issue such guidance. The relevant version for the purposes of this appeal, which I shall refer to as simply “the section 182 Guidance”, was issued in April 2012. It has now been replaced by new guidance issued in October 2012.
  - ii) The authority’s own licensing statement published under section 5, which requires each authority to publish a statement of licensing policy regularly, at the relevant time for a period of three years and now (by virtue of section 122 of the Police Reform and Social Responsibility Act 2011) for a period of five years. The Council’s current Statement of Licensing Policy (“the Council’s Statement of Licensing Policy”) covers the period 2011-14.
15. The licensing functions of an authority are in practice delegated to a licensing committee or sub-committee (sections 6 and 7). In the Council’s case, they have established a Licensing Committee of 15 Council Members, with any application that requires a decision being determined by a Sub-Committee of three members of the Licensing Committee at a hearing (paragraph 3.36 of the Council’s Statement of Licensing Policy).
16. As Mr Phillips submitted, the regime is essentially a permissive one, generally allowing anyone to carry out “licensable activities” in an unfettered way by requiring the licensing authority to grant or vary a licence on application, unless the decision making powers of the licensing authority are triggered – by, e.g., representations being made on an application to vary – whereupon the authority must take a decision in response to the application based upon the promotion of the licensing objectives. However, even then, the steps it has power to take are limited to those specifically identified in the scheme.
17. Section 17 sets out the procedure for making an application for a new licence. Section 17(3) requires an application to be accompanied by “a plan of the premises to which the application relates, in the prescribed form”. Section 17(5) provides that the Secretary of State must by regulations require the applicant and the licensing authority to advertise the application for a prescribed period and in a prescribed manner, and “prescribe a period during which interested parties and responsible authorities may make representations to the relevant licensing authority about the application”. “Interested parties” are defined in section 13(3) as including a person living in the vicinity of the premises. (Under section 105 of the Police Reform and Social Responsibility Act 2011, “interested parties” has now been substituted by “persons who live, or are involved in a business, in the relevant licensing area”; but that change has no relevance to this appeal). “Responsible authorities” are defined in section 13(4) to include relevant local weights and measures, police, fire, rescue, health, environmental health and planning authorities.
18. An application must also put forward an individual as the “designated premises supervisor”, and no supply of alcohol can be made under a licence unless there is such a supervisor named in the licence and he has a current “personal licence” in accordance with Part 6 of the 2003 Act (sections 15 and 19). Personal licences form

no part of this appeal, and I need not say anything further about them; except that, since May 2010, the designated premises supervisor for the premises at 28-30 Canal Street has been Anthony Cooper.

19. The Secretary of State has made procedural regulations in respect of applications for premises licences in the form of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005 No 42) (“the Premises Regulations”), as well as the Hearing Regulations.
20. Subject to the express requirements of the Hearing Regulations, procedure at the hearing of an application is expressly a matter for the licensing authority (regulation 21 of the Hearing Regulations). There is no similar provision in the Premises Regulations, which are generally prescriptive as to the pre-hearing procedure that must be followed by the applicant (who must comply with the appropriate provisions in Parts 2 and 4), and the licensing authority (which must comply with the appropriate provisions in Parts 4 and 5) (regulations 4 and 6).
21. Regulation 23(1) of the Premises Regulations repeats the requirement that an application for a new licence must be accompanied by a plan; and regulation 23(3) provides that a plan, when required, must show various specified topographical features, including:
  - “(a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
  - (b) the location of points of access to and egress from the premises;
  - (c) if different from subparagraph (3)(b), the location of escape route from the premises;
  - (d) ...”

Of course, in addition to the elements required by regulation 23(3), a plan that is lodged may show other matters which are not required by law.

22. Regulation 25 requires applications to be advertised in specific ways for 28 days.
23. “Relevant representations” are defined as representations made by an interested party or responsible authority, which are neither frivolous nor vexatious nor withdrawn, and which are in time and “are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives” (section 18(6) and (7) of the 2003 Act). That definition is important: representations to be relevant have to be about the effect of the licence on the promotion of the public interest licensing objectives set out in section 4, although evidence of the actual or potential impact of the licence on individuals may be relevant to the various strands of public interest involved. That is reflected in Appendix 2 to the Council’s Statement of Licensing Policy which, under the heading “Relevant Information for Residents and Other Interested Parties”, states:

“...

- In accordance with [the definition of ‘relevant representation’], you should demonstrate how your representation affects the promotion of the licensing objectives.
  - Provide an evidential base for the grounds of the representation; which could include written logs of problems, details of previous complaints, photographs or video evidence of the particular case.”
24. The relevant period for representations in a case such as this is “28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant” (regulation 22 of the Premises Regulations).
25. Where no “relevant representations” are made, the licensing authority is bound to grant the application subject only to specified conditions derived from the operating schedule (section 18(2)). Where such representations are made, a decision making power arises in the licensing authority, because the requirement that the authority is bound to grant the application is subject not only to those same conditions but also to section 18(3) and (4), which provides that, where relevant representations are made:
- “(3) ... the authority must –
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary; and
  - (b) having regard to the representations, take such steps mentioned in sub-section (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- (4) The steps are –
- (a) to grant the licence subject to [such conditions mandated by the statutory provisions, and such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives];
  - (b) to exclude from the scope of the licence any licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the premises supervisor;
  - (d) to reject the application.”
26. With regard to subsection (4)(a):



- (i) by section 18(5), for these purposes, conditions are “modified” if any of them is “altered or omitted or any new condition is added”; and
  - (ii) by section 109 of the Police Reform and Social Responsibility Act 2011, “necessary” has now been replaced by “appropriate”; but again that change is not material to this appeal.
27. Whilst the provisions of section 18(3) and (4) are written in mandatory terms (“... the authority *must*...”), a discretion arises as the result of the words “take such steps ... *as it considers* necessary ...” (emphases added). However, in determining a licence application, the discretion that an authority has is limited in two ways: (i) that authority can only take one or more of the steps listed in section 18(4), and (ii) it is empowered (although also obliged) to take only such of those steps it “considers necessary for the promotion of the licensing objectives”. The statutory provisions consequently both define and limit an authority’s powers in determining an application for a new licence.
28. Once a licence has been granted, if it is proposed to change the relevant business or premises such that the carrying out of licensable activities will fall outside the licence which has been granted, then the licence holder can change the licence in one of three ways.
29. First, if it is proposed to extend the period for which the licence has effect or to vary substantially the premises to which it relates, then a new application under section 17 has to be made (section 36(6), and paragraph 8.73 of the section 182 Guidance). That requires, not only advertisement and a period for the making of relevant representations to be made, but also the licensing authority to reconsider and review the entire licence afresh.
30. Second, at the other end of the scale, if the proposal is of a very limited nature, which is incapable of having an adverse impact on the promotion of any of the licensing objectives, then a simplified procedure involving restricted publicity can be adopted (sections 41A-41D, introduced by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (SI 2009 No 1772)). Paragraphs 8.59 and 8.60 of the section 182 Guidance provide:
- “8.59. Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by... affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits....
- 8.60. Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact on the licensing objectives.

This emphasises the importance of having an up to date copy of the premises plan available.”

31. It is not suggested by any party that the changes proposed in this case, to which I shall come shortly, warranted a new section 17 application for a new licence, or could properly have been the subject of the minor variation procedure. It is common ground that it was appropriate for those proposed changes to be the subject of the third procedure, namely an application for a variation of the licence under section 34.
32. The procedure for an application under section 34 mirrors the procedure for a new application under section 17.
33. The Secretary of State has to make regulations for the due advertisement of the application (section 34(2)); and, by regulations 25 and 26 of the Premises Regulations, she has provided that the advertisement of such application must be the same as for an application under section 17 for a new licence.
34. Any premises licence has to be accompanied by a plan; but that does not mean that a plan always has to accompany an application to vary. Section 34(5) and regulations 27 and 27A of the Premises Regulations refer, expressly or implicitly, to accompaniment by a plan *where appropriate*; and regulation 23(1) only requires a plan to accompany an application for a new licence under section 17. For example, if an application to vary is made merely to extend hours for the same licensed activities without any change to the premises themselves, a plan would be unnecessary in practice and is not required by the scheme. However, it was properly common ground that where, as here, there is an application for a variation including significant changes to the internal layout of the premises (including elements required to be on a plan by regulation 23(3)), a plan complying with regulation 23(3) would be essential to the application.
35. Section 35(2)-(4) of the 2003 Act, reflecting to an extent section 18(2)-(4) in respect of a section 17 application for a new licence, provides that, where no relevant representations are received within the relevant period, then the licensing authority must grant the variation; but, where such representations are received, then they trigger a decision making process. The authority must hold a hearing and must, having regard to the representations, take such steps from those listed in section 35(4), if any, as it considers necessary for the promotion of the licensing objectives. Sub-section (4) states that:
 

“(4) The steps are –

  - (a) to modify the conditions of the licence;
  - (b) to reject whole or part of the application

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.”
36. Again, the licensing authority has a discretion in its decision making here; but, as with section 18(4) for an application for a new licence, where there are relevant

representations in respect of an application to vary, it is limited: the authority can only respond to the application in one or more of the ways set out in section 35(4), and it can only take such steps “as it considers necessary for the promotion of the licensed objectives.” Again, that requires an evaluation of what is necessary for the promotion of those objectives.

37. Therefore, as with a section 17 application, it can be seen that it is the making of relevant representations in respect of an application to vary that triggers a process of decision making by the authority, in the form of a hearing and decision to take such steps as are allowed and required by section 35(3) and (4). Where no representations are received within the relevant period, the applicant is entitled to the variation he seeks: no decision making process is triggered at all (Corporation of the Hall of Arts and Sciences v The Albert Court Residents’ Association [2011] EWCA Civ 430, “Corporation of the Hall of Arts and Sciences”). It was suggested, obiter, in Corporation of the Hall of Arts and Sciences that an authority has no power to take into account late representations even where the decision making process may have been triggered by other, in-time representations (see, e.g., [41]): and it seems to me that that follows from the wording of section 35(3), which focuses exclusively on relevant representations which are defined in terms of being in-time. However, it was common ground before me – and, in my view, properly so – that, if someone has made relevant representations, then he may later amplify them.
38. There is one final procedure that should be mentioned. Under section 51, where a premises licence is in effect, a responsible authority or interested party may apply to the licensing authority for a review of the licence. The onus of establishing grounds for review falls upon the person initiating the application – including establishing that the ground is relevant to one or more of the licensing objectives (section 51(4)(a)) – but, otherwise, the procedure again reflects that for a new licence. In particular, any such application has to be the subject of advertisement (as well as notice to the licence holder), and there is a period in which representations may be made. There must be a hearing to consider the application and any relevant representations, which are again defined by reference to relevance to the licensing objectives (section 52(7)). In response to an application, the authority again must take such steps that are listed as it considers necessary for the promotion of the licensing objectives, those steps being, in this context:
  - “(a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period not exceeding three months;
  - (e) to revoke the licence.”
39. Such an application would be appropriate where a licence holder performs licensable activities, within the scope and in accordance with the terms and conditions of his licence, but nevertheless those activities impact adversely on local residents, by

causing unanticipated disorder or a public nuisance. It might be prompted by, e.g., a change in the manner in which the business is conducted (albeit within the scope and conditions of the licence), or merely busier trade.

### The Facts

40. Canal Street is an area of restaurants and bars, as well as residential accommodation, in a central part of Manchester known as the Village.
41. Since September 2005, TGC Bars have operated a bar in premises at 28-30 Canal Street, under a premises licence granted by the Council. Those premises front onto Canal Street, and back onto Richmond Street, a parallel street. They comprise essentially two licensed floors: the ground floor including a mid-level mezzanine floor, and a basement.
42. The licence authorises three activities: the retail sale of alcohol, the provision of identified regulated entertainment and the provision of late night refreshment. The licence as initially granted was subject to 94 conditions, including the following in Annex 2:

Condition 31: "The licensed premises shall be provided with an adequate number of exits clearly indicated and so placed and maintained so as to readily afford the audience ample means of safe egress."

Condition 33: "Emergency doors must not be fitted with any securing device other than an approved type of panic bolt fitting...."

Condition 34: "Doors not in normal use, which are regarded as emergency exits, should be fitted with an alarm which is activated when they are opened. The alarm should be inaudible in public areas and should sound in an area permanently manned by management/staff whilst the premises are occupied...."

Condition 60: "Alterations or additions, either permanent or temporary, to the structure, lighting, heating or other installations or to the approved seating gangways or any other arrangements in the premises must not be made except with the prior approval of the City Council."

Condition 71: "Occupancy: Basement 240 persons, Mid Level 120 persons, Ground Level 260 persons, Total 620 persons."

Condition 72: "The windows and external doors on the Canal Street façade to be kept closed after 23.00 hours except for access and egress."

43. The licence had a plan of each floor attached to it, showing the matters required by regulation 23(3), and more. It showed five sets of external doors on the Canal Street

façade ground floor, two (each with a lobby inside) marked, “Entrance”; and one, at the south east end of the building, giving access to the basement only via a doorway onto Canal Street (“the V2 doorway”) and a set of stairs. The V2 doorway is adjacent to the door to the residential apartments on the upper floors of 10 Canal Street (the first floor, ground floor and basement of those premises being another licensed bar called “Crunch”, owned and managed at the relevant time and now by the Appellant, which has an entrance just a few yards further up Canal Street). At the bottom of those stairs from the V2 doorway, the basement plan attached to the licence for the Via premises shows double doors marked “FD” into a bar area with dance floor.

44. The extent to which the V2 doorway had been used prior to the application to vary is contentious. However, it was common ground before the Deputy District Judge that it had not been used as the principal entrance and exit to the premises, and use of the doorway had not been required to cease as a result of being a breach of licence. For the purposes of the preliminary ruling, the parties agreed that it was not necessary for the judge to make a finding about the extent of the use that had been made of that doorway (Case Stated, paragraph 13) – and he did not make any such finding.
45. On those licence plans, there are a number of doors shown from the rear of the building onto Richmond Street; notably one set, again to the east end of the building, giving access to a second set of stairs down to the basement (“the Richmond Street doorway”). The external doors to the Richmond Street doorway are again marked on the plan, “FD”. The evidence was, and the Deputy District Judge found (Case Stated, paragraph 10), that at all material times that doorway was in fact only used by staff and as an emergency escape.
46. In addition, the plans showed that there were several sets of internal stairs joining the ground floor and basement.
47. On 9 August 2011, TGC Bars made an application to the Council, under section 34, to vary their licence. The proposed variation had a number of elements, comprising in effect as follows (Case Stated, paragraph 14):

“...

- An extension of hours [for both sale of alcohol and provision of entertainment by one hour per day, ending one hour later each day].
- Internal works to the ground floor premises.
- The creation of two separate venues (Via – ground floor; Club Polari – basement), by the construction of internal walls, which had the effect of providing new toilet accommodation for Via at basement level. Club Polari would have its own completely separate toilet accommodation.
- The provision of a wholly new and independent means of access to Club Polari for members of the public/club patrons by way of a public entrance doorway on

Richmond Street (necessary because the previously utilised access from Via would no longer be possible with the new layout)."

The "previously utilised access from Via" is, of course, not a reference to the V2 doorway and stairs; but to the internal access from the ground floor.

48. The application was based upon a completed prescribed form, schedule of alterations and plans. The plans showed considerable changes to the internal walls and general layout of each floor (which made a plan a vital component of the application: see paragraph 34 above); but no change to the structure or layout of either the staircase at the north east corner of the building to the Richmond Street doorway (where the legend "FD" still appeared on the external doors), or the staircase at the south east corner onto Canal Street via the V2 doorway (where the doors at the foot of the stairs were also still marked "FD"). However, the schedule made clear that the alterations would include:

"... a full refurbishment of the rear staircase (currently used for staff and as an emergency escape) to provide improved and independent public access to this basement area from the rear of the building."

49. The application was duly advertised, and a number of representations were received by the Council in respect of the proposed extension of hours and the public access from Richmond Street. None objected to the division of the premises into two separate public venues, *per se*.
50. The Council's Environmental Health Department opposed both the proposed increase in hours and the proposed public use of the Richmond Street doorway on grounds of public nuisance. In respect of the latter, they said that that door was likely to lead to issues of public nuisance because Richmond Street is very narrow and bordered by high sided buildings, so any noise created by customers using that side of the building would likely be exaggerated by the corridor effect of the buildings which could lead to noise nuisance for the occupiers of the apartments that back onto Richmond Street. Those apartments include some in 10 Canal Street. No representations were received from any other responsible authority.
51. With regard to interested parties, the occupants of Flat 8, 10 Canal Street (Mr & Mrs Seymour) objected to the public use of the Richmond Street doorway on similar grounds, asking for permission for that new public entrance to be refused. Mr Taylor (who lives in Flat 1), the occupant of Flat 3 (Mr Welford) and another local resident living in a different block, all objected to the extension of hours. All of those representations were received by the Council before the close of statutory period for representations, on 7 September 2011.
52. On 12 September, solicitors for TCG Bars responded to those representations by writing to the Council as follows:

"The application is made up of three parts –

1. To carry out some internal alterations.

2. To create a new entrance on Richmond Street.
3. To extend the operation hours at the premises for alcohol and entertainment.

We have received representations from some residents and from the Environmental Health [Department] which our client has considered fully.

We are instructed, therefore, to amend the application in the light of the representations as follows.

1. We withdraw the part of the application to extend the hours for licensable activities which will remain as existing.
2. We attach amended layout plans which remove the application for the new entrance on Richmond Street.

The application to carry out other internal works which have not received any representation remains as per the amended plans.

We have copied in all authorities and the residents with email addresses and would ask them to confirm as soon as possible that the representations are now withdrawn as they have no relevance to the application so that the application can be granted by delegated powers.”

It is be noted that the letter purported to “amend” the application to vary.

53. The “amended plans”, dated 12 September 2011, were headed “Revision A – Main entrance to basement bar now positioned to front elevation”. They showed most of the external doors at the back of the building (including the Richmond Street doorway) marked, “Escape”; and the V2 doorway marked, “Entrance to Basement Bar”. However, there were no differences in the structure or layout from the plan used for the original application. The doors in the basement at the foot of the V2 doorway stairs, and the external doors of the Richmond Street doorway, were both still marked “FD”.
54. The new proposal came to Mr Taylor’s immediate notice, and he discussed it with three other residents of 10 Canal Street on the evening of 12 September, before writing to TGC Bars’ solicitors, with a copy to the Council, the following day:

“Looking at your revised plans. On your ground floor plan there is a new second entrance planned for named “Entrance to Basement Bar”. This entrance is new on this plan which is currently a fire escape for the premises. This new proposed Entrance is directly next to the entrance door way to the 10 Canal Street flats. This is of great concern as Via already

creates more than an acceptable amount of noise and I believe that this entrance will create further noise and disturbance.

My objection has been based around noise...

... I believe most if not all premises in the area now include operating conditions in their licences to assist with the management of noise and disturbance including having sound limiters, closing doors and windows when regulated entertainments are taking place, and the use and training of dispersal aids and policies with staff.

If the applicant can provide some conditions in their licence for this, I believe I would be happy to agree the application."

55. Mrs Seymour, having first withdrawn her representation, reinstated it on 7 October, having been contacted by Mr Taylor who pointed out the intention to use the V2 doorway as the sole means of public access to the basement. Mr Welford, the same day (7 October) also objected to the revision, on that same basis. The Environmental Health Department appears to have withdrawn its objection on the basis that the hours were not to be extended and Richmond Street would not be used for public access.

56. The hearing before the Council's Licensing Sub-Committee was held that day, 7 October 2011. Mr Taylor was the only interested party to attend, and he pressed for a number of conditions. In the event, the Sub-Committee granted the application, but included two further conditions on the licence, as follows:

1. Exit from the premises onto Richmond Street is to be used as a fire exit only.

2. A barrier to ensure queue forms in front of Via is to be operational from 20.00 daily. The barriers to be removed at the same time as the barriers which define the smoking area.

The second additional condition reflects paragraph CD1 of the Council's Statement of Licensing Policy, which requires the effective management of queues to prevent any nuisance or disorderly behaviour: "... [L]icensees are expected to demonstrate how they will manage queues to the premises."

57. That decision was formally notified to Mr Taylor on 20 October 2011. On 24 October, he lodged an appeal with the Magistrates' Court, under section 181 of the 2003 Act. It was in the context of that appeal that the Deputy District Judge made his ruling in respect of the preliminary issue, which has in turn been appealed to this court.

58. To complete the chronology, without prejudice to this appeal, the Council, TGC Bars and the interested parties who had made representations (notably, Mr Taylor) have now agreed that further conditions should be imposed; the Council have imposed those further conditions; and the premises have been operating as two discrete bar venues for some months on the basis of those conditions. No application for any review of the licence has been made under section 51, and there is no evidence of any



difficulties in practice occurring as a result of the business operating under the licence with those conditions. Mr Cooper's apparently unchallenged evidence (paragraph 3 of the undated and unsigned statement used before the Deputy District Judge) was to the effect that, since the opening of the discrete basement bar in November 2011, there have been no issues with the Council's Environmental Health Department, the premises have been trading well, and he has maintained good relations with neighbours including those who live in 10 Canal Street.

### The Parties' Contentions

59. Mr Phillips for the Appellant Mr Taylor stressed that the 2003 Act, Regulations and Guidance do not on their face allow for *any* change to an application to vary a licence. Whilst he was prepared to accept that *de minimis* changes to an application might be made, he submitted that no amendment could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives. Where such a change is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations. Such changes, he submitted, should not generally arise when an applicant has engaged in pre-application consultation with responsible authorities and interested parties, as encouraged by paragraph PN3 of the Council's Statement of Licensing Policy. However, to allow amendments greater than that after the application had been made and advertised would fundamentally undermine the regulatory scheme's provisions for representations; encourage the undesirable practice of applicants lodging applications in a form designed to attract a lesser degree of objection, with the intention of amending subsequently and without notice to those who might be detrimentally affected; and be "transparently at odds" with local residents' right to private life under Article 8 of the European Convention on Human Rights.
60. Applying those principles to this case, Mr Phillips submitted that the 12 September amendment, with its change of route for public access to the basement floor, was clearly at least capable of having an effect on the licensing objectives, notably the prevention of public nuisance. By advertising the initial proposal to create a discrete basement venue with a new means of access on Richmond Street and then, after the expiry of the time for making representations and without public notice, amending the location of that access to the V2 door onto Canal Street, responsible authorities and interested parties were effectively deprived of the opportunity to make representations in relation to potential effects the revised scheme might have upon the promotion of the licensed objectives. They would not necessarily have become aware of the new means of access at all; but, even if they did, they could not have become aware of them until, at the earliest, 12 September 2011, when the revision was put forward. By that date, they would have been debarred from making any representations against the revised scheme, as the time limit for representations is strictly construed and had expired.
61. In the circumstances of this case, the legislative scheme required responsible authorities and interested parties to be given an opportunity to make representations in respect of that new proposal. As they were denied that opportunity, the Sub-Committee acted unlawfully in proceeding on the basis of the amended application.

62. Miss Clover for the Council submitted that, under the premises licence, the licence holder had always been able lawfully to use the V2 doorway for public access to the premises. On 12 September 2011, TGC Bars abandoned their application for extended hours and the refurbishment of the Richmond Street stairway and entrance to enable them to be used for public access to the basement. The application was thereafter restricted to the internal structural and layout changes, which did not include any changes to the structure of the V2 doorway and stairs, nor any changes to which any relevant representations had been made. The mere increase in intensity of use of that doorway for public access that was likely as a result of the proposed change did not require any formal variation to the licence.
63. The Sub-Committee was therefore able, and indeed right, to deal with the application solely on the basis of that limited remaining proposed variation in structure and layout. If, in the view of interested parties such as local residents, the change of business operation in fact impacted upon the licensing objectives, then the appropriate remedy lay in an application for review under section 51 (see paragraphs 38-39 above).

#### Discussion

64. This appeal concerns the principles and structure of the licensing scheme implemented by the 2003 Act.
65. As I have described (paragraph 12 above), regulation of the retail sale of alcohol and prescribed entertainment is effected by imposing a criminal sanction upon those who carry out such activities other than in accordance with a licence granted by the relevant local authority. This means that a licence holder is entitled to sell alcohol and provide entertainment in any manner he wishes, so long as the licence does not prohibit that manner of provision in some way, because (e.g.) it falls entirely outside the scope of the licence or it breaches one of the licence conditions.
66. If those activities are carried out lawfully, within the scope of the premises licence and in accordance with the licence conditions, but the manner in which they are carried out adversely impacts on one of the licensing objectives (e.g. by in fact causing disorder or a public nuisance), then the remedy of any person affected (whether a responsible authority or an interested party) is to apply for a review of the licence under section 51, to which the licence holder, and responsible authorities and other interested parties can respond.
67. Where the holder of a licence intends to carry out activities in a way that he considers may not be in accordance with his licence, then he is able to apply for a variation of the licence to extend the scope of the licence to cover that manner of carrying out those activities or remove a condition in respect of which he considers he would be in breach, using one of the three procedures set out above. If he does not, and the activities do fall outside the scope of the licence or breach the licence conditions, he is liable to prosecution. So the risk of not applying for a variation is his. That is no doubt why the terms of section 34(1) do not require an application for variation to be made in any circumstances, those terms being merely permissive: "The holder of a premises licence *may* apply to the relevant licensing authority for variation of the licence" (emphasis added).

68. On an application to vary, the Premises Regulations provide detailed rules for both advertisement, and as to how, when and by whom representations can be made in respect of the application. Representations can only be made on the public interest grounds set out in section 4, and must be made within 28 days: although representations can be amplified once made, once the 28 day period has expired the authority has no power to receive representations from those who have not previously submitted any. If no representations at all are made on those grounds in that 28 day period, then the licence holder is entitled to his variation as of right. If representations are made on those grounds, then that triggers a process of decision making by the authority. The very purpose of the representations is, initially, to be that trigger.
69. Once the decision making process is triggered, it is driven by the terms of the scheme, the discretion given to the authority by the scheme, and the requirement that the authority acts fairly.
70. The scheme provides no mechanism for amending an application once made, and neither the Act nor the regulations, nor the Secretary of State's Guidance nor the Council's own Statement of Licensing Policy, makes any mention of the possibility of amendment. Clearly, a power to amend that would defeat or undermine the object of the procedural provisions relating to advertisement and right of responsible authorities and interested parties to make representations could not conceivably be implied; and neither Mr Phillips nor Miss Clover suggested otherwise.
71. However, the scheme has no express power enabling an applicant to amend an application to vary; and, in my judgment, properly construed, the regulatory scheme does not as such allow or envisage any amendment to an application to vary once it has been made.
72. It does not need to do so, because of the nature of the decision making process with which the authority is involved. As stressed in the illuminative judgment of Toulson LJ in Hope and Glory Public House (see paragraph 9 above), in respect of licensing, a licensing authority exercises an administrative function given to it by Parliament. Whilst the authority must no doubt take into account the rights of those people who live and work in the vicinity, those interested parties can only make representations as to the "likely effect of grant of the application on the promotion of the licensing objectives", i.e. on the basis that the *public* interest will be adversely affected. It is the potential impact upon that *public* interest, and that alone, which triggers any decision making process at all. In its absence, the licence holder has a right to the variation it seeks.
73. Once triggered, it requires the making of an evaluative judgment, involving (as Toulson LJ said in Hope and Glory Public House) the weighing of a variety of competing public policy considerations, such as the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, and including the impact generally on the lives of those who live and work in the vicinity. It inherently involves an evaluation of what is to be regarded as reasonably acceptable in the particular location, and of what is necessary and proportionate to the promotion of the statutory licensing objectives in terms of scope of the licence and conditions in a local context.

74. The scheme is based on the premise that the relevant local authority is uniquely equipped and well-placed to make such judgments. In such areas of quintessential policy, the State generally has a wide margin of appreciation, or, in the more domestic terms used by the Divisional Court in Meade v Brighton Corporation [1968] 67 LGR 289 (a case concerning a gaming machine permit under the Betting, Gaming and Lotteries Act 1963): “The discretion in the local authority is about as wide as it could be”. The court will be cautious before interfering with the exercise of such a discretion.
75. However, wide as a licensing authority’s discretion might be in general, it is limited by the specific terms of the scheme: in the context of premises licence applications under the 2003 Act – whether for new licences under section 17, or for variations under section 34, or for review under section 51 – a licensing authority does not simply have a open discretion, even when its decision making function is brought into play.
76. The principle restrictions on an authority’s discretion are, for the purposes of this appeal, two-fold.
77. First, an application to vary never triggers a general review of the licence: the scope of the review of the licence is limited. “Relevant representations”, which trigger the review, must be (i) confined to the subject matter of the variation (paragraph 9.4 of the section 182 Guidance), and (ii) “about the likely effect of the grant of the application on the promotion of the licensing objectives”. That focus reflects the fact that, where those representations are made, they trigger an enquiry by the authority into the effect the proposed variation may have upon the promotion of the licensing objectives (and, to that extent, I respectfully agree with the authors of *Alcohol and Entertainment Licensing Law* by Manchester, Poppleston & Allen (2nd Edition) (2008), at paragraph 6.9.4, to that effect). An application for a new licence or for a review is similarly limited, although the precise statutory restrictions are different, tailored to the nature of the particular application.
78. Second, in the light of the conclusions of that enquiry, the authority must determine the application to vary. However, the scheme again does not give the authority an open discretion to do whatever it likes. Indeed, the provisions are prescriptive. Section 32(5) requires the authority to consider whether, for the promotion of the licensing objectives, it is necessary to reject the application (in whole or in part) and/or to modify the conditions of the licence to accommodate the variation in the context of the licence as a whole. There is a discretion here, insofar as the authority only has to act if it considers such rejection or modification is necessary: but, if and insofar as it does consider that, then it has both a power and an obligation to reject the application or modify the licence conditions accordingly. The authority can do no more, and no less. Again, an application for a new licence or for a review has similar restrictions on the authority’s powers.
79. These provisions therefore effectively define and limit the extent of the authority’s powers as to how a licensing authority may respond an application to vary a licence. Its field of potential action is limited by the scope of the extant licence and the application to vary that licence; and it is limited to rejecting the application to vary (in whole or in part) and/or to modifying the conditions of the licence to accommodate the variation in the context of the licence as a whole.

80. It is here that an applicant's changing wishes or intentions may come into play. Given the power of a licensing authority to reject part of an application for variation or modify the licence conditions, it is open to an applicant (e.g. in the face of relevant representations received) to indicate to both licensing authority and responsible authorities/interested parties who have made relevant representations that (i) he does not wish to pursue part of an application and/or (ii) he is willing to agree to a modification to the licence conditions to cater for the concerns expressed.
81. Whilst that may be expressed, as in this case, as an "amendment" to the application to vary, in my view it does not amount to a formal amendment to his application; but the licensing authority is bound to take those views of the licensee into account in exercising its discretion as to appropriate steps it might take in deciding the application in its original form. An authority would not usually consider it necessary to consider further any part of the application which the applicant no longer wishes to pursue - although, on particular facts, it may do so if, for example, the part abandoned cannot be properly be severed from other aspects of the licence. The authority would also wish to consider, with the responsible authorities/interested parties, whether the conditions to which the applicant is prepared to submit address the concerns raised in their relevant representations as to the potential impact of the proposed variation on the promotion of the licensed objectives.
82. Given the administrative nature of the authority's function, it is perfectly appropriate for the authority thus to liaise with the applicant licensee and the responsible authorities/interested parties to see whether a compromise can be reached. Where, after relevant representations are lodged, discussions between the licensing authority, the applicant and responsible authorities/interested parties who have made relevant representations lead to an agreement within the scope of the extant licence and original application to vary as to the parts of the application to be granted and the conditions upon which that grant will be made, then it is open to the authority to make a grant on those conditions; so long as it considers that the rejection of the parts agreed to be rejected and modification of the conditions agreed to be modified are necessary for the promotion of the licensing objectives. In those circumstances, the responsible authorities/interested parties might withdraw their representations (regulation 10 of the Hearing Regulations), or the parties may agree that a hearing is unnecessary and the authority may dispense with a hearing if it agrees that it is unnecessary (section 35(3)(a), and regulation 9 of the Hearing Regulations)
83. For the reasons already explored, given the decision making power granted to it by Parliament, the administrative nature of that power and the unique position an authority is in to make the relevant judgments, subject to any restrictions expressly imposed by the terms of the statutory scheme itself, the discretion of a licensing authority is necessarily wide, and the exercise of such a discretion with which this court should be cautious of interfering. Whilst the pre-hearing procedure is detailed and prescriptive, and does not have the equivalent of regulation 21 of the Hearing Regulations (which expressly gives the authority power over its own procedure), that discretion applies to the procedure the licensing committee adopts pre-hearing, subject to the procedure adopted (i) complying with the procedural requirements of the scheme, and (ii) being "fair" and directed to promoting the licensing objectives in section 4. That was illustrated in Corporation of the Hall of Arts and Sciences, in which, in addition to the mandated advertisement of the application to vary, the

authority had a practice of notifying directly businesses and residents in the immediate vicinity of the relevant premises. “Fair” here has to be seen in the context that the authority is performing an administrative function: it is not acting in a judicial or quasi-judicial capacity (see Hope and Glory Public House at [41] per Toulson LJ). If the licensing committee stray outside that wide discretion, and adopt a procedure which is irrational or otherwise unlawful, then the resulting decision may be open to challenge by way of appeal or judicial review (see Hope and Glory Public House at [51]-[52] per Toulson LJ; and Corporation of the Hall of Arts and Sciences at [39] per Stanley Burnton LJ).

84. In conclusion, it is to that extent, but only to that extent, that an applicant may notify “amendments” to the parts of the application he wishes to pursue, and the conditions he is prepared to accept to enable the variation to be granted. However, the licensing authority in the form of the licensing committee or sub-committee must eventually itself come to a judgment as to whether the promotion of the licensing objectives requires the rejection of the whole or part of the original application as made, and, insofar as it does not, whether it requires any modification to the licence conditions. In making that judgment, it cannot however extend the scope of the licence.
85. If the variation is granted in terms that are unacceptable to an interested party, then there are a number of routes of challenge. First, of course, as in this case, an appeal can be made to the Magistrates Court. Second, if the procedure adopted by the authority is irrational or otherwise unlawful, then the resulting decision would be open to challenge by way of judicial review (see paragraph 83 above). Third, if the variation results in unexpected adverse effects on the licensing objectives, then an interested party can seek a review of the licence under section 51.
86. Let me deal finally with two specific submissions made by Mr Phillips.
87. First, he submitted that, on an application to vary, no change to the licence could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives, unless that change was made clear in the initial application as advertised; and, where such a change to an application to vary is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations.
88. I do not agree with that proposition – or, at least, the full extent of it – which, with respect, does not seem to me to be in line with the nature of the scheme when looked at as a whole.
89. The proposition might have more force if the function of the decision maker were judicial, rather than administrative. However, relevant representations trigger an administrative investigation by the licensing authority into the effect the proposed changes will make to the promotion of the licensing objectives: that decision making process having been triggered, it is then for the authority to weigh the various strands of public interest and determine whether the promotion of those objectives requires the rejection of any part of the application or modification of the licence conditions.
90. It is true that the investigation is restricted to the matters raised in the representations, but the important point is that the action the authority can take is restricted by the

scheme to rejecting the application in whole or part, or modifying the licence conditions.

91. In respect of the former, insofar as the authority rejects the application to vary, that will have the effect of leaving the licence, to that extent, unaltered: the authority cannot extend the scope of the licence beyond that of the extant licence and the variation proposed.
92. With regard to modification of the licence conditions, the statutory scheme gives the authority full scope to add, subtract or vary any conditions to accommodate the variation in the context of the licence as a whole. The scheme requires the authority to modify the conditions if and to the extent that it considers modifications necessary to promote the licensing objectives. "Promoting the licensing objectives", as I have described, requires the balancing of various strands of public interest; and, in performing that balance, it is possible, of not inevitable, that one of the objectives may be demoted in order to benefit another. Where that is so, the scheme simply does not require further consultation of local residents and other interested parties in the form of re-advertisement with a fresh opportunity to make new relevant representations. It does not do so because:
  - i) The authority is already charged with the task of balancing the strands of public interest involved, on the basis of such evidence as it has collected. In many cases, it will consider that it is in a position to make that decision without formally consulting interested parties and local residents again. If it is not – e.g. if it considers that the procedure will be unfair to local residents without such further consultation – then it is open to the authority to require the applicant to start again with a fresh application. However, absent a proposed change extending the scope of the licence, that would be an exceptional case.
  - ii) If the authority were required to start the process over again, simply because the exercise of its statutory powers might adversely affect one strand of the public interest involved, that would seriously compromise the dialogue between the authority, applicant and responsible authorities/interested parties who have made representations, which is encouraged as an inherent part of the scheme.
93. Responsible authorities and interested parties can take considerable comfort from the fact that the authority cannot extend the scope of the licence beyond that of the extant licence and variation proposed. Furthermore, where such authorities and parties have made relevant representations, they are able to play a full part in both the pre-hearing dialogue (designed to come to a result that is satisfactory to the applicant and responsible authorities/interested parties) and the hearing itself. If they are dissatisfied with the result of the hearing in practice, they are able to appeal or challenge the result by way of judicial review or seek a review of the licence. If the manner in which the licensed business is operated causes (e.g.) a private nuisance, then they can bring a private law claim. But, in licensing terms, their rights and interests are not paramount: they are just one factor which the authority must take into account, when determining an application to vary. For the reasons I have given, in exercising a licensing function, the focus is on the public interest.

94. For those reasons, I do not accept Mr Phillips' proposition.
95. Nor do I find Mr Phillips' reliance on Article 8 effective. Article 8 concerns an individual's right to a private life. For the reasons I have just given, there are considerable safeguards for that right in the scheme, and in the private law. There is no arguable breach of Article 8 simply because the scheme does not provide for re-advertisement of any proposed change of licence conditions which might arguably affect either the licensing objectives or the private life of a specific individual. Far from being "transparently at odds" with local residents' right to private life under Article 8, I do not consider that Article 8 has any role to play in the issue in this appeal.
96. It seems to me that the principles that I have outlined are not only clear from the terms of the regulatory scheme, but are also practical in their application. Whilst I have been involved in an exercise in the proper construction of the terms of the statutory scheme, that comes as some comfort – particularly as it must have been Parliament's intention to impose a regulatory scheme that is workable. On the evidence before me, they also appear to be the principles which, in practice, licensing authorities have in substance generally applied since the advent of the new scheme in 2005. That may explain why the issue in this appeal has not until now ever come before the courts.

**Application of the Principles to this Appeal**

97. I now turn to apply those principles to the appeal before me.
98. The Appellant's complaint is that the initial application to vary the licence did not indicate that the V2 doorway would be used as the only means of public access to and egress from the new self-contained basement bar. In that application, the proposal was to refurbish the Richmond Street doorway and stairway to or from the basement, and use that to get the public to and from the basement. That change to the application was not the subject of advertisement, and consequently the Appellant and other local residents were denied the opportunity to make representations in respect of the use of the V2 doorway for that purpose. That amendment, it was submitted, required the licence holder applicant to start the variation process again – at least so far as advertisement and period for representations are concerned. It was that failure which rendered the decision of the authority unlawful.
99. For the reasons I have given above, the applicant could not formally amend his application, once it had been submitted; but the Council, in determining whether it was appropriate to reject the whole or part of the application, or modify the licence conditions to accommodate the proposal, was entitled to take into account the applicant's changed wishes and intentions. In the face of opposition to both the extension of hours and the refurbishment of the Richmond Street doorway and stairway to enable public access to the basement bar by that route, the Council was entitled to conclude that they could and should properly reject those parts of the application.
100. The real issue, of course, is whether the Council was entitled to grant the variation, on the basis of the original application, with the V2 doorway being the sole public means of access to the newly-discrete basement bar, without requiring the applicant to submit a new application or at least requiring the new proposal to be re-advertised



with a fresh period for responsible authorities and interested parties to lodge relevant representations.

101. As I have indicated, the extent to which the V2 doorway was in fact used for public access to the premises prior to the application to vary is controversial. As I understand it, there was some evidence that, for a short period, the V2 doorway had been used for public access to the basement; but the evidence suggests that the doorway was not used a great deal, and Mr Cooper (the premises licence's designated premises supervisor: see paragraph 19 above) appears to confirm that the V2 door was used as a fire door but not used as a (public) entrance, access to the basement being through the main doors of Via and internal stairs (paragraph 2 of an unsigned and undated statement used at the hearing before the Deputy District Judge).
102. However, as the parties properly conceded before the Deputy District Judge, in respect of the application to vary, what mattered was not the use to which the V2 doorway had actually been put, but the use of it that was lawful under the original licence. In my judgment, the licence as issued in 2005 undoubtedly allowed the V2 doorway to be used for public access to the premises.
103. Mr Phillips conceded before me that the 2005 licence enabled that doorway to be used for public access to the basement, in the sense that the licence did not limit the use to which that entrance/exit could be put and, therefore, if that doorway were used for public access to the basement, a prosecution under section 136 for breach would fail. He submitted that it would fail merely because of the high burden of proof required in criminal proceedings; but, in my view, there was clearly no restriction on the use of that entrance/exit to the premises in the 2005 licence.
104. I accept that, by virtue of regulation 23(3)(b) and (c) (paragraph 21 above), a licence plan should identify the location of points of access to and egress from the premises on the one hand, and, if different, identify discretely the location of escape routes from the premises; but the marking "FD" in the internal doors at the foot of the V2 stairs cannot indicate that the route from the basement to the V2 doorway was merely an escape route and no more. Many internal doors are marked on the plans with "FD" and, whatever that means (and, of course, it might stand for "Fire Door": see also paragraph 2 of Mr Cooper's statement), it does not appear to identify mere escape routes. Even on the final plan, from the face of which it is clear that the applicant proposed to use the V2 doorway and stairs as the only means of public access to the basement, the doors at the foot of the stairway are marked "FD".
105. In the 2005 licence, in my judgment, there were no restrictions on the use of doorways between the premises and the streets, front and back, either in the conditions or on the face of the plans that form part of the licence. In those circumstances, any of the doorways (including the V2 doorway and the Richmond Street doorway) could be used for public access to and egress from the premises. If the means of access through a particular door caused an adverse impact on the licensing objectives, it would have been open to either a responsible authority or an interested party to have made an application for review under section 51.
106. Mr Phillips relied upon the well-known passage from the judgment of Scott-Baker LJ in Crawley Borough Council v Stuart Attenborough [2006] EWHC 1278 (Admin) at [6]-[7], to the effect that licence conditions must be enforceable, and consequently

sufficiently clear for that purpose; but, in my judgment, the scope of the licence and conditions in this case, so far as the allowable use of the V2 entrance is concerned, were manifestly clear.

107. The ability of the licence holder lawfully to use the V2 doorway means of public access to and egress from the basement was not lost, even if the licence holder did not in fact use that doorway in that manner either very much or at all or to the extent that he may use it in the future. Nor, in my view, was it lost merely by the separation of the ground floor and basement bars into distinct units. That separation, of course, had an inevitable effect on how the business would operate. The final proposal, which involved the V2 doorway being used as the sole entrance/exit for the new discrete basement bar, inevitably changed the degree of use of the V2 doorway by (i) reducing the number of people who might use the V2 entrance/exit, from 620 (the total capacity of the premises) to 240 (the capacity of the basement alone), whilst (ii) meaning that all of those who used the basement bar would have to use the V2 entrance/exit. That was a change of business which resulted in a change of intensity of use of the doorway – in effect, reducing the possible maximum usage of that doorway whilst substantially increasing the likely use – but that did not require a variation to the licence at all.
108. That applied equally to the door into Richmond Street at the north east corner of the premises: there were no restrictions on the use of that doorway either, and, under the 2005 licence, the licence holder could have used that doorway for public access – although it may have been likely that, had they done so, there would have been an application for review by the Environmental Health Department, if not the occupiers of residential accommodation that abutted Richmond Street. However:
  - i) The application to vary included an application to change the structure and layout of the building to this extent, namely the “full refurbishment of the rear staircase... to provide improved and independent public access to this basement area from the rear of the building...”. That appears, not from the plan – the plan was unaltered from that attached to the 2005 licence – but from the schedule of proposed alterations (see paragraph 48 above). Insofar as that involved a change to the structure or lay out of the premises, it may have required a variation to the licence (and/or approval under Condition 60 of the licence conditions: see paragraph 42 above).
  - ii) In any event, it was open to the applicant, in the light of opposition to the use of the Richmond Street doorway, to indicate that it would not use that doorway for the public, but would use the V2 doorway. No structural or layout changes were requested (or, as I understand it, required) for use of the V2 stairs and doorway for the purposes of access to the basement. The only change marked on the final plans, and the only change intended, was substantially greater use of that route for public access to the premises than had previously occurred. However, that was not required to be put into the plan, and that use already fell within the boundaries of the extant licence. Increased use of a means of egress and ingress in fact, where that use is already lawful in terms of the licence, does not require a variation of the licence.
109. In those circumstances, TCG Bars did not need a variation in their licence to enable them lawfully to use the V2 doorway for public access to the basement. After 12

September 2011, the only variation proposed by TCG Bars related to the internal structure and layout of the premises, in respect of which no representations were made and of which neither Mr Taylor nor any other person making relevant representations made any complaint.

110. However, the TCG Bars nevertheless had to satisfy the Council that queues would be managed effectively (paragraph CD1 of the Council's Statement of Licensing Policy: see paragraph 56 above). It was open to the Council, in the light of the likely future use in fact of the V2 doorway as a public entrance/exit to modify the conditions of the licence, by imposing an additional condition relating to queuing. It can properly be assumed that that condition was imposed because the Council considered it necessary for the promotion of the licensing objectives relating to the prevention of disorder and public nuisance.
111. For those reasons, in my judgment, the Council's Licensing Sub-Committee was lawfully entitled (i) to proceed with the application to vary the licence; (ii) to take into account the applicant's express wish not to proceed with parts of the application, namely the extension of hours and refurbishment of the Richmond Street entrance and stairway for use by the public; (iii) to determine, in accordance with those wishes, to reject those parts of the application as not being necessary for the promotion of the licensing objectives; (iv) to determine that, if the remaining parts of the application were to proceed, a new condition relating to queuing outside the V2 entrance was necessary for the promotion of those objectives; and (v) to grant the variation on that basis. That is the substance of the Sub-Committee's decision in this application.

### **Conclusion**

112. For those reasons, in my judgment, the judge was correct in ruling that it was lawful for the Council to proceed to determine the application to vary in accordance with section 35 as it did, even though the applicant had notified the change of scheme whereby the public access to and egress from the basement would be by way of the V2 doorway and not the Richmond Street doorway. The result was not outwith the scope of the existing licence and application to vary as seen together.
113. I would consequently answer the question posed by the Deputy District Judge in the affirmative, and I dismiss this appeal accordingly.

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