

Meeting	Licensing/Gambling Hearing
Date	6 May 2025
Present	Councillors Hook, Nicholls, and Warters (substitute for Councillor Knight)
Apologies	Councillor Knight
Officers in attendance	Lesley Cooke – Licensing Manager Sandra Branigan – Legal Advisor

43. Chair (11:02am)

Resolved: That Councillor Nicholls be elected to act as Chair of the hearing.

44. Apologies for Absence (11:02am)

Apologies for absence were received from Councillor Knight, who was substituted by Councillor Warters.

45. Introductions (11:03am)

Introductions were made.

46. Declarations of Interest (11:03am)

Members were invited to declare at this point in the meeting any disclosable pecuniary interest or other registerable interest they might have in respect of business on the agenda if they had not already done so in advance on the Register of Interests. None were declared.

47. Exclusion of Press and Public (11:04am)

Resolved: That the press and public be excluded from the meeting during the sub-committee's deliberations and decision making at the end of the hearing, on the grounds that the public interest in excluding the public outweighs the public interest in that part of the meeting taking place in public, under Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

48. Minutes (11:04am)

Resolved: That the minutes from the Licensing Hearing held on 16 January 2025 be signed and approved as an accurate record.

49. The Determination of an Application by Helen Heraty for Variation of a Premises Licence [Section 35(3)(a)] in respect of Grays Court Hotel, Chapter House Street, York, YO1 7JH (CYC-18630) (11:04am)

Members considered an application by Helen Heraty for a determination of application for variation of a Premises Licence [Section 35(3)(a) Licensing Act 2003] in respect of Grays Court Hotel, Chapter House Street, York, YO1 7JH. In considering the application and the representations made, the Sub-Committee concluded that the following licensing objective was relevant to the Hearing:

1. The Prevention of Public Nuisance

In coming to its decision, the Sub-Committee took into consideration all the evidence and submissions that were presented, and determined their relevance to the issues raised and the above licensing objective, including:

- 1. The application form.**
- 2. The papers before it including the written representations received from local residents, and the additional information provided by the Applicant and a Representor, as seen in the agenda supplements.**

3. The Licensing Manager's report and her comments made at the Hearing.

The Licensing Manager outlined the report and the annexes noting that the variation application was requesting permission for off sales for the premises. Under the Business and Planning Act 2020, the Applicant had permission to make off sales without it being stipulated within their licence, but this permission ended in March 2025. The Licensing Manager confirmed that the premises was not located within the Cumulative Impact Area (CIA), consultation had been carried out correctly, and the Licensing Manager directed members to the representations made by local residents at Annex 4, and the additional information provided in the agenda supplements by the Applicant and a Representor. She then advised the Sub-Committee of the options open to them in determining the application.

4. The Applicant's representation at the hearing

Jonathan Smith, on behalf of Helen Heraty (the Applicant), presented their case and Mr Smith stated that the applications was just for a variation to add off sales to their licence, limited to 23:30 hours for non-residents. If alcohol would be taken outside the grounds of the hotel, then it would only be sold in sealed containers.

Mr Smith suggested that in the event of the variation being granted as proposed, condition no. 9 on the current licence would need to be removed, which read: "Drinking glasses of any type shall not be allowed to enter or leave the licensed area whilst under the customer's care".

Mr Smith then stated how the independently owned Grays Court Hotel had won various awards, and that off sales were previously permitted due to the temporary off sales easement from 2020, and that during this time no issues arose.

Mr Smith discussed the journey taken from the hotel to the garden, and from the courtyard to the garden, as seen in Agenda Supplement - Additional Information from Applicant. He explained that taking drinks from the hotel to the garden was only possible by crossing an area which was currently unlicensed, as highlighted in yellow on the map on page 41 of the agenda, and therefore required the use of off sales.

The other way to the garden was through the hotel but this was not accessible for prams, wheelchairs, or people with accessibility issues, and this also created issues for when weddings were being held. Mr Smith then stated that the Applicant had previously applied for this unlicensed area to be licensed for on sales in 2018, and that this was no longer being sought. Instead, the premises had made use of the permissions for off sales through the Business and Planning Act 2020 and had maintained a buffer zone between the premises and adjacent houses.

Mr Smith addressed issues raised within the representations such as the possibility of putting notices on the gate asking people to not bring drinks past this point, and he mentioned that the Applicant had no intention of allowing drinking for 24 hours a day in the unlicensed area highlighted on page 41 of the agenda between the hotel and garden, and he noted that this had not happened within the five years that permission had been granted by the temporary off sales easement.

In response to questions from Mr Grunert, on behalf of Mr Mohan, a representor, Mr Smith confirmed that there was no intention of keeping the gate to the garden open constantly and that it would be locked at night – he added that it was only kept open during COVID-19 regulations due to health risks.

Mr Smith circulated wording of two additional licence conditions that he confirmed that the Applicant was in agreement with should it be imposed by the Sub-Committee; the wording of this was as follows:

- i. No furniture of any kinds including benches will be placed on the driveway marked in yellow on the plan attached to this premises licence.
- ii. Signage shall be placed within the bedrooms in the Coach House once those bedrooms are occupied by guests of the hotel which advises guests that they must not consume alcohol taken from the Coach House on the driveway marked in yellow on the plan attached to this premises licence.

In response to questions from the Sub-Committee, the Applicant and Mr Smith confirmed that:

- The unlicensed area shown on the map in yellow was accessible to hotel guests, but service was table-service only and no tables or chairs were positioned within this area.
- It would be known in advance whether guests would like access to the long room and double staircase, and if they would require the gate to be open.
- Events with 40 guests had exclusive use of the premises.
- Any off sales taken off the hotel grounds would have to be in a sealed container, and therefore open pints would not be permitted.

5. The representation of Kevin Mohan, a local resident, at the hearing

Christopher Grunert, on behalf of Mr Mohan, stated that the permissions granted to the premises under the easement of off sales regulations through the Business and Planning Act 2020 had not been regularly used by the Applicant over the past five years, and he indicated that a commitment to not placing tables and chairs near the unlicensed area highlighted on page 41 of the agenda would be welcomed as this would deter guests from standing in the unlicensed area. Mr Grunert discussed conditions applied to previous licences granted to Grays Court Hotel and noted that the Coach House was only to be licensed for on-sales, not off-sales, as would be allowed via the granting of the applied modifications.

Mr Grunert stated how earlier licensing applications had shown that there was an intention to maintain a buffer zone between the premises and neighbouring properties, and that this should be upheld, he also suggested that keeping the gate closed and locked would improve security for the Applicant, Mr Mohan, and neighbours. He continued by suggesting that signs could be placed around the premises to direct people to the correct way through to the garden through the hotel.

Mr Grunert concluded by stating that nothing had changed for the premises' area to be used in a different manner to what was agreed in previous licensing hearings, and following previous applications, and he directed the Sub-Committee to the current licence conditions on page 31 of the agenda.

In response to questions from members, Mr Grunert and Mr Mohan confirmed that:

- Following events from previous years bottles had been found in Mr Mohan's garden.
- When issues had previously been reported the event had ended by the time the complaint was investigated.

- Previous requests from Mr Mohan to use City of York Council's (CYC) noise monitoring equipment had been rejected.
- They had no issues with regard to access through the unlicensed area highlighted on page 41 of the agenda for improved accessibility for guests, issues just related to the consumption of alcohol within this area.

Mr Grunert, on behalf of Mr Mohan, was then given the opportunity to sum-up.

Mr Grunert stated that he believed a compromise was possible between Mr Mohan and the Applicant if the provision of off sales to the garden and courtyard were limited to private events only, and if off sales to the Coach House were limited to 21:00 hours. Mr Grunert stated that infrastructure for placing tables and chairs to reduce the number of those standing with drinks was already available to the Applicant, and that should the variation to the licence be granted that condition no. 9 of the current licence should be removed.

Mr Smith, on behalf of the Applicant, was then given the opportunity to sum-up.

Mr Smith stated that if the currently unlicensed area, highlighted on page 41 of the agenda, was open only to private events this would limit cars accessibility to parking spaces, and would hinder wheelchair and pram use. Mr Smith continued to state that a curfew of 21:00 hours for this area was not required as there was no evidence that guests would use this area other than for walking through to a different area.

Mr Smith confirmed that there were plans to apply for planning permission to develop the Coach House in future. Mr Smith then confirmed that compared to a previous application from 2018, there was no longer a desire to licence for on sales the area within the red line on page 96 of the agenda.

Mr Smith concluded by stating that allowing the gateway to be accessed by private events only could lead to misinterpretation from guests and would be difficult for staff to oversee, and that there was no representation made by either the York Minster, or Environmental Health.

In respect of the proposed licence, the Sub-Committee had to determine whether the licence application demonstrated that the premises would not undermine the licensing objectives. Having regard to the above evidence and representations received, the Sub-Committee considered the steps which were available to them to take under Section 18(3) (a) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Modify the conditions of the licence; 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. This option was approved.

Option 2: Reject the whole or part of the application. This option was rejected.

In approving Option 1, the Sub-Committee resolved to modify the licence and its conditions as applied for and to also add two additional conditions proposed by the Applicant, as detailed above and as follows, and to remove condition no.9 in the current premises licence:

Additional conditions:

- No furniture of any kind will be placed on the driveway marked in yellow on the plan attached to this premises licence (being the plan attached to the application).
- Signage shall be placed within the bedrooms in the Coach House once those bedrooms are occupied by guests of the hotel which advises guests that they must not consume alcohol taken from the Coach House on the driveway marked in yellow on the plan attached to this premises licence (being the plan attached to the application).

Licensable Activity	Existing	Variation requested
Supply of Alcohol – on the premises	10:00 to 23:30 Everyday 24 hours for hotel residents Christmas and New Years Eve until 01:00	Add off sales
Opening hours	Not restricted	No Change

Reasons for the Decision

The Sub-Committee note that this application is for the variation of an already established premises licence and they are bound to have regard to the appropriate legislation, Guidance and to the Council's own Statement of Licensing Policy.

The variation seeks only to add off sales to the licence, with the insertion of additional conditions. It does not seek to remove any of the conditions already imposed on the premises licence (save for condition 9 which would no longer be required) and that the licensed area continues to exclude the L-shaped driveway. The Sub-Committee noted that as the premises is already licensed to sell alcohol it was only the impact of the proposed off- sales as an addition to the licence which could be considered.

The Sub Committee carefully considered the representations and evidence received in objection to the application in addition to the oral submissions presented at the hearing on behalf of one of the representors. The objectors raised concerns relating to public nuisance, with regard to noise and the proximity of the premises and associated outside spaces in relation to residential dwellings.

However, it was established law that any decision to refuse the application had to be evidence based. It was noted that the premises has since July 2020 been able to take advantage of the Government easement permitting off- sales with no reported history of noise complaints from local residents or the Responsible Authorities. Having regard to all the material before it, the Sub Committee did not consider there to be evidence that if the variation was granted in accordance with the application that any of the licensing objectives would be undermined.

Further, the Sub-Committee felt that some issues raised in objection to the application were not directly relevant to the variation application.

The Sub-Committee also considered the representations made by the Applicant in response to the concerns raised. It was also noted that the Responsible Authorities did not object. From the submissions made by the Applicant, together with the measures to be put in place by the Applicant and additional conditions she offered at the hearing, the Sub-Committee considered that the proposed variation to the premises licence could operate without causing noise nuisance to neighbouring residents.

Based on all of the evidence presented to it, the Sub-Committee did not find any evidence to justify a refusal of the variation application, and it was felt that further conditions would not be necessary in order to promote the licensing objectives on the basis of the evidence before the Sub-Committee.

The Sub-Committee was nonetheless sympathetic to the concerns about noise nuisance and noted that if evidence of noise nuisance arose from the use of the premises for the licensable activities in future, then it was open to any person (including Responsible Authorities) to request a review of the licence under the provisions of the Licensing Act 2003 and the matter would come back to the Sub Committee.

Cllr Nicholls, Chair

[The meeting started at 11.02 am and finished at 12.49 pm].