

From: n>
Sent: 21 October 2023 09:37
To: licensing@york.gov.uk
Subject: Objection to Application to Vary Licence

Categories:

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Gray's Court Hotel - Licence Variation Application

We write regarding the application by Helen Heraty to vary the terms of her alcohol and refreshments licence for Gray's Court Hotel. We live at [redacted], Ogleforth, which is adjoined to the Coach House of Gray's Court.

The application seeks to have the licensed hours extended to end at 23.30 every day of the week instead of only Friday and Saturday as is currently the case. It also seeks permission to extend late night refreshments hours to match. It should be noted that the applicant has sought similar variations on three previous occasions which applications have been declined in whole or part.

Gray's Court Hotel is situated adjacent to the Minster lands and in a residential area. The presence of the Minster, though visited by many tourists, gives the area a feeling of calm and tranquillity, even more so in the evening when fewer tourists are present. The area is already disturbed at times at night when the hotel hosts weddings or other events, with guests departing rather noisily either on foot or by taxi.

The refusal of previous applications has been on the basis that later hours for drinking and eating at Gray's Court by non-residents will inevitably mean more noise, potentially causing a public nuisance. These factors remain unchanged and as valid now as when earlier applications were made.

The permission granted for Friday and Saturday opening seems to us a reasonable compromise and we can see no reason to change what is in place. We would therefore request that the application be refused in its entirety.

[redacted], Ogleforth, York, YO1 7JG

From: Licensing@york.gov.uk
Sent: 22 October 2023 12:29
To: licensing@york.gov.uk
Subject: Grays Court Hotel - Licence Variation Application

Categories:

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Grays Court Hotel, Chapter House Street, York, Y01 7JH - Licence Variation Application by Helen Heraty.

We live at Ogleforth at the corner of Ogleforth and Chapter House Street, very close to the entrance to Grays Court Hotel. With Grays Court Hotel entrance being so close to our property we experience not only an ongoing nuisance in terms of deliveries (which not being allowed to park in the hotel grounds, block the entrance to our own property instead) but we are sited at a location where late night and early morning traffic to the hotel go directly past our front door and is often a cause of disturbance to the quiet nature of our historic residential street.

The proposal is to extend the licensing hours to end at 23:30 pm every evening as opposed to just Friday and Saturday as is currently the case. There is also a proposal to extend the licence for preparation and serving of food up until 23:30pm. We understand that the applicant has requested similar licensing changes in the past which, up to now have either been declined or not fully adopted.

We would ask the latest application to be refused on the same grounds i.e. that the increase in the level of activity from non residential visitors has the potential to create a greater degree of unwelcome noise and nuisance behaviour to a residential area.

Ogleforth, York, Y01 7JG.



Chapter Office
8-9 Minster Yard
York
YO1 7HH

Monday 23 October 2023

BY FIRST CLASS POST AND BY EMAIL TO: licensing@york.gov.uk
Licensing Services
City of York Council
Eco Depot
Hazel Court
York
YO10 3DS

Dear Sir/Madam,

Application to vary a Premises Licence under Section 34 of the Licensing Act 2003
Applicant: Helen Heraty
Premises: Grays Court, Chapter House Street, York, YO1 7JH
Date of Application: 28 September 2023
Deadline for Representations: 26 October 2023

The summary of this Application on the City of York Council website states that the Applicant wishes to extend the terminal hour for the sale of alcohol on Sundays to Thursdays inclusive [*which is currently permitted until 22:30 only*] to 23:30 and to add the late provision of late night refreshment on Sundays to Thursdays inclusive [*not currently permitted at all on these days*] from 23:00 to 23:30.

This letter sets out the Representations that the Chapter of York ("Chapter") wishes the Licensing Authority to take into account when it assesses this Application for Variation of the Premises Licence.

Chapter is the registered charity responsible for the maintenance and operation of York Minster and several other historic properties located nearby that belong to the Minster. These properties include **6 Chapter House Street** and **3 Minster Court**, both of which are immediately adjacent to Grays Court.

Chapter House Street and **Minster Court** are short, cobbled streets with a narrow pavement on one side. They meet at a junction with Minster Yard and College Street directly outside the Minster's East Front. Aside from Grays Court and The Treasurer's House (a historic house owned by the National Trust) all the properties on Chapter House Street and Minster Court are used for residential purposes.

Chapter House Street and Minster Court form part of the Minster's Cathedral Precinct and the York Central Historic Core Conservation Area. The Precinct is a historic and ecclesiastical location of international significance. The predominant, long-established uses of the Precinct are ecclesiastical,

The Chapter of York (York Minster), Registered Charity Number 1201499, 8-9 Minster Yard, York, YO1 7HH

residential and open space, which combine to create a notably quiet environment. It is, in Chapter's opinion, in the overriding public interest to protect and preserve the substantial public amenity value of the quiet character of the Precinct, for the benefit and amenity of the people of York, and for the benefit and amenity of the many members of the public who visit it, and the residents who live in it.

Chapter only makes occasional use of the permission granted in its Premises Licence to hold outdoor activities in the Minster Precinct, acutely aware of the adverse impact on residential amenity that noise produced by licensed outdoor activities may predictably cause, especially in the late evenings and at weekends. Such licensed activities are accordingly few in number and rarely run late into the evening. In contrast, the licensed activities that the Applicant wishes to introduce (in the case of the late provision of late night refreshment from 23:00 to 23:30 on Sundays to Thursdays inclusive) and to expand (in the case of the later terminal hour for the sale of alcohol to 23:30 on Sundays to Thursdays inclusive) would add a daily extension to the Applicant's business activities at a time of the evening when the related noise will adversely affect residential amenity significantly, all year round.

3 Minster Court (to the immediate west of Grays Court) abuts the rear of the Grays Court building. It is used for residential purposes and is the private residence of a Minster Canon and their family.

6 Chapter House Street (to the immediate east of Grays Court) forms one corner of Grays Court's courtyard. The courtyard entrance arch and the cobbled road that passes through it, connecting the courtyard and Chapter House Street, is part of the ground floor of 6 Chapter House Street. This arch is the normal entry and exit route for all vehicles and the vast majority of the pedestrians who visit Grays Court. 6 Chapter House Street is used for residential purposes and is rented to a private tenant.

The occupants of the **Deanery, 1 Minster Court, 1A Minster Court, 2 Minster Court, 2A Minster Court, 3 Minster Court, 3A Minster Court, 4 Minster Yard, 1 Chapter House Street, 3 Chapter House Street and 6 Chapter House Street** (all of which are residential properties owned by Chapter, located in the immediate vicinity of Grays Court, in which any noise created by licensed activities at Grays Court in the otherwise virtually silent hours of the late evening will be an immediate, unwelcome and unacceptable intrusion and nuisance) are currently protected by the Conditions imposed on the Applicant's Premises Licence that require all noise-producing indoor and outdoor commercial activity to cease by the stated curfew times each day, in particular by the 22:30 daily curfew that applies from Sundays to Thursdays inclusive and that the present Application now seeks to extend to 23:30.

This 23:30 curfew has to date been permitted only for licensed activities taking place at the Premises on Fridays and Saturdays. This later curfew is intentionally restricted to those two days to minimise any potential late-night noise nuisance being caused to the occupants of nearby residential properties between Sundays and Thursdays, whilst allowing the Applicant to operate to this later time on the two days in each week when it is reasonable to expect some late-night event-related noise to be tolerated.

In Chapter's opinion, the times of day during which the Applicant is currently permitted to operate licensed activities at the Premises provide a fair, reasonable and workable basis for a hotel and hospitality use of the Premises that minimises detriment to the special character or public amenity of the surrounding area and minimises adverse impact on the occupants of nearby private residences.

The extension of late-night licensed activity by the further hour once again applied for will increase the risk that immediate, unwelcome and unacceptable noise intrusion and nuisance will be experienced by the occupants of nearby private residences on every day of every week throughout the year. The earlier curfew that currently applies to five evenings every week is a fair and necessary protection of the long-established character of the area around the Premises, in which the hotel use has started more recently, controlled by carefully tailored and proportionate Licence Conditions.

The variations now applied for were included in the wider application made and refused in 2018 under Application Reference CYC 018630. The basis of the 2018 refusal remains valid and compelling today. The geography of the neighbourhood has not changed nor has its predominantly residential character.

The Chapter of York (York Minster), Registered Charity Number 1201499, 8-9 Minster Yard, York, YO1 7HH

The Licensing Authority is asked to take due note of, and to have due regard to, the substantial issues and valid concerns outlined above. Chapter submits that the current terms of the Premises Licence continue to provide an appropriate and proportionate regime within which the Applicant's hotel business, located in this sensitive location, can reasonably be required to operate. Chapter therefore submits that all of the requested variations to the Applicant's Premises Licence should be refused.

Yours faithfully

A very faint, illegible signature or stamp, possibly a circular seal, is located below the text "Yours faithfully".

From: [Redacted]
Sent: 24 October 2023 16:18
To: licensing@york.gov.uk
Cc: [Redacted]
Subject: Grays Court , Chapter House Street, York, YO1 7JH | Representation | [Redacted]
Attachments: [Redacted]
Importance: High
Categories: [Redacted]

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Dear Sirs,

We are instructed by [Redacted] and [Redacted] of the [Redacted], [Redacted], York,

Please find attached, in respect of the above application, our clients' representation with relevant appendices.

We would be grateful if you would kindly acknowledge receipt of the representation.

Please note that we are retained by [Redacted] and [Redacted] in this matter, and we would request that we be copied into all future correspondence to our clients in connection with this matter.

Kind Regards

Chris Grunert
 Partner

[Redacted] | www.john-gaunt.co.uk

M: [Redacted] **F:** [Redacted]



Omega Court | 372-374 Cemetery Road | Sheffield | S11 8FT

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Practice Manager: Jonathan Pupius

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Licensing Services
City of York Council
9 St. Leonard's Place
YO1 7ET

Also by email: licensing@york.gov.uk

Chapter House Street
York, YO1 7JH

23rd October 2023

Dear Sirs

□

**Application for a premises licence: Gray's Court,
Chapter House Street, York, YO1 7JH
Applicants: Helen Mary Heraty**

I refer to the above matter which is advertised on your website as having a final day for representations of 26th October 2023.

I am writing on behalf of myself and my partner Ms. [redacted]. We live with our daughter at [redacted] Chapter House Street, York, YO1 7JH, which is immediately adjacent to the application premises.

This letter constitutes our representations opposing the application. We reserve the right to amplify any of the points raised in this letter at any subsequent hearing.

Background

The first licensing application at this site, which we opposed, was determined on 19th August 2010. At that time I and I were already residing at Chapter House Street, York and opposed the granting of a licence outright.

Although a licence was granted in the face of our opposition, the Committee imposed time limitations and conditions upon the licence after a full airing of the issues. These measures persuaded us not to appeal that decision. We hoped that the Operator, Mrs. Heraty, would demonstrate through her actions her ability to operate the premises in compliance with the licence conditions; ensuring the promotion of the licensing objectives.

We were doubtful at that time this could be achieved especially in terms of preventing public nuisance and crime and disorder, nonetheless we respected the decision of the Committee.

We note that the Applicant choose not to appeal the decision also.

Less than one year later an application to vary the licence was submitted by Mrs. Heraty to vary the terms of the licence. Although we had been party to the early proceedings, we were not pre-consulted in any way regarding their plans.

Again, we opposed this application and attach a copy of our representation of 13th July 2011 to this letter.

As stated in that letter, the variation application of 2011 was in essence an attempt to undermine by degrees the Committee's decision of 2010.

The Applicant is seeking to creep forward the hours of their licence without addressing the central issues which led to the imposition of such restrictions in the first instance.

This is demonstrated by the decision of the Committee to allow incremental advances to the licence, although not to the extent sought by the Applicant, in 2011.

We attach a copy of the 2011 Committee decision setting out their reasons for limiting the licence to its present terms.

Although disappointed that any extension had been permitted, we chose not to appeal the 2011 decision. We do not feel that any further advance on the hours or relaxation of conditions can be tolerated.

A third application was submitted by Mrs Heraty in July 2018. Once again Mrs Heraty sought to incrementally extend the licence terms in respect of both hours and the trading areas.

My partner and I again opposed this application along with several other interested parties and a copy of my 2018 representation is attached to this letter for your information.

Following a lengthy hearing on Thursday 11th October 2018, the third application was refused outright by the Committee and a copy of the Committee's decision is also attached for your information.

We note that the current application mirrors the 2018 application again in respect of hours. The Applicant has not sought on this occasion to vary the area covered by the licence as they did in 2018.

We note that the premises are currently exploiting the relaxations introduced by the Business & Planning Act 2020 to permit customers to enter the driveway which abuts my home carrying alcohol under the authority of the off-sale relaxations implemented as a Covid measure by the Business & Planning Act 2020. This area was the subject of the 2018 application to allow customers to consume alcohol on the driveway. This proposal was rejected in 2018 by the Committee. The use of the Business & Planning Act was confirmed by Mrs Heraty in correspondence.

Although I accept that this is not unlawful. It is, in my opinion, against the spirit of the Business & Planning Act 2020. The Licensing Authority will be well aware that the Business & Planning Act 2020 excluded certain premises which had made application or had been refused permission to amend their licences to permit off-sales within the 3 years leading up to the Business & Planning Act 2020's introduction. The effect of this section was to ensure that the Licensing Authorities' earlier decisions were not circumvented or undermined. The 2018 application did not, I accept, seek to add off-

sales but the use of the land adjacent to my property was specifically considered in that application and the Committee took a decision to refuse that application on the grounds of prevention of public nuisance.

The Applicant is therefore circumventing the decision of the Committee by exploiting the Business & Planning Act 2020 in this way.

I would however again reiterate that I do not say that the Applicant is acting unlawfully, simply that this appears to be contrary to the spirit of the Act which sought to prevent previously contentious uses from the terms of the general relaxation.

Although not a matter under consideration by the Committee in this application, the use of the driveway in question has led to a nuisance as we had predicted in 2018 and earlier in 2011 which had been reported to the proper Authorities. In the Minutes of the 2011 meeting, the Committee commended:

“..... the written representations to be relevant to the issue raised under the licensing objectives listed above as concerns were raised in particular, regarding noise nuisance”.

And again in the 2018 decision, the following statement was included:

“The Sub Committee was satisfied that the evidence of the representors was sufficiently compelling to show that on the balance of probabilities the inclusion of the L-shaped drive and the extension of an hour during the week would undermine the licensing objectives of preventing public nuisance”.

Current Application – Proposed changes to licensing hours

The Applicant is seeking to extend the terminal hour throughout the week to match the additional hours permitted on Friday and Saturday evenings.

We anticipate that should this application be granted, the Applicant would return with a further application to extend the hours further in due course across the week. We form the opinion based on the persistent nature of the Applicant over the last decade to pursue later and

later hours although the Committee has stood firm in this regard. We appreciate the Committee cannot restrict future applications. The Applicant demonstrates that they will not take 'no' as an answer.

The current limitations on the hours, which distinguish between weekdays and weekends, were imposed in order to avoid a public nuisance and unnecessary disturbance to the residents in the locality during the week. These limitations are necessary and appropriate to avoid a nuisance in the late evening.

This line has been consistently held by the Licensing Committee since the licence application was first submitted in 2010 and in all subsequent applications in 2011 and 2018. The situation at the hotel in respect of the surrounding residents and nature of the area itself has not changed at all over that time and our concerns remain chiefly about preventing public nuisance.

The application before the Committee seeks to extend the hours during the week to match the Friday and Saturday evening hours. The Committee should note that this variation of hours will only benefit non-residents at the hotel as the hotel itself already holds a general permission/relaxation for residents. If the purpose of the application therefore was to allow residents extended facilities, this is entirely unnecessary.

One must therefore conclude that the aim of the application is to allow the premises to open later in the evening in order to attract persons from outside the hotel to visit the hotel and consume alcohol until a later hour. After they have consumed alcohol, they will exit the premises either on foot, in their own vehicles or by some other mode of transport over an hour later than they currently do so.

The Applicant offers no explanation as to how these changes will not adversely impact the licensing objectives. We have rehearsed on two previous occasions how noise from the premises will cause a nuisance within our home and other residential properties in the vicinity and the Committee has agreed.

It is our understanding that it is incumbent upon the Applicant to set out through their Operating Schedule their proposals on how to ensure the promotion of the licensing objectives, they have manifestly failed to do so.

In addition to noise arising from the operation of the premises during permitted hours we also suffer from noise arising from staff operations following the end of an event, as the premises is reset for the following day.

We are disappointed to note that despite the above, the Applicant has not proposed in their application any additional measures to address the concerns of the local interested parties and myself in their application or to distinguish this application from the previous three applications that this Committee has considered and refused. The Applicant does not appear to accept that there is a potential for noise nuisance occurring although this has been found to be the case in all earlier decisions. The Applicant's draft operating schedule in their application states:

“The Premises Licence already heavily conditioned and conditions at Annex 3 will apply to the revised hours for the sale of alcohol and the provision of late night refreshment should the application be granted.”

I interpret the Application to mean that the Applicant will not offer any further reassurances and does not appear to find this necessary. It is my view that this shows contempt for the residents and indeed the Committee's earlier consistent decisions.

The Committee should note that this application follows a pre-consultation meeting with some interested parties.

Please note that the application does not appear to reflect a single change from the Applicant's original position.

We hope the Committee will recognise that the Applicant has only paid lip service to the interested parties with their “pre-consultation”.

In addition to the application to extend the hours for the sale of alcohol, the Applicant also seeks to add late night refreshment to the licence. Again, this would only benefit non-residents at the hotel as the provision of a late night refreshment to residents is not a licensable activity. For this reason I would object to both aspects of the application that would lead to additional persons from visiting the hotel later in the evening and therefore exiting again later into the evening past my property which is located, as the Committee will appreciate, in a

very sedate and quiet corner of the city within the shadow of the minster.

Although we have reported on numerous occasions complaints of noise and actions by the hotel which have caused disturbance and nuisance to myself and my neighbours, these have continued in the last 5 years.

We have continued to experience noise nuisance from the hotel activities and have been reported repeatedly to the local Authority. Again, a request for the local Authority to install monitoring equipment in the premises have been unfulfilled due to the relevant Officers prioritizing other cases for the necessary equipment above my own.

Although this is disappointing to myself and my partner, we appreciate the limited availability of such equipment.

In addition to noise nuisance, the premises has nuisance attracted traffic to the area such as their daily laundry delivery which often blocks Chapter House Street for extended periods as vehicles are loaded and unloaded on the road. When we have challenged the hotel on this issue, their response has simply been a blanket denial that deliveries have any connection to them and/or that there is any inconvenience caused. This is illustrative of the difficulty we have with the hotel, I exhibit several images of such delivery vans which are demonstrably servicing the hotel otherwise would not be in that area.

At present the hotel illuminates their garden from dusk until a time which appears to coincide with end of the current alcohol hours. One of the spotlights, used to illuminate the garden, points almost directly into our kitchen. Although we have complained to York City Council and the hotel directly about this light nuisance, the hotel has failed to take any action in respect of this issue, compounding the issue in our opinion.

If the Licensing Committee were minded to extend the hours of the licence we have clear reasons to be concerned that this light nuisance will persist and continue to any later hour approved. We would implore the Committee not to grant an extension.

The above two examples, I would suggest, demonstrate the manner in which the hotel interacts with me and other interested parties is combative and dismissive.

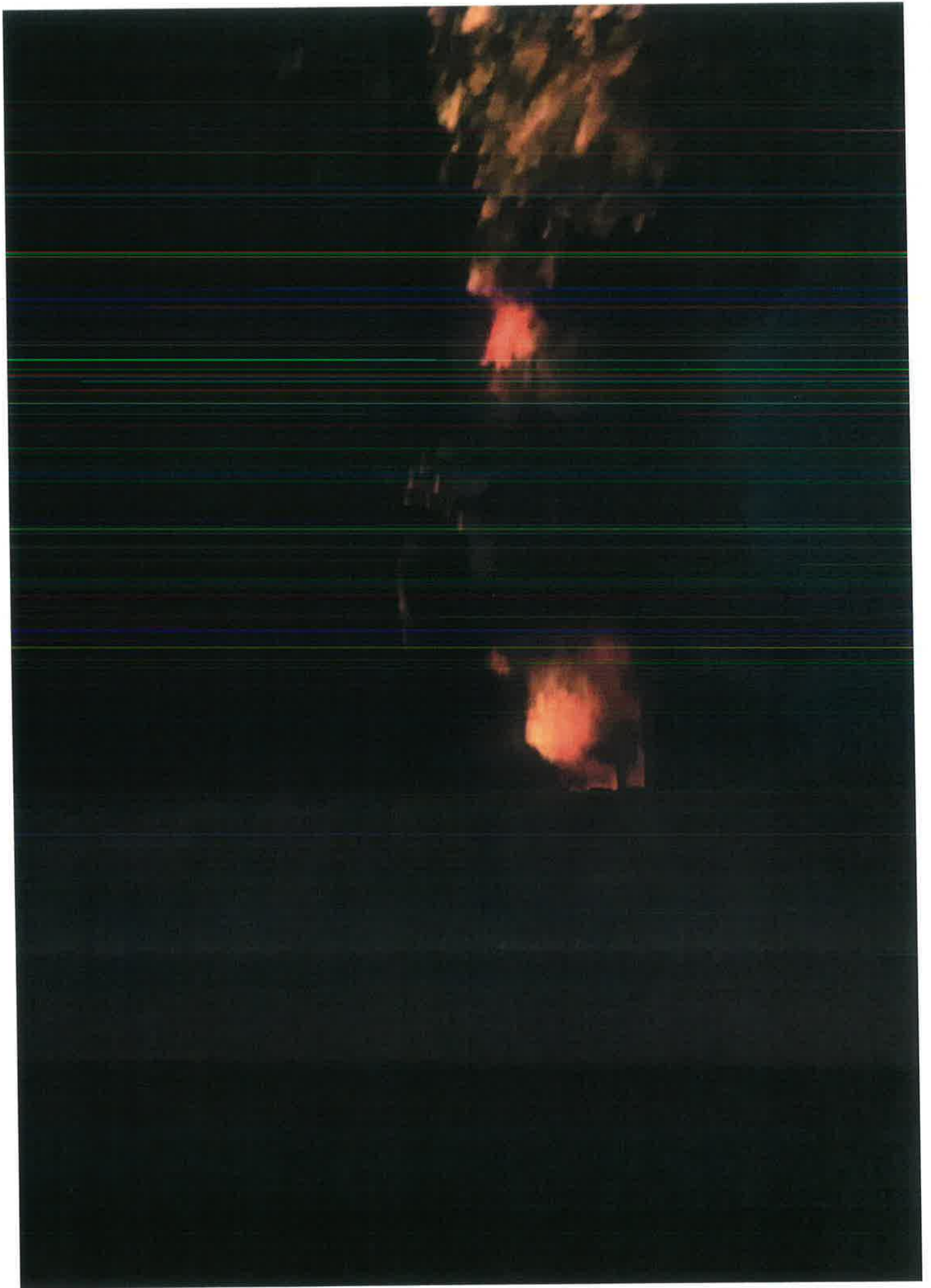
We have also continued to note breaches of licence conditions such as the prohibition of placing of glass bottles in external bins after 8pm suggesting again that the hotel is not minded or incapable of complying with its existing licence conditions. Therefore, any other measures which now may be offered by the hotel in light of these comments would be met with great scepticism by myself and my partner.

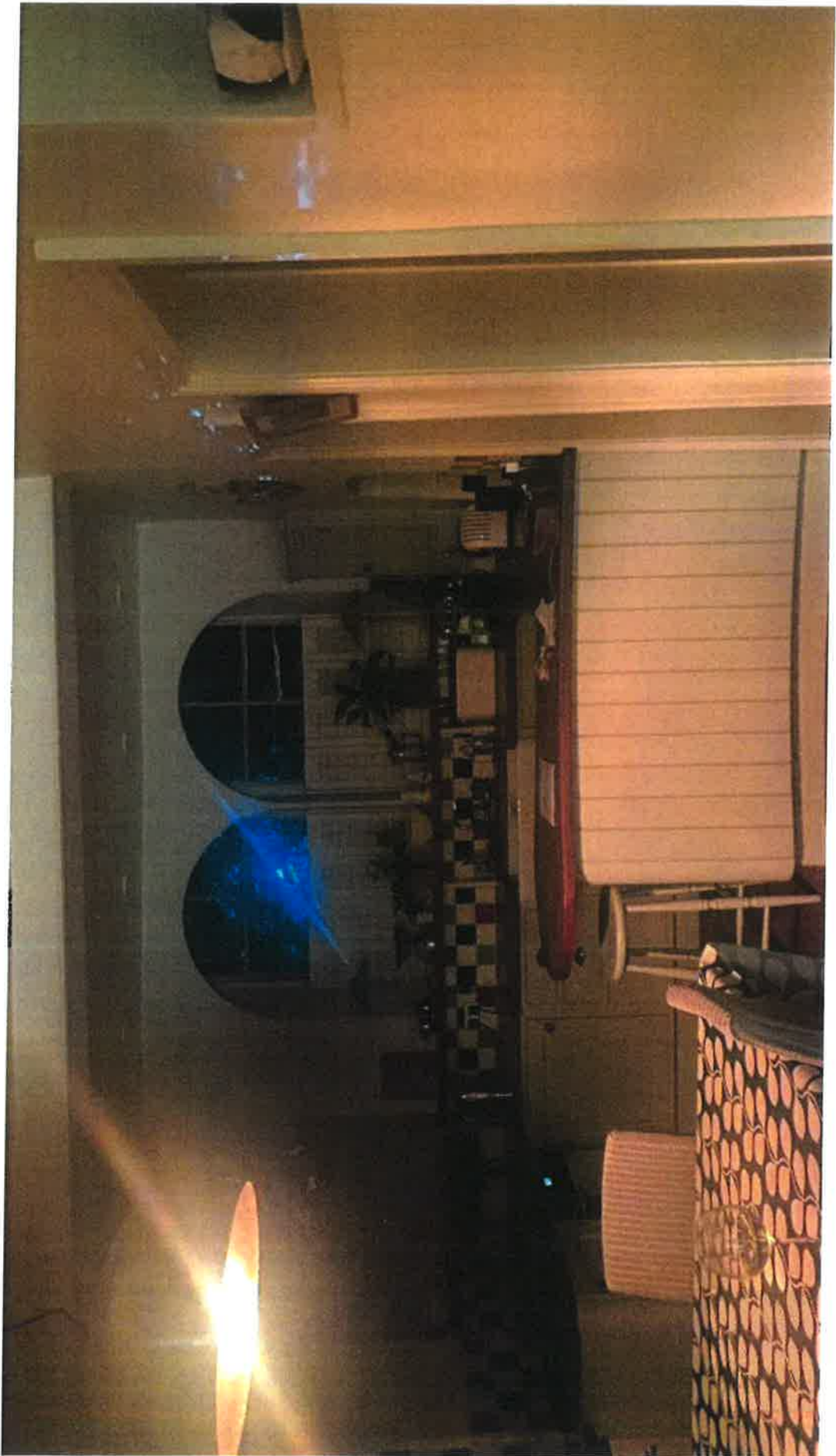
It regrettably remains the case the Applicant has failed to operate Grays Court within the current terms of the licence and should not therefore be rewarded with any enhancement of the licence.

We object to any extension of hours approval for the Applicant as this will increase the noise from the venue later into the evening which will in turn constitute a public nuisance. We should be grateful if you would kindly acknowledge receipt of this representation.

Yours faithfully

















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Chapter House Street
York, YO1 7JH

Licensing Services
Economy & Place Directorate
Public Protection
Hazel Court EcoDepot
James Street, York, YO10 3DS

14 August 2018

Also by email: licensing@york.gov.uk

Dear Sirs,

**Application for a premises licence: Gray's Court, Chapter House Street,
York, YO1 7JH**
Applicants: Helen Mary Heraty

I refer to the above matter which is advertised on your website as having a final day for representations of 15th August 2018.

I am writing on behalf of myself and my partner ; We live
with our daughter at , Chapter House Street, York, YO1 7JH,
which is immediately adjacent to the application premises.

This letter constitutes our representations opposing the application. We reserve the right to amplify the any of the points raised in this letter at any subsequent hearing.

Background

The first licensing application at this site. which we opposed, was determined on 19th August 2010. At that time I and I were already residing at C , York and opposed the granting of a licence outright.

Although a licence was granted in face of our opposition, the Committee imposed time conditions and restrictions upon the licence after a full airing of the issues. These measures persuaded us not to appeal that decision. We hoped that the Operators, Mrs. Heraty and Mr. Edwards, would demonstrate through their actions their ability to operate the premises in compliance with the licence conditions; ensuring the promotion of the licensing objectives.

We were doubtful at that time this could be achieved especially in terms of preventing public nuisance and crime and disorder, nonetheless we respected the decision of the Committee.

We note that the Applicant choose not to appeal the decision also.

Less than one year later an application to vary the licence was submitted by Mrs. Heraty and Mr. Edwards to vary the terms of licence. Although we had been party to the early proceedings we were not pre-consulted in any way regarding their plans.

Again we opposed this application and attach a copy of our representation of 13th July 2011 to this letter.

As stated in that letter, the variation application of 2011 was in essence an attempt to undermine by degrees the Committee's decision of 2010. We feel this also be the effect of granting the proposed application.

The Applicant is seeking to creep forward the hours of their licence without addressing the structural issues which led to the imposition of such restrictions in the first instance.

This is demonstrated by the decision of the Committee to allow incremental advances to the licence, although not to the extent sought by the Applicant, in 2011.

We attach a copy of the 2011 Committee decision setting out their reasons for limiting the licence to its present terms.

Again disappointed that any extension had been permitted, we chose not to appeal that decision. We do not feel that any advance on the hours or relaxation of conditions can be tolerated.

Current Application – Variation of Conditions

The condition which the Applicant seeks to remove through this application was imposed in 2010 and retained/clarified in 2011 and reads:

"The area referred to for the purpose of this licence is as shown edged red on the plan attached to the licence and will exclude the L-shaped driveway, the Bar Walls and the step access to the Bar Walls."

The current licence only permits the sale of alcohol for consumption on the premises, off-sales are not permitted. The Applicant has not sought to vary this element of their licence through this application and cannot now do so in these proceedings.

The combination of the defined licence area and absence of off-sale ability does intentionally prohibit guests from carrying and consuming alcohol beyond the boundaries of the licence. It does not in our view criminalise any customer found to be in breach of the terms but it is the responsibility of the Applicant to manage the situation. Any criminal prosecution for breaching this condition, if instigated, would be against the licence holders.

It is therefore misleading to suggest that the Committee are criminalising members of the public.

It has always been and remains the responsibility of the licence holder to put into place systems to ensure the licence conditions are adhered to.

This condition is no more onerous than the position experienced by on-sale only premises across the Country who are obliged to prevent customers from walking 'off' the premises with alcohol.

In the minutes to the 2011 meeting the Committee considered:

"....the written representation to be relevant to the issues raised and the licensing objectives listed above as concerns were raised in particular, regarding noise nuisance."

In summary, our objections to the use of the 'excluded' areas are a result of their close proximity to our home and our daughter's bedroom window. We believe this will lead to a noise nuisance and undermine the relevant objective.

The preservation of York's historic buildings for future generations and their continued practical use is something we fully support; within the restrictions created by their listed status that such buildings are subject to.

Both Gray's Court and our home are listed buildings and therefore attenuation work would prove prohibitively difficult due to their listed status and the restrictions this imposes on building works.

These limitations mean in effect that noise breakout from premises can be a real issue as in this case.

The Committee have on two previous occasions recognised these limitations and imposed restrictions on the use of the external areas of Gray's Court and its hour of operation.

The issues which were present in 2010 and 2011 remain now.

In this case Gray's Court are the agent of change and it is incumbent upon them to provide solutions to the noise issues. We can see no way in which Gray's can attenuate noise from their grounds in a manner which will prevent a nuisance from arising in my property and other residential properties in the area.

We are further concerned by the impact of the Live Music 2012 on the proposed changes. At present, the excluded area is specifically excluded from the licence area and therefore the Live Music Act 2012 does not apply. By including the area the premises would be permitted to provide both live and recorded music in this area unfettered. The Committee are not permitted, we understand, to condition or limit the provision of live or recorded music save on application for Review of the premises licence.

Proposed changes to licensing hours designation.

The Applicant is seeking to extend the terminal hour throughout the week to match the additional hours permitted on Friday and Saturday evenings.

The Applicant also seeks, without explanation, to allow recorded music indoor and now outdoors at the venue.

We would object to any variation of the licence to expressly permit recorded music in external areas of the premises due to the obvious negative impact this could have on the licensing objective seeking to prevent public nuisance.

We anticipate that the Applicant may return with a further application to extend their hours on Friday and Saturday evenings, if this application were successful.

The current limitations on the hours, which distinguish between weekdays and weekends, were imposed in order to avoid a public nuisance and unnecessary disturbance to the residents in the locality. These limitations are necessary to avoid a nuisance in the late evening.

At the present time, despite statements to the contrary by the Applicant at previous Committee hearings, we experience prolonged periods of disturbance from dispersal noise. In particular taxis collecting Gray's Court customers from outside of our premises. This can often be ongoing for up to 90 minutes after the current licence hours. The noise from taxis drawing up and the hotel's customers talking loudly while awaiting collection have disturbed us on many occasions.

Again this application has been submitted without any prior consultation with myself or includes any explanation as to why the earlier decision of the Committee is no longer relevant or appropriate.

The Applicant offers no explanation as to how these changes will not adversely impact the licensing objectives. We have rehearsed on two previous occasions how noise from the premises will cause a nuisance within our home and other residential properties in the vicinity.

It is incumbent upon the Applicant to set out through their Operating plan their proposals on how to ensure the promotion of the licensing objectives, they have manifestly failed to do so.

In addition to noise arising from the operation of the premises during permitted hours we also suffer from noise arising from staff operations following the end of an event, as the premises is reset for the following day.

We have witnessed numerous occasions when current licence conditions, designed to avoid noise disturbance, have been breached in outrageous terms. One example is the Committee's condition preventing the placing of bottles in bins after 22:00hrs daily as recently as June this year. On that Occasion staff could be heard throwing bottles into bins after midnight causing a considerable noise nuisance, this was reported to York's Licensing section.

We have reported these breaches and disturbances to the proper authorities and am currently preparing a schedule for the Committee's consideration, these are in addition to the incidents cited in our letter of 13th July 2011 but demonstrate an ongoing disregard for the Committee's decisions.

The enforcement arms of the Council including Licensing and Noise Pollution Teams have been informed of noise issues and other breaches over the years. Due to their limited resources it has not always been possible for those Authorities to gather effective evidence. We have witnessed many instances of noise nuisance arising from the venue.

It is our case that the Applicant has failed to operate Gray's Court within the current terms of the licence and should not be rewarded with any enhancement to the licence.

We object to any extension of hours proposed by the Applicant as this will lead to an increase in noise from the venue later in the evening, which will constitute a nuisance.

We would be grateful if you would kindly acknowledge receipt of this representation.

Yours faithfully,

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CS



Helen Heraty
Grays Court
Chapter House Street
York
YO1 7JH

Customer and Corporate Services
Directorate

Democratic Services
2nd Floor
West Offices
Station Rise
York YO1 6GA

18 October 2018

Dear Ms Heraty

Re: Licensing Sub-Committee Hearing – Application to Vary a Premises Licence in respect of Grays Court, Chapter House Street, York, YO1 7JH (CYC-018630) – Adjourned from Thursday 11 October 2018 at 10.00am

I am writing to inform you of the decision of the Licensing Sub-Committee which met to consider your application to vary a premises licence on 11 October 2018.

In considering your application and the representations made, the Sub-Committee concluded that the following licensing objectives were relevant to this Hearing:

1. Prevention of public nuisance

In coming to their 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 objectives, including:

1. The application form.
2. The Licensing Manager's report and the comments of the Senior Licensing Officer given at the Hearing. The Senior Licensing Officer outlined the report noting the nature of the application which was to extend the existing licensed hours for all licensable activities for one additional hour to closing times Sunday to Thursday (which would bring the hours in line with existing hours

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for Friday and Saturday) and for an amendment of Condition 1 to include the L-shaped driveway within the licensed area. She outlined the information contained within the annexes to the report. She advised that the premises were not located in the special policy area. She reported that the consultation had been carried out correctly in accordance with the Licensing Act 2003.

The Senior Licensing Officer stated that City of York Council Public Protection (Environmental Protection) (EPU) made a representation on the grounds that the prevention of public nuisance licensing objective would be undermined if the premises licence were to be granted in the terms applied for. Public Protection withdrew their representation after mediation with you and following your agreement to this condition being attached to the licence if granted by the Sub-Committee:

1. The area referred to for the purpose of this licence is as shown edged red on the plan attached to the licence. The L-shaped driveway section shall be for alcohol only. The licensed area shall exclude the Bar Walls and the step access to the Bar Walls.

The Senior Licensing Officer noted the representations that had been made and she reported that there were no planning issues in relation to your application. She added that on 3 September 2018 a list of complaints received by CYC Licensing Section and Environmental Protection relating to Grays Court was circulated to Members and parties to the hearing and she noted that most of the complaints had been unsubstantiated. She ended by outlining the 4 options available to the Sub-Committee.

In response to Member questions, the Senior Licensing Officer clarified that:

- Music could be played if it came under deregulation.
- There had been two previous licences. This was a new grant and this is the first variation application.

Mr Grunert, Solicitor for Mr Mohan and Ms Gawthorpe (Representors) referred to Section F of the Application Form – Annex 1) concerning the playing of recorded music and pointed out that you had requested that music be played indoors and outdoors. However, the current licence only allowed recorded

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music to be played indoors only. The Senior Licensing Officer apologised that this had not be referred to in the report.

3. The representations made by Mrs Johnson, solicitor on your behalf at the hearing. She said that the application was for a change to an additional hour Sunday to Thursday and the current hours to 22:30 were less than the 1964 Act; that you ran a high quality venue aimed at over those aged over 50+; that there was an absence of evidence that extending the licence by one hour would be detrimental to the licensing objectives; that the additional hour during the week would be in relation to a small restaurant at Grays Court with 22 covers; that you would like to develop the stable block into accommodation and that the stable block was currently licensed but could not be accessed from the main building, other than via the L shaped driveway.

Mrs Johnson outlined the background to the application, and she highlighted that the building was sold to you by the Dean and Chapter of York Minster on the understanding that the building would be developed for hotel use. She then went on update the Sub-Committee as to the history of the actions undertaken by Mr Mohan which included review proceedings (with three other residents) which were unsuccessful.

Mrs Johnson stated that to refuse the application, the Sub-Committee needed to be confident that there was evidence to support the representations made. She claimed that the evidence was flimsy and there was no evidence and there had been no review proceedings over the last 7 years. She challenged the objectors to provide evidence. She then pointed out that subject to the agreement regarding the L shaped drive, there had been no objections from the responsible authorities. She added that the Senior Licensing Officer had noted that most of the noise complaints contained within the Freedom of Information (Fol) request from representors (contained within the hearing papers) had been unsubstantiated. She noted that this year there had been two instances of staff emptying bottles and she apologised for this.

Mrs Johnson then went through the noise complaints list detailing the date and nature of the complaints, whether they were justified and what action, if required was taken. She noted incidents where noise recording equipment had been offered to and declined by the complainant. She stated that there were nine unsubstantiated

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incidents. Mrs Johnson noted that there were no dates, time or evidence to support the claims made by the representors.

All were then given the opportunity to ask you questions, which Mrs Johnson responded to on your behalf. Members asked where the coach house was located and using the aerial photo provided by Mr Grunert as additional information prior to the meeting, the City of York Council (CYC) Legal Services Manager confirmed with all the location of the coach house.

Mr Ogus (Representor) noted that in the recent application he had heard nothing to explain or justify the playing of recorded music outdoors. Mrs Johnson said that this was an error and she explained that under deregulation in 2012, the government introduced the Live Music Act which allowed live music until 23:00. Mr Grunert added that over the last two years music had come from functions at the venue and not from the 22 covers in the restaurant. Mrs Johnson replied that there was no evidence before the Sub-Committee to support this.

Mr Oates (Representor, Chapter Clerk York Minster) asked if the courtyard and garden were part of the L shape. Using the map provided by the Senior Licensing Officer, Mrs Johnson explained that the whole of the driveway was required to be licensed. Mr Grunert explained that on the aerial photo, the Grays Court external areas including the courtyard were highlighted yellow, the 'L-Shaped' driveway was highlighted red and Mr Mohan and Ms Gawthorpe's garden (Mr Grunert's clients) was highlighted blue (the aerial photograph referred to is attached to this letter). Mrs Johnson stated that the entire driveway was part of the Grays Court garden and this was refuted by Mr Ogus.

Mr Mohan asked what stage the coach house was at and Mrs Johnson noted that it was already licensed and that you would like to develop seven rooms in the coach house.

Sub-Committee Members then asked where the coach house was located and the CYC Legal Services Manager confirmed with each person present where the coach house was located on the aerial photograph.

Members asked how many functions were held at Grays Court and Mrs Johnson explained that she had not looked into this as there

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had been no complaints regarding functions substantiated. You then explained that there were 2-3 functions a week and weddings (of approximately 60 guests) every weekend during summer. There was also a small number of conferences and funerals.

4. The representations made by Mr Oates (Legal Adviser & Chapter Clerk, York Minster) in writing and at the hearing. He explained that it had been anticipated that Grays Court would have hotel use and he noted that the Minster itself had a licence and held different events to those at Grays Court. He noted that Grays Court was located in a very fragile part of the city and that the 2011 licence was appropriate, adding that the Grays Court gardens were framed by other buildings. Using the red highlighted 'L-Shaped' driveway on the aerial photo, he stated that the Minster had no objection to the first part of the 'L shape' being included in the licence variation.

Mr Oates noted that he was in attendance to represent the occupants of Minster owned properties to the west of the south side of the Grays Court area. He stated that if there was any relaxation of the licence application he would have no objection to the relaxation to the first part of the area being included in the licence and that the extension to the existing licensed hours for all licensable activities for one additional hour to closing times Sunday to Thursday was appropriate.

5. The representations made by Mr Mohan and Ms Gawthorpe in writing and by Mr Mohan and Mr Grunert, Solicitor on their behalf at the hearing. Mr Grunert explained that Grays Court was a residential premises for a number of years and was in use term time only until 2004. He referred back to the building's original use in the planning application. He noted that at no point had you said why you hadn't appealed any of the previous Sub-Committee Licensing hearing decisions. He stated that there was no mention of functions in your statement of case and that the Sub-Committee could condition that additional licensed hours could only apply to the restaurant.

Mr Grunert noted that because the representations were unsubstantiated, this did not mean that they were untrue and he asked why residents would decide to start complaining about Gray's Court. With regard to Mr Mohan refusing visits from CYC, Mr Grunert noted that the visits from CYC usually took place

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several hours after a function had finished. Furthermore, with reference to the use of CYC sound recording equipment he noted that his clients would have to be put on a waiting list for the equipment. He added as currently operated, there was sporadic noise nuisance from Grays Court which would increase with the variation of the licence.

Mr Grunert stated that Licensing Policy did not define what the late night economy was and he noted that the special policy area was at the end of the street where Grays Court was located. He advised that his client would like no additional hours to be granted. Concerning the L-Shaped drive in Grays Court, Mr Grunert asserted that this was not a garden and was a gravel covered drive. He noted that the L shaped drive surrounded his client's property and that there was a 6-7ft wall delineating his client's property to your property and this should but did not provide a buffer to your property.

Mr Grunert referred to section L of the application form under which you are asked to identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking. In this section you stated that this would be:

'The inability to offer alcohol of late night refreshment beyond 22:30 and that a guest may breach the licence by stepping onto the drive with a drink in hand..this would allow a guest to move from the courtyard to the garden'

Mr Grunert said that there were a number of other entrances that would be manageable with a roped off area, adding that the coach house at the bottom of the garden was licensed but not habitable.

Mr Grunert then addressed the condition you agreed with CYC Public Protection (Environmental Protection). He expressed concern regarding the use of the L-shaped driveway section being for alcohol only as this could bring in greater deregulation because live or recorded music could be played until 23:00 pursuant to the 2012 Live Music.

[The hearing paused for a break at 11:15 and reconvened at 11:17]

6. The representations made by Mr Ogus and Ms Owens in writing and by Mr Ogus at the hearing. Mr Ogus said that he would be

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concentrating on the L shaped drive way included in the application and he explained that he and his wife were the owners of Gowland Court which was joined to the back of the Grays Court coach house. He noted that the coach house was licensed and that you would like your customers to have access via the driveway to the coach house. He pointed out that you had not got planning permission to use the coach house for accommodation and that the red line on the aerial photo was not accurate because the L shaped driveway went beyond the coach house from the gateway to the lane on Goodramgate to the windows on his house. Mr Ogus then used the aerial photograph to show this. The CYC Legal Services Manager confirmed with each person present where on the aerial photograph Mr Ogus was referring to. Mr Ogus noted that should the Sub-Committee grant the licensing to the parallel point of the driveway, alcohol supply and consumption would be allowed closer to his property. This would mean that if the licence variation was granted, alcohol would be consumed outside his toilet, bathroom and kitchen windows. He explained that because the driveway was higher than Gowland Court, this would allow guests at Grays Court to sit on the windowsills of his toilet, bathroom and kitchen windows whilst causing a public nuisance. He noted that you may not have been aware of this.

Mrs Johnson then asked the representors present a number of questions:

In response to a question from Mrs Johnson, Mr Oates confirmed that the tepee had been on the Minster grounds all summer. Referring to proposals to remove the exclusion of the L-shaped driveway and include this in the licensed area Mrs Johnson asked Mr Oates whether he accepted that this was a part of the application. Mr Oates confirmed that he did. In answer to Mrs Johnson, Mr Oates confirmed that he was concerned about the effect of the variation on the residential properties referred to in his written representation. Mrs Johnson then read out the addresses listed in the written representation pointing out only one resident had put in a representation and the resident closest to Grays Court had also not made representation.

In answer to the points raised by Mr Grunert, Mrs Johnson noted that you had chosen not to appeal the decisions of previous hearings as the fees had been prohibitive. She asked Mr Grunert to show one piece of relevant evidence apart from the incidents with

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the bottle bins. Mr Grunert stated that they were general ongoing issues. When asked whether it was just his clients' word against that of Public Protection (Environmental Protection) Mr Grunert responded that his evidence was that the complaints were true.

Concerning the acoustic reports, Mr Mohan explained that the equipment had not been able to be supplied by CYC. Mrs Johnson asked Mr Mohan if he had appointed an independent noise consultant to which Mr Mohan responded that CYC Public Protection did not accept this.

Mrs Johnson asked if Mr Mohan was aware of condition 16 and Mr Mohan noted that the windows were closed but the doors were open. Mr Grunert stated that his clients would like the back doors not to be used as an entrance to the premises and he confirmed that his clients were aware of condition 16. Mr Mohan explained that when he phoned CYC at 23:00 no officers were available to attend.

In response to a question from Mrs Johnson, Mr Ogus confirmed that the area outside his kitchen and bathroom was approximately 30ft.

Members then asked the Representors present a number of questions:

In response to a question from a Member, Mr Mohan explained that in respect of the noise complaints, when a CYC officer attended in the licensed hours, the noise officers had to ascertain that the noise is from the area being complained about. He said the noise was directly outside his daughter's bedroom and that sometimes the noise went on until 01:30. He had contacted CYC but the noise recording equipment was not available.

A Member asked Mr Oates whether it was his view that an extension of the licensed area to include the whole of the L-Shaped area was still unacceptable to him. Mr Oates confirmed that it was.

A Member asked Mr Mohan whether the sound equipment had been unavailable. Mr Mohan confirmed that it was unavailable and he had been informed by CYC that he could not use his own sound recording equipment. Mr Mohan noted that although CYC

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could put him on the waiting list for the sound recording equipment, it was difficult because he did not know when large functions were being held at Grays Court.

In response to a question from a Member, Mr Mohan confirmed that he had kept a diary but was told by CYC noise officers that he could not use this as it had not been witnessed.

Mr Oates was and confirmed to a Member that when Grays Court had been sold to you that they had not specified what it could be used for.

Highlighting Annex 4 in light of the impact of the 2012 deregulation, Members asked the lawyers for their views on this. Mrs Johnson stated that they were two different issues and that you could play music on the driveway as it had been covered by deregulation.

At this point, the CYC Legal Services Manager clarified that the Public Protection (Environmental Protection) objection was only withdrawn if the following condition was attached to the licence if granted:

1) The area referred to for the purpose of this licence is as shown edged red on the plan attached to the licence. The L-shaped driveway section shall be for alcohol only. The licensed are shall exclude the Bar Walls and the step access to the Bar Walls.

Mrs Johnson stated that you would give an undertaking that there would only be alcohol and no playing of live or recorded music on the L shaped drive. Mr Grunert stated that this was unenforceable and there would have been no complaints if there had been no issues. He added that his client would have no comfort from that undertaking and he noted that the perpendicular area went past his clients' bedroom. Mrs Johnson responded that the undertaking would have the desired effect.

The representors present then summed up. Mr Oates stated that he hoped that a compromise on the L shaped drive could be reached. Mr Grunert outlined the reasons why the noise from Grays Court could not be recorded and stated that his client did not orchestrate the representations made against the application. He explained that guests' dispersal into the area included in the application caused noise to his clients.

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Mr Grunert noted that because the representations were unsubstantiated, this did not mean that they were untrue. He highlighted that the complaints had come from different people which was evidence that the premises does cause noise. He added that a later time would mean later dispersal (the additional hour to closing times Sunday to Thursday). With reference to the L shaped drive being included in the variation, he stated that his clients objected outright to this. He said that Members would be disagreeing with the two previous refusals to include it if the licence was approved.

Mr Ogus closed by stating that he had heard nothing in defence of his representation. He noted that whilst he shared the concerns of the other residents, he did not wish to disassociate from the other representations that had been made.

Mrs Johnson summed up your case by stating that the reason she had not referred to functions, was that these were held at weekends whereupon the premises was already licensed until 23:30. She noted that the Sub-Committee had to determine the application based on the evidence. She stated that Mr Mohan had 7 years to ask CYC to put noise monitoring equipment in place. She questioned why Mr Mohan had not instructed noise consultants and stated that there was no evidence to support his claims.

Mrs Johnson noted that the police had not objected and that the Public Protection (Environmental Protection) had withdrawn their objection. She confirmed that you would not have any form of music on the L shaped driveway. She noted that there were no issues from Public Protection (Environmental Protection) in relation to danger to children. In summing up, Mrs Johnson referred to paragraph 9.12 of the S182 Statutory Guidance and asked the Sub-Committee to grant the licence.

Then, in response to a question from the CYC Legal Services Manager, you and Mr Mohan confirmed that the exclusion of a lesser area of the L-shaped drive (as put forward by Mr Oates) was not acceptable to either of you.

As a point of clarification, a Member asked Mrs Johnson if you accepted that the objection from Public Protection (Environmental

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Protection) stood as the proposed condition was unenforceable due to the operation of the deregulation aspect of the 2012 legislation. Mrs Johnson accepted that you could play music because of the 2012 Live Music Act, however, she noted that you could provide an undertaking that no live music could be played. She accepted that Public Protection (Environmental Protection) had no problem with the variation if this was limited to alcohol only. She stated that if the Sub-Committee granted the licence with your undertaking attached and a breach was made, the Sub-Committee could suspend the licence.

7. Written representations made during the consultation period.

The representations made CYC Council Public Protection (Environmental Protection) were withdrawn prior to the Hearing, subject to the imposition of the agreement to have alcohol only in the L-shaped driveway.

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(4) of the Licensing Act 2003 as it considered necessary for the promotion of the Licensing Objectives:

Option 1: Grant the licence in the terms applied for.

Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.

Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify / add conditions accordingly.

Option 4: Reject the application.

In coming to their decision to choose Option 4 above to reject the application, the Sub-Committee refused the application on the grounds of public nuisance.

The Sub-Committee was satisfied that the evidence of the Representors was sufficiently compelling to show that on a balance of probabilities the

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inclusion of the L-shaped drive and the extension of an hour during the week would undermine the licensing objective of preventing public nuisance.

In reaching this conclusion the Sub-Committee had regard to the number of complaints made (albeit not all substantiated by EPU); the evidence of Mr Ogus as to the proximity of the L-shaped driveway to his property; the noise that would be generated by the number of functions taking place both during the week and at weekends (which had not been referred to by the Applicant until questioned); the quiet and sensitive historic location of the specific area of York close to the Minster; and the implications of the Live Music Act 2012 in respect of the potential use of the L-Shaped driveway for unregulated entertainment.

The Sub Committee considered that the condition suggested by EPU would not be enforceable, as music could not be prevented if the L-shaped driveway were to be included within the licensed area. The proposal by the Applicant to offer an undertaking that music would not be played in the L-shaped drive area and that it would only be used for alcohol was not of sufficient comfort to them having regard to the turbulent history between the applicant and her neighbours, as it would not be legally enforceable. It was therefore insufficient to overcome the concerns regarding the undermining of the licensing objectives of preventing public nuisance.

The Sub-Committee made this decision taking into consideration the representation, the Licensing Objectives, the City of York Council's Statement of Licensing Policy and the Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003.

Right of Appeal

There is a right of appeal for the Applicant and the Representors to the Magistrates Court against this decision. Any appeal to the Magistrates Court (preferably in writing), must be made within 21 days of receipt of this letter and sent to the following address:

Chief Executive
York and Selby Magistrates Court
The Law Courts
Clifford Street
York
YO1 9RE

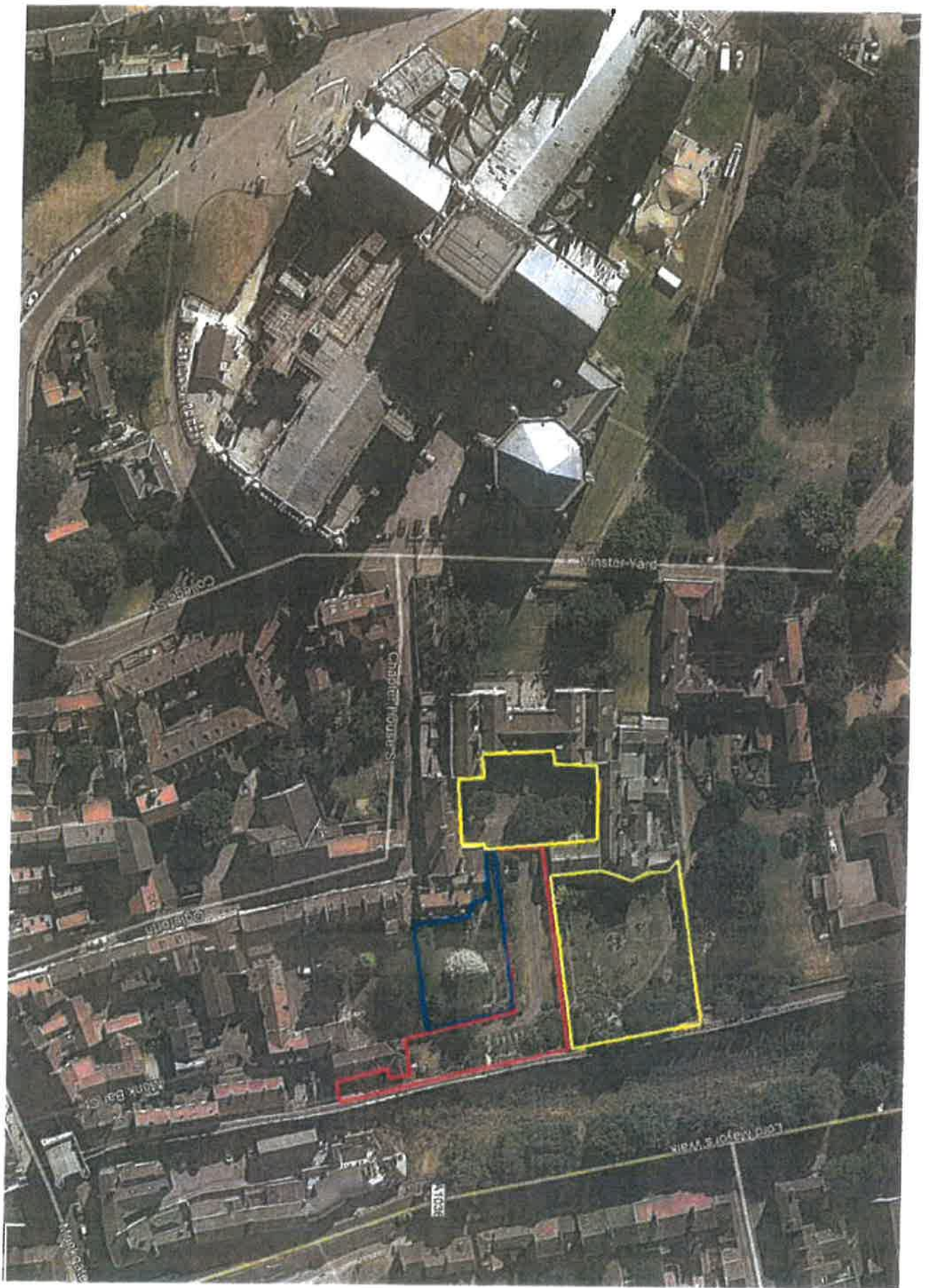
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Thank you for attending the hearing.

Yours Sincerely,

Angela Bielby
Democracy Officer
(01904) 552599

CC: representors, licensing officer



Chapter House Street
York
YO1 7JH

Licensing Services
City of York Council
9 St. Leonard's Place
YO1 7ET

Also by email: licensing@york.gov.uk

Wednesday 13 July 2011

Dear Sirs,

Application for a premises licence: Gray's Court, Chapter House Street,
York, YO1 7JH

Applicants: Helen Mary Heraty and John Douglas Edwards

I wish to make representations in opposition to the grant of the above application.

Interested parties

I am writing on behalf of myself and my partner I [redacted], ie. We live with our young daughter at [redacted] Chapter House Street, York, YO1 7JH, which is immediately adjacent to the application premises.

Licensing history

The premises already enjoy the benefit of a premises licence pursuant the Licensing Act 2003. This was granted with conditions by the Licensing Authority following a hearing on 19 August 2010. Both myself and I [redacted] made representations in opposition to that application (the factual content of which is repeated for the purposes of this representation), and we were represented at the hearing by Counsel.

Whilst we opposed the granting of a licence at all, on the basis that we considered that the same would adversely affect the licensing objectives of the prevention of public nuisance, public safety and the prevention of crime and disorder, we nonetheless felt that the conditions imposed by the Licensing Authority at the last occasion were a sensible way forward if the premises was to be licensed, and although we did not necessarily agree with everything granted to the applicants, we did not seek to bring an appeal.

The operators have been operating the premises for under a year.

They have not complied with the conditions already imposed, as we set out below.

Substance of the new application, and our general stance in relation thereto

This new application is essentially a re-run of last year's application.

Our position is that the conditions imposed on the previous licence were considered necessary by the Licensing Authority to promote the licensing objectives following a fully argued hearing. No-one sought to appeal those conditions. Less than a year has passed. Nothing has changed in relation to the site and in particular to our use of our home. There is no reason why the hours and conditions that the Licensing Authority saw fit to impose should be relaxed, and indeed there are reasons why those conditions should be tightened.

Supply of alcohol (M)

In relation to alcohol the operators previously sought a terminal hour for the supply of alcohol (M) to non-residents of 23:00 Sun-Thu and 00:00 Fri-Sat - this is sought again, but with a 02:00 terminal hour on Christmas Eve and New Year's Eve. The terminal hours should not be extended beyond those granted in relation to the last application in order to prevent late night noise nuisance in this quiet residential area.

We submit that conditions 1, 2, 3 and 4 (we use the numbering on the Licensing Authority's decision letter of 24 August 2010) should remain in place in relation to the supply of alcohol in order to promote public safety and prevent crime and disorder and public nuisance.

We note on the application that alcohol is to be supplied available to hotel residents 24 hours a day. We would request that an appropriate condition is added to ensure that it is only **bona fide** hotel residents who may be supplied with alcohol.

Live (E) and recorded (F) music

We object to the extended hours for live music (E) and recorded music (F). We object to the provision of recorded music and entertainment of a similar description outdoors. Conditions 5 and 6 were rightly imposed by the Licensing Authority in relation to the previous application and nothing has changed to render those conditions improper.

We in fact would further submit that live music should not be provided outside at all. The provision of any music with no noise attenuation measures between the external areas and our house and garden means that we are the

mercy of having to listen to whatever performance the applicants choose to put on at any time.

Facilities for the making of music (I)

We object to the proposal to be licensed for the provision of facilities for making music (I) (a) outdoors in its entirety and (b) beyond the hours already permitted for the provision of live music indoors. We have previously been significantly disturbed by performances of live music outside and we can see no reason why this is a suitable site to operate as an outdoor music venue.

Facilities for dancing (J)

We object to the proposal to be licensed for the provision of facilities for dancing (J) (a) outdoors in its entirety and (b) beyond the hours already permitted. We refer to condition 8 imposed on the previous application and submit that this is an entirely appropriate condition for the circumstances both then and now.

Performances of dance (G)

We object to the proposal to be licensed for the provision of performance of dance (G) (a) outdoors in its entirety and (b) beyond the hours already permitted for dancing indoors.

Plays (A) and films (B)

Whilst we have no objection to the applicant providing plays (A) and films (B) per se, we do object to these activities being conducted outdoors as sought in the application, on the ground that the same will destroy the peace and quiet of our adjoining garden. The hours for the provision of plays or films should not extend beyond 21.00 Sun-Thu and 22.00 Fri-Sat, save that we have no objection to the provision of films in bedrooms at any time.

Late night refreshment (L)

We object to the provision of late night refreshment (L) (a) outdoors in its entirety and (b) indoors insofar as it relates to anyone other than residents.

Opening hours (O)

We object to the premises being open to the public (O) 24 hours a day. Conditions 2 and 17 as previously imposed should remain in place.

Licensed area

The licensed area is increased to include the areas the Licensing Committee specifically deleted from the previous application: see condition 1.

The applicants seek to license the driveway running right past our home,

which is overlooked by our daughter's bedroom window. Use of this area for licensed activities will cause significant noise nuisance.

Deletion of conditions

The operating schedule put forward by the applicants is completely inadequate for a premises in such a sensitive location as these. We note that the applicants appear to seek to delete conditions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23, and to relax condition 13.

Operation to date

As stated, since the previous premises licence was granted, the premises have not been operated in accordance with the conditions imposed.

Condition 1: *The area to be licensed shall be as shown edged red on the attached plan (The licensed area excludes the courtyard, the L-shaped driveway including the Coach House, the Bar Walls, the access to the Bar Walls and Bar Walls embankment).*

On 28 May 2011 wedding guests were observed drinking alcohol (and having their glasses topped up) in the driveway, the Bar Walls, the access to the Bar Walls and the Bar Walls embankment. Later that evening guests were drinking alcohol in the courtyard area.

The licence does not permit sale of alcohol for consumption off the premises

The operators appear to make no attempt to confine patrons to the external licensed areas. So the unlicensed areas are not roped off from the licensed areas

Apart from the obvious danger posed by having people drinking on and around the Bar Walls user of the unlicensed areas places drinkers in closer proximity to our home and causes us a nuisance. It also demonstrates a lack of management and control by the operators.

Condition 2: *Hours the premises are open to the public shall be as follows:*

Sunday to Thursday 08.00-22.00

Friday and Saturday 08.00-23.00

With the exception of the external licensed areas

On Saturday 2 October 2010 we were disturbed by taxis arriving at 00:10 to pick up customers from the premises.

On 4 June 2011 guests were departing from the premises between 00:00-01:00

On 25 June 2011 a TEN was in place with a terminal hour of 00:00. The last guests were departing the premises at 00:55.

Condition 3: *All external areas shall be vacated, cleared and cleaned by 19:00 Sunday to Thursday and 21:00 on Fridays and Saturdays.*

On 9 July 2011, at 22:38 there were approximately 70 people in the garden area drinking and talking loudly.

The driveway gates are frequently left open at night, allowing persons to enter the external areas.

Condition 6: *Recorded Music (F) shall take place indoors only until the terminal hour.*

On Saturday 11 September 2010 a black tie event was held at the premises. A disco was operated until beyond midnight. Patrons were leaving the premises between 00.30 and 01.00. Waiting taxis caused noise disturbance. It was necessary for our daughter to move to another bedroom to get to sleep.

Condition 8: *Provision of facilities for dancing (J) shall take place indoors only from 10:00 to 1 hour prior to closing on each and every day.*

On Saturday 7 May 2011 a disco was in operation beyond 22:00.

Condition 21: *Noise or vibration from the premises (including external areas), shall not emanate, so as to cause a nuisance at nearby sound and vibration sensitive properties.*

Music played at the premises is frequently audible within the interior of our home. We can hear the lyrics to the songs being played.

A bin storage area (comprising various bins including receptacles for glass recycling) has been situated next to our property, beneath our daughter's bedroom window, causing noise nuisance when filled or emptied.

The bin is often filled in the evening or at night.

For instance on 11 May 2011, bottles were thrown in the bin at 22:45 and 23:45.

On 9 June 2011, bottles were being smashed into the bin at 19:15 and 19:37.

On 10 June 2011, 2 x bins were pulled down the driveway by Ms. Heraty at 23:57 and 23:59, waking us.

On 25 June 2011, bottles were being smashed into the bin at 00:49.

The bin is also emptied between 06:50 and 07:10 on Thursdays.

Condition 22: *When regulated entertainment in the form of Recorded and/or Live music is provided at the premises, doors and windows shall remain closed other than for ingress and egress.*

On 21 May 2011 the premises' doors remained open throughout a fashion show event, with music being clearly audible. If and to the extent that the music was incidental and not a regulated entertainment, then it still constitutes a breach of condition 21 and further condition 22 should be varied to require doors and windows to be closed when any recorded music is played a volume which would otherwise be audible outside the premises.

On 4 June 2011 the door of the premises leading to the courtyard remained open throughout a function at which recorded music was played.

Condition 23. *A dispersal policy shall be agreed in writing by the applicant with the Licensing Officers and thereafter be implemented and adhered to*

Taxis frequently queue up for fares with their engines running for periods of 10-15 minutes each. Taxis in this queue sound their horns.

The above evidences the operators' failure to manage and control the premises in order that it operates without compromising public safety or causing a nuisance to those in the vicinity, including ourselves and our daughter.

Prevention of public nuisance

In its current operation, the premises already causes us noise nuisance of the type that necessarily arises when a commercial premises operates next to residential premises. In particular there is noise from patrons arriving, departing and using the premises (particularly the external areas, including smokers using the courtyard); from taxis; from delivery vehicles; from the filling and emptying of bins; and from regulated entertainment.

As we have already accepted, the conditions already imposed by the Licensing Authority go a significant way towards keeping what would otherwise be an intolerable situation within reasonable bounds. However, the operators have not been able to comply with those conditions, and the premises in its current state is already the source of unacceptable noise nuisance. We feel that further a relaxation of conditions, increase of hours or licensed area is in the circumstances unacceptable for this site and these operators.

We would seek the following further conditions to be added to any new licence, in addition to the repetition of the conditions imposed at the last hearing:

- (a) The imposition of a condition requiring steps to be taken to separate the unlicensed external areas from the licensed external areas;
- (b) The imposition of a condition requiring the re-location of the bin area, and providing that the bins may not be filled or emptied in the evening, night-time and early morning periods;
- (c) The imposition of a condition requiring records to be kept showing that the closure of doors and windows during the provision of regulated entertainment is implemented and monitored throughout the period of such entertainment.
- (d) The imposition of a condition that specifies that noise from licensable activities does not exceed a specified level of decibels measured from a particular location (our property) over a particular period.

Public safety

The applicants seek to remove the capacity limit from the application, and indeed to delete many conditions which promoted public safety. They seek once more to license the Bar Walls and access thereto.

Prevention of crime and disorder

The applicants seek to delete many conditions which promoted the prevention of crime and disorder. The applicants leave the driveway gate open at all times which permits anyone to gain access to the rear of the site (and hence to our garden) late at night. Closure of these gates outside of trading hours should be a condition of the licence.

Plans

We are advised that the plans accompanying the application do not comply with the appropriate regulations as they do not adequately detail where licensable activities are to take place. The external plan is a large scale plan and it is not possible to discern which areas are to be licensed with any certainty.

Planning

The local authority is already aware that we do not accept that the applicants have planning permission for the proposed operation. The applicants have been operating a licensed premises for almost a year now without appropriate planning permission and have not sought to rectify the situation despite requests to do so by the planning authority. The local authority's own licensing policy states that *"whilst there is no obligation for an applicant to have planning permission before applying for a premises or provisional licence.....it is recommended that lawful planning use be obtained initially"*

Hearing

I will be on holiday with my family from 10th – 26th August 2011 and from 14th – 30th October 2011 and would request that the licensing authority avoid these dates when scheduling a hearing in relation to this application as I wish to attend and be represented.

Yours faithfully,

Report of the Director of Communities and Neighbourhoods

**Section 18(3)(a) Application for a premise licence for Grays Court,
Chapter House Street, York YO1 7JH**

Summary

1. This report seeks Members determination of an application for the grant of a premise licence, which has been made under the Licensing Act 2003.
2. Application reference number: CYC-018630
3. Name of applicant: Helen Mary Heraty & John Douglas Edwards.
4. Type of authorisation applied for: Grant of Premise Licence
5. Summary of application The nature of the application is to allow :-

Licensable Activity	Indoors / outdoors	Days	Hours	Non standard timings
Plays and films	Both	Sun – Thurs Fri – Sat	10:00 – 23:00 10:00 – 00:00	
Live Music	Both	As above	As above	Christmas Eve and New Year's Eve until 02:00
Recorded Music	Both	As above	As above	Christmas Eve and New Year's Eve until 02:00
Performance of Dance	Both	As above	As above	

Provision of facilities for making music	Both	As above	As above	Christmas Eve and New Year's Eve until 02:00
Provision of facilities for dancing	Both	As above	As above	Christmas Eve and New Year's Eve until 02:00
Late Night Refreshment	Both	Mon – Sun	23:00 – 00:00	Available to residents 24 hours as per legislation.
Supply of Alcohol	On the premises	Sun – Thurs Fri – Sat	10:00 – 23:00 10:00 – 00:00	Christmas Eve and New Year's Eve until 02:00 And 24 hours for hotel residents
Opening Hours		Mon – Sun	24 hours	

Background

6. A copy of the application is attached at Annex 1.
7. This venue currently operates under a premises licence, CYC 016907, which was granted in August 2010. A copy of this licence is attached at Annex 2.

Promotion of Licensing Objectives

8. The operating schedule submitted by the applicant shows that the licensing objectives would be met as follows:
9. The prevention of crime and disorder:
 - (a) There shall be no 18th birthday parties
 - (b) Staff are trained in customer relations
10. Public safety:
 - (a) Risk assessments and staff training are carried out.

11. The prevention of public nuisance:

(a) Guests are advised to leave the premises quietly.

12. The protection of children from harm:

(a) Staff training is given in accordance with the Licensing Act 2003

Special Policy Consideration

13. This premise is not located within the special policy area.

Consultation

14. Consultation was carried out by the applicant in accordance with s13, and s17(5) of the Act and Regulation 42, Parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local paper giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements. In addition the relevant ward councillors and/or parish council were notified by way of register.

15. All procedural aspects of this application have been complied with.

Summary of Representations made by Responsible Authorities

16. North Yorkshire Police have met with the applicant to discuss the application. The applicant has agreed to the following condition being attached to the licence if granted: -

- (i) CCTV will be installed to cover the front entrance of the premises. It will be maintained, working and recording at all times when the premises are open. The recordings should be of sufficient quality to be produced in Court or other such Hearing. Cameras should be positioned so to capture images of customers as they enter the venue via the front entrance from the courtyard.
- (ii) Copies of the recordings will be kept available for any Responsible Authority for 28 days and will be made available to any Responsible Authority within 48 hours of request.
- (iii) Copies of the recordings will display the correct time and date of the recording.
- (iv) The only acceptable proof of age identification shall be a current passport, photocard driving licence or identification carrying the PASS logo (until other effective identification technology, e.g.

thumb print or pupil recognition, is adopted by the Premises Licence Holder).

- (v) Standard one pint capacity, half pint capacity and "highball" tumbler drinking glasses will be of strengthened glass (tempered glassware) in a design whereby, in the event of breakage, the glass will fragment and no sharp edges are left.
- (vi) Drinking glasses of any type shall not be allowed to enter or leave the licensed area whilst under the customer's care.
- (vii) Documented staff training will be given regarding the retail sale of alcohol; the conditions attached to the premises licence; and operating times of the venue. Such records shall be kept for at least one year and they will be made available upon a reasonable request from any Responsible Authority.
- (viii) The management of the venue will comply with any written, reasonable and justified request made by North Yorkshire Police regarding the provision of Door Supervisors should the need arise.
- (ix) A Refusals Register and Incident Report Register will be kept. Such documents will record incidents of staff refusals to under-age or drunken people as well as incidents of any anti-social behaviour and ejections from the premises. Both documents will be made available upon a reasonable request from any Responsible Authority and will be kept for one year.
- (x) Prominent clear and legible notices shall be displayed at all exits requesting the public to respect the needs local residents and to leave the premises and area quietly.
- (xi) The venue shall not open or operate (other than by way of Temporary Event Notice) earlier or later than the times listed in Part 1 of the premises licence. (i.e. the opening hours of the premises).

17. The Council Environmental Protection Unit has also met with the applicant who has

agreed for the following conditions to be attached to the licence if granted

- (i) No recorded music outdoors.
- (ii) Noise and vibration shall not emanate so as to cause a nuisance at nearby sound sensitive properties.
- (iii) Regulated entertainment in the form of recorded and/or live music indoors shall be restricted to the Bow room as shown on the plan GC02. All windows in the Bow Room and the door between the Bow Room and the Long gallery room shall remain closed at all times during regulated entertainment, other than for emergency escape.

- (iv) Plays, films and performance of dance externally shall cease at 21:00 hours on every day of the week.
- (v) Live music externally shall not use electronic amplification and shall cease at 21:00 hours on every day of the week.
- (vi) Documented patrols shall be carried out by members of staff at no less than hourly intervals whilst live or recorded music is being played. These checks shall be undertaken around the perimeter of the premises and findings recorded. Details of any remedial action necessary to reduce noise to an acceptable level shall also be recorded. Records shall be made available for inspection by authorised officers of the City of York Council upon request.
- (vii) Staff training shall be given and documented regarding all matters relating to the licence and its conditions. Records of training shall be kept for 3 years. (similar to Police condition (vii))
- (viii) A direct contact number for the duty manager shall be made available on request to residents living in the vicinity of the premises.
- (ix) A documented procedure for investigating noise complaints received by Gray's Court shall be submitted to and approved by the City of York Council within 2 months of the licence being granted and once approved it shall be implemented.
- (x) Notices shall be placed on exit doors and staff shall remind customers that there are residential premises in the area and to be quiet when leaving the property.

Summary of Representations made by Interested Parties

- 18. Representations have been received from 9 Interested Parties listed at Annex 3. Their representations are attached at Annex 4.
- 19. The location of the residential properties owned by the interested parties in relation to the premises subject to this application is shown on the map attached at Annex 5.
- 20. Members are reminded that representations are only "relevant" if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Planning Issues

- 21. Planning permission was granted in March 2006 for change of use to create 1 no private dwelling house, to include bed and breakfast letting, and 1 no self contained holiday dwelling (east wing). However, the owner of the building has since been advised of the unauthorised status of the

current use of the premises and the potential for enforcement under the Planning Act. The Planning Officer has not made a representation.

Options

22. By virtue of s18(4) of the Act, the Committee have the following options available to them in making their decision: -
23. Option 1: Grant the licence in the terms applied for.
24. Option 2: Grant the licence with modified/additional conditions imposed by the licensing committee.
25. Option 3: Grant the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
26. Option 4: Reject the application.

Analysis

27. The following could be the result of any decision made this Sub Committee:-
28. Option 1: This decision could be appealed at Magistrates Court by any of the representors.
29. Option 2: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
30. Option 3: This decision could be appealed at Magistrates Court by the applicant or any of the representors.
31. Option 4: This decision could be appealed at Magistrates Court by the applicant.

Corporate Priorities

32. The Licensing Act 2003 has 4 objectives the prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.

33. The promotion of the licensing objectives will support the Council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

34.

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – This decision could be appealed at Magistrates Court by the applicant or any of the representors.
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

35. All Members of the Licensing Act 2003 Committee have received full training on the Act and the regulations governing hearings. They are aware that any decision made which is unreasonable or unlawful could be open to challenge resulting in loss of image, reputation and potential financial penalty.
36. The report details the options available to the panel in determining the application and recommends that a decision be reached. There are no risks involved with this recommendation.

Recommendations

37. Members determine the application.
Reason: To address the representations received as required by the Licensing Act 2003.

Contact Details

Author:

Lesley Cooke
Licensing Manager

Tel No. 01904 551526

Chief Officer Responsible for the report:

Steve Waddington
Assistant Director– Housing & Public Protection.

**Report
Approved**



Date 12 August
2011

Specialist Implications Officer(s)

Head of Legal & Democratic Services
Ext: 1004

Wards Affected: Gulldhall East



For further information please contact the author of the report

Background Papers:

- Annex 1** - Application form
- Annex 2** - Copy of current premises licence CYC-016907
- Annex 3** - List of Interested Parties
- Annex 4** - Copy of representations from Interested Parties
- Annex 5** - Map showing general area from which representations received
- Annex 6** - Mandatory Conditions
- Annex 7** - Legislation and Policy Considerations

5

From: [redacted]
Sent: 24 October 2023 18:28
To: licensing@york.gov.uk
Subject: Objection to Application to vary Licence

This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Application to vary a Premises Licence under section 34 of the Licensing Act 2003
Applicant: Helen Heraty
Premises: Grays Court, Chapter House Street, York, YO1 7JH

Dear Sir/Madam,

I write in the capacity of having stayed at Chapter House Street (adjacent to the gardens and driveway of Grays Court) on numerous occasions as a guest and dog sitter of the present occupants. I am also a York resident located elsewhere in the city centre.

This application by Grays Court seeks to extend the hours for the sale of alcohol on Sundays to Thursdays (currently permitted until 22:30 only) to 23:30 and to add the provision of late night refreshment on Sundays to Thursday (not currently permitted on these days) from 23:00 to 23:30. The refusal to grant previous applications has been on the basis that later hours for drinking and eating at Grays Court by non-residents would extend the applicant's business activities further into the evening, a time when related noise would adversely affect the residential amenity.

I would hope the latest application would again be refused on the same grounds.

The area in which Grays Court is situated is one that is both quiet and historically significant, both part of the Minster's Cathedral Precinct and the York Central Historic Core Conservation Area. I have therefore often been surprised at both the content and noise levels of entertainment emanating from the garden and driveway of Grays Court when I have stayed at Chapter House Street. For instance once on a weekend afternoon - very loud percussion and resonant brass instruments could be heard that seemed disproportionate. It did not seem in keeping with the tranquil ecclesiastical surroundings that both residents and tourists are used to in this part of York.

From having also stayed regularly overnight next door to Grays Court, I would like it noted that although ambient noise levels are currently low in the evening, people entering and leaving the hotel do so via the cobbled courtyard area, where noise is amplified. This is more acute in the summer months when windows are open. Unfortunately the bedrooms in Chapter House Street are located adjacent to the courtyard area, so inevitably the noise can affect both quiet enjoyment of the environs and restful sleep. In addition a large spotlight shines directly into one of the bedroom windows at Chapter House Street, which has a motion sensor. This can go on and off throughout the period post dusk - dependent on staff congregating outside under said light in the courtyard area, during what appear to be smoking breaks. This already adds to both noise and disturbance to residents, and is happening post service hours, even beyond midnight. To increase the hours for alcohol and refreshments therefore further endangers an increase in late-night intrusion and potential for nuisance.

It should also be noted that the area around Chapter House Street is and will firmly remain a residential area in nature, due to the conversion of Church House from office use to residential use - therefore only more residents in the area will continue to be adversely affected should the extension of hours be granted.

I therefore ask the Licensing Authority to take note of the issues and concerns outlined here, and to request that variations to the Applicant's current Premise's Licences be firmly refused, as has been the outcome on previous applications.

Yours Faithfully,

Bootham Row Apartments
Bootham Row
York
YO30 7BP

